

May 7, 2009

Regular Meeting

Present: David Knapp, Chairman  
Wendyann Anderson  
Tim Holman  
David Madar  
Ed Phipps

Absent: Kevin Cegelka  
John Jones

Others Present: Steve Blume, President Board of Aldermen  
Gene Sharkey, Alderman  
Peter Crabtree, Zoning Enforcement Officer  
Fred D'Amico, City Engineer  
John Nafis, Engineering Consultant – left meeting at 7:50 p.m.

The Regular Meeting of the Ansonia Inland Wetlands Commission was called to order at 7:00 p.m. by Chairman Knapp.

All present rose and Pledged Allegiance to the Flag.

The secretary called the roll. There was a quorum present.

**Approval of Minutes**

Mr. Phipps made a motion to accept as written and place on file the minutes of the April 2, 2009 regular Meeting. Ms. Anderson seconded. All in favor, so carried.

**Approval of Bills**

There were no bills presented this month.

IWC0507009

## **Correspondence**

Mr. Phipps made a motion to accept, dispense with the reading, place on file and take up during the course of the meeting any correspondence received. Mr. Madar seconded. All in favor, so carried.

## **Public Session**

Chairman Knapp asked if there was anyone from the public who wished to address the Commission.

Jim Zelem  
17 Shortell Drive  
Ansonia, CT 06401

Chairman Knapp said that the Commission will be scheduling a public hearing on this application later in the meeting.

Mr. Zelem said he would still like to address the commission this evening. He stated:

I would like to express that I am against the building of Melrose Estates. For the record, I want it known that this application shouldn't be accepted or considered due to the "conflict of interest" that has been shown throughout the entire process of this application.

First the city officials allowed Mr. D'Amico to perform the A2 survey knowing all well the intentions of an A2 survey. In October, Mr. D'Amico was told not to participate in the project and I personally caught Mr. D'Amico performing a survey in the woods on December 12, 2009. It was quite a coincidence that it was right after a major rain storm. In January I wrote to the town attorney and copied the Inland Wetlands commission about my concern. To date no one in the city has contacted me in any form about my concern.

Additionally, I find it very strange that during our "walk through" last fall, the contractor had hired the soil scientist the City of Ansonia would normally use. How would they know the scientist the city uses unless informed. Maybe another inside track.

Due to the conflict of interest, the commission announced it would seek an outside engineer for the Melrose application and the question was asked during the public session: Does Nafis and Young have any connection to Fred D'Amico, which by the way wasn't answered. Connection: Fred lives in Oxford and represents a lot of developers in Oxford. Nafis and Young is the engineering firm of record for the town of Oxford and they have reviewed plans for Fred's clients. Is this another coincidence?

Now the contractor has hired Attorney Dominic Thomas who is a former town attorney for Oxford and he also works closely with Nafis and Young in that Thomas represents several developers in Oxford and therefore, Thomas is in constant contact with Nafis and Young. In

addition, as the former town attorney, Thomas would routinely discuss projects with Nafis and Young and recommend approval or disapproval of projects. Another conflict of interest as far as I am concerned.

Additionally, Attorney Thomas was very instrumental in getting the Hunters Lane project overturned. This was the same man that represented a firm that stated they would come back and fix any problems and we all know the problems are still there. I wonder what happened, where did they go.

As you can see, there is a substantial amount of evidence that shows “conflict of interest” or at least the potential. I strongly recommend that the commission reviews the potential “conflict of interest” in this project and hire an outside engineering firm that will truly represent the people of Ansonia and look at the data objectively. Thank you.

Ted Worobel  
5 Hunter’s Lane  
Ansonia, CT

Mr. Worobel said he is against this project because of the water problems. He submitted photos of the area showing the water problems. He is concerned that during the development of the property instead of water coming off the site it will be mud.

David Alexander  
40 Hunter’s Lane  
Ansonia, CT

Mr. Alexander said he agrees with Mr. Worobel and Mr. Zelem. He said he purchased the property two years ago and he has water problems. He submitted photos showing the water problems on his property.

John Izzo  
12 Shortell Drive  
Ansonia, CT

Good evening Mr. Chairman and Commissioners: John Izzo, 12 Shortell Drive, I am here tonight, along with other homeowners from Shortell Drive, Hunters Lane and Sharyl Drive, and I would like to once again establish for the record that we remain very much opposed to any regulated activity on this site. If approved, this development would disturb over two acres of precise natural resources and have an adverse environmental impact and major affect to the on-site wetlands and watercourses.

