

## May 10, 2006

MEMBERS PRESENT: Mr. Bedini, Mrs. D. Hill, Mr. LaMuniere, Mr. Picton, Ms. Purnell

ALTERNATES PRESENT: Ms. Coe, Mr. Thomson

STAFF PRESENT: Mr. Ajello, Mrs. J. Hill

ALSO PRESENT: Mr. Griffiths, Atty. Cornell, Mr. Underwood, Mr. Arturi, Mr. Owens, Mr. Brigham, Mr. Neff, Atty. Kelly, Mr./Mrs. Howard, Mr. Wilson, Mr. Wilson, Ms. Dzenutis, Mr. Rosiello, Mr. Boling, Mr. Charles, Press

### Regular Business

Mr. Picton called the meeting to order at 7:05 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell.

MOTION: To add the following subsequent business to the agenda: Other Business: Preliminary Discussion/Strawman, LLC./135 Bee Brook Road (Juniper Meadow Road)/Bridge. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

### Consideration of the Minutes

MOTION: To accept the 4/26/06 Public Hearing - Show Cause Hearing - Regular Meeting minutes as written. By Mr. Bedini, seconded by Mrs. Hill, and passed 4-0-1.

Ms. Purnell abstained because she had not read them.

The 5/2/06 Smith site inspection minutes were accepted as corrected. Mr. Watson's name was added to those in attendance.

MOTION: To accept the 5/2/06 Smith site inspection minutes as corrected. By Mr. Bedini, seconded by Mr. Picton, and passed 5-0.

The 5/2/06 Brown site inspection minutes were accepted as corrected. After the third sentence add the following: A fair amount of native woody vegetation was growing between the stones.

MOTION: To accept the 5/2/06 Brown site inspection minutes as corrected. By Mr. Bedini, seconded by Ms. Purnell, and passed 4-0-1. Mrs. Hill abstained because she had not received the minutes.

MOTION: To accept the 5/2/06 McTiernan site inspection minutes as written. By Ms. Purnell, seconded by Mr. Picton, and passed 4-0-1.

Mrs. Hill abstained because she had not received the minutes.

### Pending Applications

**Kessler/103-105 West Mountain Road/#IW-06-05/Two Dwellings, Wetlands Crossing, Planting, Etc.:** Mr. Picton noted at the last meeting he had asked the commissioners to write down both reasons for denial and conditions of approval. These were sent to Mr. Ajello who had written two draft motions upon which to start discussion. The map, "Wetland Mitigation Plan," by Land Tech Consultants, revised to 4/24/06 was reviewed. The draft motion of approval was discussed first and the following conditions agreed upon:

MOTION: To approve Application #IW-06-05 submitted by Mr. and Mrs. Kessler for the construction of a house and access driveway with bridge and the reconstruction of a guest house at 103-105 West Mountain Road per all the documents submitted as revised to this date subject to the following conditions:

1. A \$40,000 bond shall be posted before any activity begins on either site to cover all protective measures and long term mitigation and professional supervision and monitoring on behalf of the Commission pre, during, and post construction. If there are adverse impacts detected, then further mitigation measures shall be implemented under the direction of the Commission's consultants. If in the judgment of the Commission it becomes necessary for the Commission to hire contractors and consultants to properly implement any of the protective measures, the property owner by acceptance of the permit authorizes such work to be carried out and covered by the bond. If such judgment is made by the Commission, the remediation, stabilization, or repair work shall proceed without delay. If the bond balance should fall below \$30,000 at any time, all other construction work shall stop until the expended bond is replaced and the total bond amount is restored to \$40,000. Partial releases may be granted at the discretion of the Commission with an adequate portion of the bond remaining in place through two growing seasons following completion and stabilization of all work.
2. The applicant shall cover the cost of the services of an engineer or other qualified individual or firm mutually agreed to with the Commission to monitor the implementation of the project and to report twice a week or more often as necessary to the Commission through the EO on its progress. That party is to confirm to the Commission in a final report that the conditions of the permit have been met. A similar report shall be prepared regarding the functioning of the vegetative buffers and other erosion/stormwater control measures during the first two growing seasons after the end of construction.
3. On both the guest house and main house sites, the limit of disturbance line shall be redrawn to exclude any slopes with an existing contour greater than 20% from the work area so that currently undisturbed, vegetated, stable slopes in excess of 20% will remain in that condition. The slope shall be determined by survey or by analysis of the surveyed contour map with site measurements being determinative. The amended line shall not be any closer to wetlands or watercourses than the line as shown at the close of the public hearing. Plans for landscape changes, regrading, and building construction and the new limit of disturbance line shall be amended accordingly, with amended plans submitted for review and approval before the start of work. Exceptions: a) where the pipe and swale accepting overflow from the roof drain infiltration structures must be installed down the steeper slope, disturbance of a slope greater than 20% is permitted, but shall be kept to a maximum of 30 feet wide, b) where existing structures are to be removed affecting 20% slopes or steeper, the footprint of the patio, steps, and pathways to be removed shall be regraded to its pre existing natural contour and disturbance kept to a minimum. This work shall be completed and stabilized at the onset of construction and before upslope areas are disturbed, c) all inspection and monitoring reports shall be submitted to the Land Use Office and distributed to the commissioners.
4. Regarding the emergency overflow channel from the main house the applicant shall either: a) widen the channel to 8' and install a 2' layer of intermediate rip rap and a check dam half way up the slope or b) install a 2' layer of standard rip rap along the entire length of the swale.
5. The soil stockpile location shown to the west of the guest house site shall not be used due to its proximity to runoff and saturated soil areas. An alternate location at least 30 feet away from slopes exceeding 20%, which slope down to wetlands and at least 100 feet from wetlands shall be identified and used.
6. The applicant must provide a detailed construction plan describing the sequence in which construction phases will take place and showing how these different components interface in time and space. This comprehensive construction plan must be reviewed and approved by the EO and the Commission before construction begins.
7. All conditions of approval shall be listed on the site development mylar. The mylar and construction and implementation sequences shall be filed prior to the start of construction in the Town Clerk's Office

on the Land Records and be referenced in and/or attached to the deed of the subject properties.

8. The limits of disturbance shall be marked in the field prior to breaking ground or clearing (pre construction) using a substantial and durable barrier.

9. The boundaries of the protective buffer areas shall be permanently marked with durable posts or trees and signs every 30 to 50 feet depending on the configuration of the line, prior to the start of work.

10. A preconstruction meeting shall be held with the EO, contractors, owners, owners' representatives, and the Commission's site monitor and the detailed construction sequence shall be reviewed.

11. All areas within 100 feet of wetlands and watercourses shall remain in undisturbed native forest vegetation and soil cover except for the conditions and activities shown on the amended plan, which is to be approved by the Commission pursuant to this decision.

12. The guest house shall be limited to two bedrooms and its presently approved footprint size (size shown on 4/24/06 plan) and the driveway surface area shall not be increased beyond that approved.

By Mr. LaMuniere, seconded by Mr. Picton, and passed 4-1.

Ms. Purnell voted No for the following reasons: 1) the potential precedent set when removing an existing footprint and allowing for modification of that footprint, 2) the impacts from the existing structures and the cause for the eutrophication of the pond had not been definitively established, 3) there are feasible and prudent alternatives for both the main house and guest house, and 4) the property is not appropriate for development of this size.

Mr. Picton noted the Commission hoped with a careful plan and based on a lot of engineering and carefully worded conditions that the approved activities would cause no significant adverse impact to the wetlands and watercourses. He thought an adequate buffer area had been left between the construction area and the wetlands. He stated the motion had been very specific and that he did not believe that what was approved for this site would set a precedent for any other site because each was unique.

Ms. Purnell noted the research she had submitted on buffers was important, noting that shrinking the size of the dwellings and disturbed area was not just a goal in itself, but also allowed for an increase in the surrounding natural areas. She also noted the Commission is allowed to take into account normal future uses associated with residential development. She thought it was unrealistic to think only the 30 feet designated as lawn would be disturbed in the future.