As you know, the area proposed for development is extremely steep and a flood prone watershed area involving White Mare Brook and Beaver Brook. The substantial amount of grubbing and

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grading and infrastructure work required to develop this site would undoubtedly have an adverse impact on important natural resources, including Eastern box turtles, which are a protected species in Connecticut.

According to the Conservation Commission, the proposed site has a 20 year history of flooding and it contains a high water table. The physical attributes of this parcel do not lend itself to a substantial amount of disturbance, such as the one being proposed. In fact, it remains unclear just how much of a disturbance the applicant is proposing. From the minutes of the January 3, 2008 meeting, Brian Nesteriak, the engineer for TUG stated the site includes 1.88 acres of wetlands and three months later at April 3, 2009 meeting, the applicant claimed that the site contains 1.3 acres of wetlands, yet a review of the initial site plan submitted shows a total of 79,293 s.f., or 1.8 acres of wetlands - difference of just over half an acre, which is a substantial amount of wetlands disturbance. Now, more discrepancies are discovered. A review of the applicant's revised site plan with a revision date of March 12, 2009, tells us we have an overall site consisting of a total of 18.2 acres and a wetland area of 2.2 acres. Yet, his Storm Water Management Analysis with a revision date of March 1, 2009, doesn't even list the amount of actual wetlands encompassing the 6.5 acres of proposed development, which is required under your regulations. I wonder what the applicant is attempting to hide this time around. Maybe he feels that since he has hired a hot shot attorney that he can continue to dance around some of these more technical issues that lay people may not be so inclined to recognize.

I Doesn't the Commission need this information? Why isn't Nafis & Young calling this to your attention? Why aren't they requiring this information in their review comments? First the applicant has 1.3 acres of wetlands, then he has 1.88 acres and tonight he has a total of 2.2 acres of disturbed areas. I know the Commission understands this is a substantial amount of disturbance no matter how you spin it, but the actual amount remains suspect, doesn't it? In fact I am not an attorney, but I do review a substantial amount of cases and in reviewing some case law on the Law tribunes website recently, in a case MJM Land vs. Madison Inland Wetlands and Water Courses Agency (case 39 CT No. 15,596) one Superior Court held that any destruction of a wetland or watercourse no matter how small, is a "significant Activity".

I know this Commission understands we have a major impact and affect here, but we cannot fully appreciate the actual amount of the impact until we know the total amount of wetlands on the site. By any review standard, this applicant is proposing a significant amount of disturbance in a regulated area – no matter which one of his reports you believe – and as of tonight, we really don't know which one to believe, do we? One really has to ask: What else is the applicant being ambiguous about here?

Significant disturbances continue to be proposed on top of steep slopes, which present a higher risk of erosion and sedimentation of down slope properties, especially at the top of Hunters Lane and all along the rear Yards of the Sharyl Drive properties, which already experience severe erosion from the site. But don't take my word for it, go take a look at some of those rear yards

for yourselves. The Applicant has not submitted any of the requested Test Pit or Boring Data to support the placement of houses on these slopes and the property has fair to poor potential for community development. The physical attributes of this parcel do not lend itself to this level of disturbance. The slopes are just too steep and the soils too poorly drained to support development regardless of the mitigation efforts and engineering measures being proposed to attempt to avoid a major affect or impact under your regulations. Just very, very difficult. This Commission, like all wetlands authorities in the state has broad – very broad discretion to interpret what constitutes a major affect or impact. This project, if approved, will forever degrade this precious natural resource.

Even with the most recent site plan layout, Lots #1 – 4 and #17 – 20, a total of 8 of the 9 duplex homes (8 of 9) would be situated atop of the Paxton and Charlton Hollis Soils – which raise serious concerns, since these are the least desirable soils to accommodate development because of their slow permeability in its substratum. And now according to the most recent Storm Water Analysis from the applicant, we see the builder is proposing to add another 100 feet of length to the road, thereby creating additional disturbances to an already difficult site. He went from a 620 foot road to a 720 foot road. I guess he needs more room for those large mobile homes he is providing parking spaces for as shown on his site plan. We will address that issue at P&Z, although I can't imagine this application will ever make it that far.

It appears the Commission has picked up, on some of this as well, but I felt it important enough to bring it to your attention tonight.

In reviewing a letter on file in the Town Clerk's Office from Attorney Thomas, and dated March 11, 2009 He asserts that the October 2008 report issued by Nafis & Young regarding its review of Mr. Nemerguts initial site plan contains mostly issues related to Planning and Zoning and the final decision on those issues rest within the jurisdiction of P&Z, he writes. I find this insulting to the Commission.

What Attorney Thomas does not tell you in his letter is that the entire report found deficiencies and poor design elements within the entire site plan. In fact, 28 of the 30 recommendations outlined in the report are exclusively within the jurisdiction of the wetlands commission, and only two components are related to zoning, which are the recommended installation of a guard rail in the area of the box culvert crossing and a fence around the detention pond. If intermittent watercourses, direction of runoff, contours, detention ponds, topographical boundaries and significant site features, which would influence storm water management on the site are not wetlands related, I don't know what is.

Nafis and Young is supposed to be the city's consulting engineer and along with Southwest, who this commission and over 20 other wetlands agencies in the Southwest region rely on for professional independent review, is part of the expert team that is guiding the commission in its review of this matter. However in reviewing the Minutes from the March 5th meeting and the April 2<sup>nd</sup> meetings, I was pleased to see that Commission members also had concerns about another conflict here. I have previously spoken with Allan Young via telephone to discuss this

application and since January, it appears that the applicant's attorney also has been speaking with him at length in what appears to be a work-in-progress between Mr. Thomas, Mr. Nesteriak and Nafis & Young to help the applicant prepare a revised site plan that meets with the approval of Nafis & Young – all in the absence of the public view and without the Commission's approval. We remain very concerned about this continuing process of ex parte communications, verbal discussions and inappropriate movement and conflict here between these folks. Haven't we had enough of conflict of interest in this case already?

Apparently the applicant's own engineer finally admitted this is not appropriate and Mr. Nesteriak apologizes for this in the Minutes from the March meeting. The city's consulting engineer should not be in the business of designing or revising the applicant's plans without input from the Commission and certainly he should never discuss this project with the applicant outside of this forum as he has been doing

Heck, if you review Brian Nesteriak's letter to the Commission dated March 10, 2009, and listen to his testimony during the April 2<sup>nd</sup> meeting, he will have you believe that they have worked with Mr. Young and have made all of his requested design changes up to this point and the plan is ready to go.

It is far from being acceptable or complete under your regulations, since so many discrepancies remain here and the submitted data still lacks the Ariel survey and the test pit and boring data requested by Mr. Young in his original October 28, 2008 report, among other critical review items, and therefore cannot be considered substantially complete under your regulations and should not be accepted as proposed this evening.

The second issue in Attorney Thomas's March 3, 2009 transmittal, and he broached the subject again at the April 2<sup>nd</sup> meeting – it is in the second paragraph where he states and I quote: "it has come to my attention that you have reports from Roman Mrozinski of the Southwest Conversation District. If you are in any way going to rely on anything stated by Mr. Mrozinski, please insure that you obtain his curriculum vitae, which I request be made part of the record. Unless he has recently obtained degrees or certifications, you will find that Mr. Mrozinski is not a P. E., Certified Soil Scientist or LEP. In fact, to the best of my knowledge based on review of his CV in a prior matter, he has no specialized education that would permit the Commission to treat Mr. Mrozinski as an expert in any engineering, soil or environmental matters".

It is important to note that the Southwest Report is only one part of the review process and these reports are clearly advisory in nature. Obviously, the Commission will also discuss the impacts of this project with your consulting engineer, if he can find a way to stop having all of these side bars with the applicant and your attorney and others.

However, not only does Mr. Mrozinski have the required education and expertise in these areas, he is well schooled in environmental sciences and this commission and well over 40 others in the Southwest Region have relied on his expertise for over 14 years.

As you know, the Southwest Conservation District provides technical services to 43 other towns and cities including site visits, site plan reviews and investigations, and they specialize in soil erosion and sediment control plan review. They most often assist municipalities with water quality, wetland and storm water issues, as well as associated environmental impacts. They provide site investigation, assessment and corrective measures of ponds, water bodies and watercourses concerning water quality degradation.