Mr. LaMuniere thought the engineering details submitted and the Commission's monitoring condition would be sufficient to prevent damage to the wetlands.

Mr. Bedini stated the applicant's engineer was reputable and if the plan presented was implemented as proposed there should be no impact to the wetlands.

Mrs. D. Hill agreed with Mr. LaMuniere and Mr. Bedini. She did not like such large structures located so close to wetlands, but she did not think there would be long term impacts.

Ms. Coe did not think the structures should have been built there in the first place, but since they had been, she thought the Commission must do its best to work with the existing situation. She thought the applicant's engineer made a good faith effort to protect the wetlands.

**Potter/220 Old Litchfield Road/#IW-06-14/Site Development:** Mr. Ajello stated he was still waiting for the site development plans that had been requested by the Commission several meetings ago.

**Adams/57 West Shore Road/#IW-06-15/Retaining Wall, Path, Stairs, Plantings:** Ms. Dzenutis, representing the property owners, stated the map had not changed since the last meeting, but that the

contractor had submitted a document dated 5/10/06 to respond to many of the Commission's questions. The map, "Beach Renewal Project," drawn on the survey map by Mr. Cheney, dated July 2004, was reviewed. The proposed work included: 1) replace the existing wall and fence along the road, 2) repair the deck, walkway, and steps down to the beach; the existing wood would be replaced with bluestone on crushed rock and a small stone wall would be built to support them, 3) construct a small retaining wall to hold an area for native plants. Mr. Picton said the most important question was whether the Commission should allow this type of work at the water's edge. Photos of what now exists on site were circulated. Regarding the fence along the road, Ms. Dzenutis said the new fence would use the existing iron casings and would have the same dimensions as the original. Mr. Picton did not think this would have an impact. Ms. Purnell did not think the replacement of the deck and stairs would have an additional impact because the existing cement was not porous. Ms. Dzenutis said the proposed work would help to solve the erosion problem here. Mr. Picton questioned whether the lower retaining wall and the change of the beach to a landscaped area were merited. Ms. Dzenutis said the buffer plants would be planted directly in the beach and the wall was needed to protect them. Ms. Purnell did not think some of the suggested plants would survive in wet sand and offered to provide a list of native plants that would. She and Mr. Picton suggested the vegetation be planted without the retaining wall. Mr. Picton asked if the replacement of the deck and stairs could be done without increasing the height or width of the existing cement. Mr. Bedini noted according to the plans, the concrete would be raised about 1 ft. and asked if that barrier could be removed instead. Ms. Dzenutis said it could be made lower instead of taller. Mr. Picton read the question and answer sheet. Mr. Picton advised Ms. Dzenutis that silt fence was needed between the work area and the water to catch construction debris. He asked how deep and how wide the foundations would be. Mr. Bedini asked for a cross section of the proposed construction. Mr. Picton noted if soil would not be deposited for the plantings, the landscape fabric would not be needed and suggested the masonry and stonework for the path should be no higher or further out towards the lake than what now exists. Mr. Picton noted the changes must be shown on the site plan and all of the above questions answered and information provided before the Commission would act on the application. He asked Mr. Ajello to work with the applicant to make sure the application was complete for the next meeting.