Southwest didn't just decide to open a corner shop to review site plans one day. They are in the environmental business because Congress enacted the Soil Conservation Act of 1935, which established a national policy for the control and preservation of soil erosion, and directed the Secretary of Agriculture to establish the Soil Conservation Service to implement this policy. Southwest and all Conservations Districts in CT, and all across the United States through this the Act, operates under the Authority of the respected DEP. In fact, I think this is very important or the Commission to acknowledge, by virtue of the DEP's oversight, Southwest and Mr. Mrozinski, has the required expertise and professional competitive competence to address a wide array of environmental, planning and development-related issues, such as those that are the very subject of this application.

With respect to his credentials. Mr. Mrozinski, at my request, was kind enough to fax his resume to me recently. I have copies for the Commission, and by the way, Mr. Thomas has previously been provided with these very same credentials on at least two occasions by Anthony Fiorillo, the Inland Wetlands Officer for the town of Oxford, where Mr. Thomas routinely represents developers in that town and apparently uses this same tactics there when a review from Southwest comes back that is not favorable to his client. I would like to submit these credentials into the record this evening. I have also included a print out of the Southwest website to give the commission additional background on this well respected independent organization.

Mr. Mrozinski holds a Masters in Environmental Sciences from UNH and a BA in Liberal Arts with a minor in Geology from Keene State College. Not sure if the applicant's soil guy has a Masters in Environmental Sciences, but yours does. Mr. Mrozinski has been the Executive Director/Technical Coordinator of the Southwest Conservation District since 1994 – (15 years) and as I understand he may be asked to take over the storm water management program at DEP soon because of his knowledge in this area. Pretty good endorsement by the State, wouldn't you say?

Reviews from the Southwest District are very credible and they have been utilized by such towns as Seymour, Shelton, Oxford, Wallingford, Branford and many others for years. But don't take

my word for it, please, call these towns yourself, just like I did. Call John Conroy in Seymour, or Andy Fiorillo in Oxford. Please, these folks are readily available by telephone.

Really, what Mr. Thomas does not mention in his letter is that Oxford denied two client applications over the past few years, and during both of these reviews, apparently Southwest provided unfavorable comments about the adverse impacts these projects would have and they were subsequently denied, went to court and the town's disapprovals were upheld. This is according to Mr. Fiorillo.

Now, Oxford did not deny these solely on the Southwest Reports because according to Mr. Fiorillo, Oxford also uses Nafis and Young and other experienced wetlands folks as part of their review team. I don't know all the particulars of these cases but the point is that that Attorney Thomas routinely uses this diversion tactic to mask the true impact of his client's wetlands proposals when the review is not favorable to him.

It is important to understand the primary difference between a Certified Soil Scientist and one that is not. Both are educated professionals typically with basic qualification requirements for membership in the Society of Soil Scientists of Southern New England. They have Basic and Professional Member status and both require a background in soil science or closely-related fields, such as experience and/or education in soil chemistry, soil physics, soil microbiology/biochemistry, mapping and related studies - all of the disciplines utilized by Southwest and other conservation districts in their every day review of site plans for cities and towns. Although Professional Membership does require three years experience and the dues is \$40 annually. As you can see, and as previously stated, Mr. Mrozinski, has the required expertise and professional competitive competence equal to or better than any Soil Scientist and he is recognized as such. I would like to submit a copy of the Associations website for your review.

So hopefully, we can put this issue of expert review to bed now. Southwest is very good at what they do, and they are recognized as such, Nafis and Young is good at what they do and Brian Nesteriak is a fine engineer, I'm sure. Besides, it is not for Mr. Thomas to determine what credentials and experience define an expert, it is for a court to determine if it comes to that in the future. No matter what your credentials, you cannot change the natural characteristics of wetlands, you can only attempt to mitigate an impact or major affect and that is not possible at the Melrose site.

Over the next several months, as this application progresses, you will listen to Mr. Thomas use his legal expertise to tell you what your regulations require and how you must accept this and accept that.

He will attempt to intimidate you. Please do not let this occur. I have reviewed the Minutes from the April meeting, we see that he already gave you a subtle jab by announcing that he was

the Attorney who sued the city by appealing the Hunters Lane development several years ago, didn't he?

It is important to note that the Superior Court upheld this Commission's denial on that case, as they do in almost 95% of appeals. So please do not be afraid of this guy. The City only lost when he appealed to the State Supreme Court, because the Supreme Court determined that at the time, the City had never adopted an actual regulation stipulating an upland review area, which at the time was 50 feet and that was under my watch as Chairman and under Bill Urban's watch for 20 years prior to my service. No one knew that the City had never adopted the buffer zone and nothing was on the books to back up its decisions. We thought it was inherent in our regulations and it was not and that created a taking and other issues. You don't have those worries today. This should be a slam dunk for you. Please understand, they didn't win because they proved a no net increase in flow, or a major impact or affect. We proved their project did have an impact and it still does today, doesn't it? As a result of that case, I, as Commission Chairman at the time, along with the Commission's consulting Attorney drafted a regulation for a 100 foot upland review area, which was approved by Corporation Counsel Kevin Blake, duly noticed, voted upon by the Commission and so adopted and you are operating under that regulation today. I would like to present a copy of it at this time.

In addition, at that time, this Commission added to its regulations that not only can you consider the impacts the development would have on the wetlands within the review area, you are now allowed to consider the impacts associated with development outside of the review area. Impacts, such as all the grubbing, grading, removal of major rock outcroppings, trenching, depositing and removal of materials and related work to install the infrastructure for construction of 720 foot long road for this project. Please review all of this with Attorney Shansky and you should be in good shape.

I have nothing against the legal profession, heck, I have two attorney's in the family on my wife's side, but with all due respect to this profession, this commission has never been intimidated by Attorney's who use the tactics that Mr. Thomas is attempting to deploy here, and this commission has had some of the best attorney's in front of us, like Charles Willinger, Dominic Thomas and others. (He turned to Mr. Thomas and said that is a compliment to you Mr. Thomas). The Commission has never let these guys come in here and intimidate people and I hope you will not either. If at the end of the day, this project meets your regulations and your approval, fine, but if you decide to disapprove the application, don't be worried, let the applicant take an appeal and the men and women in the black robes will decide if the project will have a major impact or affect. You, as a commission have broad discretion as to what constitutes a major impact or affect. A very broad discretion.

With all of the conflict surrounding this application, from the City Engineer performing the A-2 survey for the applicant, to Nafis and Young working with the applicant without the Commissions' knowledge or approval and since the applicant isn't comfortable with the

Southwest Report, which by the way, it was Mr. D'Amico who actually recommended this application be reviewed by Southwest – just like this Commission has done with Hunters Lane, I think it is only prudent to recommend the Commission send this application out for a King's Mark Environmental Review and to Southwest again, since it has changed quite a bit. As you know this is the only fair way to determine a major effect or impact. The ERT is a group of environmental professionals drawn together from a variety of federal, state, regional and local agencies to form multidisciplinary environmental study teams to assist municipalities in review of sites proposed for development or preservation.

The ERT operates under the guidance of the Eastern Connecticut and King's Mark Resource Conservation and Development Areas. The ERT is a public service that serves all 169 Connecticut towns free of charge. They are completely independent and have no connections to the City or the applicant. Their application is on-line and I also have printed it along with other background information from their website. They are currently running about 60 days from start to finish for a review.

My neighbors and I remain opposed to this project or any development on the proposed site and we will continue to unite in our opposition.

To that end I would like to submit a Petition into the record that requests a Public Hearing on this matter. As you know, under your regulations, a Public Hearing must be held if any one of the following three measures are met:

1. If the development is in the public interest
2. If the project will likely have a major impact or affect
3. If a petition is signed by at least 25 adults living in the town in which the project is proposed.

The petition is signed by 44 affected property owners on Shortell Drive, Hunters Lane and Sharyl Drive and I would ask that this be read into the public record by the Recording Secretary at this time.

Finally Alderwoman Tara Kolakowski, who had hoped to be here this evening to speak against this application, but could not attend due to a scheduling conflict has asked me to submit this letter and have it also read into the record.

Mr. Izzo presented the following information for the record. A copy was given to each member of the commission:

1. Presentation of Mr. Mrozinski's Resume and Certificates:
2. Copy of the Southwest Conservation District website.
3. IWC Regulation 100 foot buffer
4. Kings Mark Environmental information
5. Alderwoman Kolakowski's letter
6. Petition

Mr. Izzo thanked the commission for the opportunity to be heard this evening.

Chairman Knapp asked the Secretary to read the petition and Alderman Kolakowski's letter into the record at this time. (copies are attached and on file in the Town Clerk's office.

Chairman Knapp asked if there was anyone else who wished to address the commission at this time. He asked three (3) times.

Mr. Phipps made a motion to close the public session. Mr. Madar seconded. All in favor, so carried.