**Schoellkopf/330 Nettleton Hollow Road/#IW-06-20/Deer Fence:** Mr. Sabin, landscape architect, submitted his 5/10/06 memo to the Commission with attached cross section, entitled, "Schoellkopf Fence Crossing at Sprain Brook." He said he had understood from the discussion at the last meeting that there was a consensus that as long as the crossing was detached so it could breakaway and there was adequate room for smaller animals to pass, the commissioners would be OK with it. He explained in detail the cross section, which included normal deer fence to the top of the overbank and then four sections of breakaway connectors. He said it was obvious they would require frequent maintenance, but noted Mr. Schoellkopf has a full time maintenance staff. He noted similar plans had been used successfully in Wisconsin and British Columbia. Ms. Purnell asked if it turned out there was a problem with catching debris, would Mr. Sabin evaluate an alternate solution. He said he would. Mr. Picton did not think the goal of protecting the garden from deer merited the blockage of the stream, especially since there were feasible and prudent alternatives such as installing an electric fence around the garden area only. He also thought it was not a good idea to fence across wetlands, watercourses, and wildlife corridors that relate to wetlands. Ms. Coe agreed and said she would vote, No, if seated. Mr. LaMuniere noted that at the last meeting several of the commissioners thought the proposed fence could be an exception because the garden was nationally recognized and would be preserved in perpetuity. Ms. Purnell stated that in terms of environmental connectivity, Mr. Sabin had made an effort to pull back the fence from upper wetlands and said he had agreed to look into alternatives if this was not a workable solution. She considered this to be a unique situation and did not foresee any other exceptions.

MOTION: To approve Application #IW-06-20 submitted by Mr. Schoellkopf to erect a deer fence at 300 Nettleton Hollow Road per the 5/10/06 letter from Mr. Sabin and the 4/25/06 site plan.

By Ms. Purnell, seconded by Mr. LaMuniere, and passed 4-1.

Mr. Picton voted No because he thought it was not a good idea to fence across wetlands, watercourses, or wildlife corridors that relate to wetlands and there were feasible and prudent alternatives.

**Washington Club, Inc./8 Golf Course Road/#IW-06-24ATF/Utility Trench:** Ms. Purnell recused herself because she is a member of the Washington Club and Alternate Thomson was seated. Mr. Ajello's 5/10/06 report was reviewed. He noted there was a 20 ft. wide area the length of the trench that had been disturbed when all that had been necessary was 8 ft. He also noted that where the activity had occurred close to wetlands, sediment had washed into the wetlands. He recommended this material be removed by hand and that the disturbed area be graded over and hayed. Mr. Picton asked if something could be done with the disturbed area to make a suitable wetlands buffer. Mr. Ajello responded it could either grow back naturally, noting the canopy remains, or wetlands appropriate vegetation could be planted. Mr. Picton asked Mr. Ajello for recommendations on site restoration and to review the application for completeness for the next meeting. Mr. Ajello noted the restoration of the steep road shoulder would be a problem. Mr. Underwood suggested it be left to regrown on its own. Mr. Ajello worried that due to the sandy soil and 4:1 grade, this would be difficult and he recommended silt fence be maintained at the bottom of the slope. He thought environmental mesh or an engineered solution might be needed. Mr. Underwood noted that if an engineer was required, the restoration plans would not be ready for the next meeting. Commissioners will inspect the site on their own and Mr. Bedini offered to write an inspection report.

**Smith/35 East Shore Road/#IW-06-24/Restore Pond, Build Greenhouse and Garage:** Mr. Picton noted the portion of the application for the restoration of the pond had been withdrawn. The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 5/8/06 was reviewed. The locations for the greenhouse on the north side of the property and the garage on the south end and the limit of disturbance areas for both were noted. Regarding the garage, Mr. Neff, engineer, stated a frost wall footing would excavated, but the existing foundation would remain and the new building would be constructed inside it. Mr. Picton noted the garage would be 60 ft. from the stream, but that the driveway and a stonewall were between them. He thought there were no other suitable locations for the garage and greenhouse than those proposed. Mr. Neff noted variances for this work would be required from the ZBA.

MOTION: To approve Application #IW-06-24 submitted by Mrs. Smith to construct a garage and a greenhouse at 35 East Shore Road per the plans dated 5/8/06 and with the understanding the approval does not include the restoration of the pond. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Ms. Purnell was reseated.