Mr. Holman said that he takes exception that the Inland Wetlands Commission is not doing its job. We will do everything in our power to make the correct decision on both sides. Everything in our power legally to do what is right for the City and the applicant.

Mr. Phipps made a motion to deviate from the agenda and take up item #9 on the agenda at this time. Mr. Holman seconded. All in favor so carried.

**TUG LLC/Estate of Casmir Machowski: Request for IWC permit for 55+ housing located off Hill Street at the end of Shortell Drive**

Mr. Dominic Thomas, Attorney, Mr. Brian Nesteriak, Mr. James Nemergut, Ms. Josephine Machowski were present.

Mr. Thomas said that the petition is defective. This application which was submitted March 18, 2008 and actually was accepted April 2, 2009. The 65 day period ran and he is shocked it was not acted on. The Report of November 2008 stated the survey had issues with the topography. The applicant had another survey and discrepancies were discovered. The applicant is working with Nafis & Young in all other towns and we have not been able to get the report from Nafis & Young for this project. We are not trying to pull the wool over anyone's eyes. Whenever a town gets a report from staff of the Inland Wetlands Commission the applicant tries to respond.

Mr. Thomas continued stating as a result of that report modification of plans was submitted. They were substantially different. He quoted the case: Ambrose vs. Town of Seymour where it was determined the change was considered a new application. Mr. Thomas said this is a new application.

Mr. Madar said the application was received at our April meeting.

Mr. Thomas said it was in March before the April meeting. He said he still hasn't seen the Nafis & Young report. He said the Inland Wetlands Commission's 65 days began at the April meeting. The Commission has to make a decision within 65 days. If you are setting a public hearing as a result of the petition you would have had to do that within 14 days of receipt of the petition.

Mr. Holman said that Inland Wetlands Commission has stated previously that they would hold a public hearing on this application. He said they requested all information be a part of the public hearing and new information is welcome.

Chairman Knapp said the Nafis & Young report will be distributed.

The Secretary gave Mr. Thomas and Mr. Izzo a copy of the Nafis & Young report at this time.

There was a discussion on accepting the application and the date that is considered the acceptance date for the application.

Mr. Holman said that the Commission did not accept the application.

Chairman Knapp said that he spoke with Attorney Shansky and she recommended the Commission use the April 2, 2009 meeting date as the date the application is accepted.

Mr. Phipps made a motion to hold a public hearing on the Melrose Estates Subdivision on Thursday, June 4, 2009 at 6:00 p.m. Mr. Holman seconded. All in favor, so carried.

### **Brian Butler request to release IWC Bond #2000C for 34 Glen Drive**

Mr. Brian Butler requested a release of his IWC Bond for permit # 2000C for 34 Glen Drive.

The construction has been completed and the C.O.'s are issued for 34 Glen Drive and the rear lot 34A Glen Drive.

Mr. D'Amico said he will go up to the site and inspect it and send a letter to the Commission with his recommendation.

Mr. Phipps made a motion to release the IWC bond for Permit 2000C for 34 Glen Drive pending receipt of Mr. D'Amico's letter. Ms. Anderson seconded. All in favor, so carried.

There was a five (5) minute recess at this time.

### **Ray Sadlick/TWC Dev. LLC: Request for IWC permit for 55+ housing located at 23 Hull St./110 Clarkson St. (10/1/08 – 12/05/08 is 65 days Extension to 2/8/09)**

Clifford Hoyle, Attorney, Mr. McChord, Mr. Frank Hoinsky and Mr. Ray Sadlick were present.

Mr. Hoyle said that all of the conditions requested by the commission have been satisfied. The revised maps have been submitted and Mr. D'Amico has reviewed them. The number of units was reduced from 26 to 21. He asked the commission to consider action on this application this evening.

Mr. Phipps asked about the water runoff to the backyards of the residents on Dwight Street.

Mr. McChord said it is a grade level and down from the back of the units. There is also a swale and the run off flows back to the detention facility. He said all water is captured on their property and brought back to the detention facility.

Mr. Phipps asked about the huge quarry located on the property and if they would be filling that area.

Mr. McChord said absolutely. He said they pulled units out of that area so there will be no buildings located on the fill area.

Mr. Holman said that was his question also and it has been answered.

Mr. D'Amico said the map is in error and must be revised. It shows 15 inch topo and the drainage calculation shows 12 inch.

Mr. McChord said the 15 inch is what they are going with – the existing lines.

Mr. D'Amico said all maps show the 15 inch but the calculations show the 12 inch.

Mr. McChord said the survey was updated.

Mr. D'Amico said the drainage calculations were revised and has to be shown on the map as correct. This is an overall large scale project with a lot of grading on the site. The development has to meet the density regulations also.

Mr. D'Amico said the revised grading is onto their property grading down on a 1, 2, 3 swale to catch the water.

Mr. Phipps said his big concern is for the people below the development.

Chairman Knapp noted that the Recreation parking area is moved out of the way.

Mr. McChord said they would prefer not to have the RV parking lot built but that is a requirement of P&Z.

Mr. Holman said they have met everything we asked.

Mr. Holman made a motion to accept the application for 55 & over subdivision on 110 Clarkson Street and 23 Hull Street as substantially complete. Mr. Phipps seconded. All in favor, so carried.

Mr. Holman made a motion to classify the application as a Class B regulated activity. Mr. Phipps seconded. All in favor, so carried.

Mr. Holman made a motion to approve with conditions the application for an IWC permit for 110 Clarkson St. and 23 Hull Street for 55 and over subdivision. Ms. Anderson seconded. All in favor, so carried.

Conditions:

1. All the Class B permit conditions that are applicable to the application will be incorporated into this permit.
2. Revised map submitted with the corrected topo grades and drainage calcs(5 copies)
3. Permit Fee is \$10,500
4. Cash Bond is to be determined by the City Engineer.

#### **Joseph Cartenuto request for IWC permit for rear lot on Deerfield Dr.**

Mr. Joseph Cartenuto, 12 Deerfield Lane, Woodbridge, CT and Mr. Richard Henry, 1 Robin Road, Seymour, CT were present.

Mr. Holman said the application should be referred to Southwest Conservation District and to staff for review and comment.

Mr. D'Amico said that the map is not adequate for review or referral. The following items must be addressed:

1. Location of the proposed house
2. Proposed grading
3. Septic system location shown on the map
4. Wells must be shown on the map and approval
5. Valley Health District approvals for the septic and wells
6. Driveway must be shown as a common driveway
7. Show the existing driveway- on the map it goes back and forth – it is not clear.
8. Map must be clear on the driveways (common and existing)
9. Line on the map
10. Driveway
11. Perk tests

Mr. Henry said they want to get this project going and he doesn't know if the commission wants to work with them on this or not.

Mr. Holman said he rescinds his motion to refer the application to staff and SWCD. He said Mr. Cartenuto has to get the list of items required accomplished before the application can be referred.

There was a discussion on the time frame for this application and how long it will take Mr. Cartenuto to get the maps done.

Mr. D'Amico suggested that they discuss the maps and what is needed with their engineer and resubmit the application.

Mr. Cartenuto stated that he is withdrawing his application this evening and will resubmit after he has all of the information needed.

Mr. Phipps made a motion to accept Mr. Cartenuto's withdrawal. There will be no application fee required with the new submission. Mr. Madar seconded. All in favor, so carried.

#### **Ronald Balabon: request to release IWC Bond for 45 Glen Drive**

A letter was received from Ronald Balabon requesting the release of his IWC Bond for 45 Glen Drive. He stated he will not apply for any building permits because the lot was not approved as a practical building parcel.

Mr. Holman made a motion to release the bond for 45 Glen Drive as requested because it is not an approved practical building lot. Mr. Phipps seconded. All in favor, so carried.

#### **Violations:**

President Blume said that Mr. Blake asked him to advise the commission as to the status of the violations that were in court.

#### 17 Hodio Drive

President Blume stated that 17 Hodio Drive is in court and the hearing is scheduled for May 29, 2009.

#### 34 Benz Street

President Blume stated that 34 Benz Street is in court also.

#### 3 Kiely's Lane

Mr. Holman stated absolutely Inland Wetlands Commission should not approve anything without a site inspection of the property first. He said he called Mr. D'Amico on this violation where the water was flowing down off the site onto Jewett Street and washed out a driveway on 125 Jewett Street.

Mr. Holman said that he told Mr. D'Amico to tell Mr. Nocerino to fix the problem or the IWC will put a cease and desist order on the project and he would have to appear before the Commission at the June 4, 2009 meeting.

Mr. D'Amico said that he spoke to Mr. Nocerino's son and he did clean out the temporary sediment pond. The sediment pond was completely filled in with silt and the water was flowing over it.