**Brown/127 West Shore Road/#IW-06-25/Rebuild Retaining Wall:** Mr. Wilson, engineer, presented photos of the existing site conditions. He pointed out the area where the commissioners agreed there was an existing wall and the section where they did not think the rocks were part of a wall. Mr. Wilson said the owners preferred to rebuild the wall along the entire length of the property. He noted the wall is only 36" tall and he proposed to mortar only the top 12". The work would require excavation behind the wall, removal of the unstable material, relaying of the stones, and capping the top with flat stones. Stone stairs down to the water would also be added. He said a filter fabric would be installed behind the wall and then top soil deposited, and the disturbed area seeded and mulched. The existing ramp would be left as it is for access to the lake. Mr. Wilson said the purpose of the work was to make the wall look uniform and to repair two areas for dock anchors. Armored versus natural shoreline was briefly discussed. Mr. Ajello thought an armored shore was good when there was boat traffic, but Mr. Picton

thought an ecologically functioning shoreline was more beneficial. He understood the need for dock anchors, but thought the natural portion of the shore should remain. He asked if two 5 ft. by 10 ft. areas could be repaired for anchors and the rest left as is. Mr. Wilson suggested an alternate plan to repair the existing 65 ft. that all agree is a wall, build the stairs, and leave the remaining 65 ft. from the stairs to the NW end of the property as it is. The map, "Site Plan," by Mr. Wilson, dated 4/12/06 with handwritten revisions by Mr. Wilson dated 5/10/06, was reviewed. It was noted the former dock would be abandoned and the proposed stairs were a new feature. Mr. Picton asked if the existing dock location could be used. Mr. Wilson said it had to be moved because the state fence along the highway interferes with access to the dock in its current location. There was a lengthy discussion regarding whether to permit the repair of the entire wall or just the anchor sections and stairs. Mr. Bedini asked if there was a consistent Commission policy on the building and repair of walls along the shoreline as it seemed to him some owners were permitted to do so while others were not. He asked if a wall with no mortar would be more acceptable. Several commissioners did not think the repair work, even with a dry wall, was justified merely to make the shoreline "nice." Mr. LaMuniere suggested another alternative would be to plant a vegetated buffer for a more natural shoreline. It was the consensus of the Commission to allow the work for the two anchor areas and stairs and to continue discussion regarding the repair of the entire length of wall in the future.

**MOTION:** To approve Application #IW-06-25 submitted by Mr. Brown for the rework of the shoreline, no more than 10 feet wide for each of 2 docks and for 10 ft. wide steps as shown on the plan revised to 5/10/06 and to remove the existing concrete pads and replace them with stones at the top level of the wall at 127 West Shore Road subject to the following conditions: 1) there is to be no change to the remainder of the shoreline except for the 30 ft. width specified above, 2) the newly reworked wall sections shall be in the same location and with the same height and width as the rocks at the existing shoreline, 3) all other components on the plan are not approved at this time, 4) the applicant shall submit a revised map subject to the approval of the EO prior to the issuance of the permit.

By Mr. Picton, seconded by Mr. LaMuniere, and passed 5-0.

**Robbins/18 Winston Drive/#IW-06-26/Deck:** Mr. Ajello noted a small deck was proposed approximately 65 ft. from a regulated area at the outlet of the roadside catch basin and 85 ft. to down slope wetlands. He had no wetlands concerns. The hand drawn site plan, "Robbins Deck," was reviewed. Mr. Ajello read the construction sequence by Candlewood Living, LLC. and he noted the post holes would be dug by hand. It was the consensus an area of coarse natural vegetation the approximate size of the proposed deck should be allowed to grow in the vicinity of the outlet for mitigation.