Mr. D'Amico said that Mr. Crabtree was also out there on the site and they didn't have any silt fence or hay bales in place.

Mr. Holman said the commission should look at their policy to include a site walk for every application. He said the commission did not know anything about this site and it was approved by the Board.

Mr. D'Amico said 90% of the time you can schedule a site inspection of a project. It doesn't have to be written in a policy. It's at the discretion of the Commission.

Mr. D'Amico said that Mr. Nocerino had a proposed plan for another house on this property below the house on Kiely's Lane on a rear lot. He said he advised him to get this site fixed now if he plans to come back for more houses on the property. He said it may take Nocerino a couple of months to fix the detention basin and the problems.

There was a discussion on scheduling a site walk for applications before the commission.

Mr. Holman said for clarification – Mr. Crabtree is our Enforcement Officer. We send him out and he has the authority to shut down a project.

Mr. Crabtree said IWC has to do it. IWC would have to send an order to cease and desist and schedule a hearing within 10 days of the notice or hold a separate meeting to handle the cease and desist. He said that is why he tries to handle it without a cease and desist order i.e. a visit to the property and property owner and a follow up letter.

Mr. D'Amico said he will send him a letter.

Chairman Knapp said can we have Mr. Crabtree monitor it or Mr. D'Amico monitor this.

Mr. Crabtree said the property was inspected by a number of parties and they are not satisfied. Between the meeting we can send him a letter and hold a hearing.

There was discussion on the powers of the Inland Wetlands commission with regard to cease and desist orders and what happens once an Administrative Hearing is held. There was concern with the time frame once a letter to cease and desist goes out to the violator.

The members agreed not to issue a cease and desist order at this time because Mr. Nocerino has responded to Mr. D'Amico and stated he would fix the problem with the detention pond and silt fences and hay bales.

### **Any other business to come before the Commission**

#### **Commission I.D. Badges**

Mr. Holman said the Fire Department just received new I.D. Badges. He asked about the IWC getting badges.

The secretary said she had spoken with Eileen Krugel about doing the badges for IWC and P&Z and she said she would do them.

Mr. Holman made a motion to request Photo I.D. Badges for the Commission. Ms. Anderson seconded. All in favor, so carried.

Mrs. Flaherty said that Ms. Krugel is here in the building this evening and she will ask her to take the pictures tonight.

Eileen Krugel came up to the meeting and said she will take the pictures of the members after the meeting adjourns and she will make ID badges for them.

Mr. Madar said that Mr. Nafis left the meeting as soon as the Melrose discussion ended. He didn't give the commission members the opportunity to ask him any questions about the design or drainage, etc.

Mr. Holman said he was offended that the public implied the Commission did not know what they were doing and were not doing their job as commissioners.

Chairman Knapp suggested a meeting with Mr. Nafis and Ms. Shansky before the Public Hearing so that the commission will be informed.

Chairman Knapp discussed the fact that the report was done and the Commission policy is not to give it out until the commission members receive the report first.

Mr. D'Amico said that in other towns the applicant's engineer receives the town engineers comments ahead of time so that they don't have to go back and forth during a meeting.

There was discussion on the IWC policy not give out reports before the commission members receive them. The commission members agreed to put any reports received on file once the commission members have received the reports in their packets.

Chairman Knapp said that Nafis & Young did acknowledge the commission's policy and sent a letter stating they will not meet with the applicant until IWC approves a meeting.

Chairman Knapp noted for the record that the invoice sent to Mr. Thomas for extra engineering review work done by Nafis & Young for their engineer Brian Nesteriak has not been paid as yet. He asked the secretary to send another letter reminding them this is past due.

Mr. Holman made a motion to hold a Special Meeting on Thursday, May 28, 2009 at 6:00 p.m. to discuss public hearing procedure and Melrose Estates. Mr. Madar seconded. All in favor, so carried.

### **May & June Meetings**

There will be a Special Meeting on May 28, 2009 at 6:00 p.m.

The June Meetings are as follows:

June 4, 2009 public hearing at 6:00 p.m. – TUG/ Shortell Drive

June 4, 2009 regular meeting at 7:00 p.m.

### **Adjourn**

Mr. Madar made a motion to adjourn the meeting at 8:45 p.m. Ms. Anderson seconded. All in favor, so carried.

I.D. Pictures were taken after the meeting adjourn.

Respectfully submitted,

Jo-Lynn Flaherty  
Secretary