**MOTION:** To approve Application #IW-06-26 submitted by Mrs. Robbins for a deck at 18 Winston Drive with the condition that for mitigation an area equal in size to the area of the proposed deck be maintained with coarse natural vegetation along both sides of the runoff stream. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

#### New Applications

**Cohen/62 Calhoun Street/#IW-06-27/Pave Driveway:** Mr. Neff, engineer, and Mr. Rosiello, landscape architect, were present. Mr. Neff submitted photos of two sections of the stream blocked by debris and of the driveway culvert. He explained the debris forced the water out of the stream channel across the property, which affected the driveway and general drainage of the area. Mr. Neff said he was working on plans for the reconstruction of the culvert. He submitted the overall map, "Site Plan," by Mr. Neff, dated 5/9/06 noting 1) unauthorized work was listed, 2) 2 ft. contours were provided, 3) as-built locations for sprinkler heads, deer fence, gates, etc. were provided, 4) wetlands flags were included, and 5) the planting plans were shown. Mr. Picton noted the deer fence gate walls were not

permitted and that existing construction access that may or may not be approved was not shown. Mr. Rosiello pointed out the mitigation plantings. Removal of the woody debris from the channel was discussed at length. Mr. Rosiello considered this an emergency request due to the heavy rains predicted for the weekend. He noted the blockage was behind the pond that was recently rebuilt and asked if this work could be considered a revision to that permit. Mr. Picton asked that he submit a letter to request the revision. Mr. Neff discussed the proposed driveway paving and said it made sense to do all the drainage/maintenance work before the pavement was put down. He proposed to upsize the pipes under the driveway. He pointed out the flat area to the west of the barn and said it might be suitable for a weir that would allow flow over the top of the driveway during severe storm conditions. It was noted these plans would be discussed once they have been submitted. Mr. Picton asked Mr. Ajello to study the proposed mitigation plan to determine whether it was adequate, whether the buffers were wide enough, whether "in perpetuity" had been well enough defined, etc. Mr. Rosiello submitted the 5/10/06 letter to request the revision of the pond permit, #IW-06-37.

**MOTION:** To approve the request by Mr. Cohen, 62 Calhoun Street, to revise Permit #IW-05-37 to allow emergency stream channel clean out subject to the following conditions: 1) only woody debris shall be removed, 2) the work shall be done by hand and/or with a chain saw, 3) no excavation equipment shall be used, 4) there shall be no disturbance to the sides of the stream, 5) there shall be no removal or deposition of soil, 6) the vegetation on the stream banks shall not be disturbed, 7) the woody debris removed shall not be stockpiled in the regulated area. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

**Howard Family Trust/99 West Shore Road/#IW-06-28/Repair Driveway and Retaining Wall:** Mr. and Mrs. Howard submitted an undated letter, which included a description of the proposed work, stormwater control measures, and a construction sequence. Mr. Howard detailed the work to be done. A fallen tree had ripped out a large section of the driveway, so he proposed a retaining wall on the east side (lake side) to shore it up. He said there would be no regrading below the wall and he would put in plants to prevent the erosion of the fill behind the wall. At its highest point the wall would be 2.5 ft. Ms. Purnell noted there would no longer be sheet flow down the slope. Mr. Howard responded one mason he consulted recommended a slot every 8 to 12 feet in the wall so the driveway runoff would flow onto the bank. Mr. Picton thought this idea to spread out the runoff was a good one. The commissioners will inspect the site on their own before the next meeting.

#### Other Business

**Strawman, LLC./135 Bee Brook Road (Juniper Meadow Road)/Bridge/ Preliminary Discussion:** Mr. Boling, consultant, presented a map showing the location of the parcel behind the existing Bee Brook Condominiums and the right of way to it through the condo property. He noted the Commission had previously approved one application to cross the watercourse to access the property and a subsequent application had been withdrawn. He asked the Commission for any recollection of problems or issues that would have to be addressed in a future application. Mr. Picton noted there was only a narrow access to the property and said if that was the only access, that would be where the bridge would have to be installed. Ms. Purnell remembered that there was an ownership issue and that off site wetlands and watercourses had not been identified. She recommended Mr. Boling review the old files and minutes.

#### Enforcement

**Carter/292 Walker Brook Road (141 Shinar Mt. Rd.)/#IW-04-V8/Repair Retaining Wall:** Ms. Purnell had not yet completed the letter, which will be sent to Mr. Carter. Mr. Thomson noted the Walker Brook Road bridge upstream of this property is due to be rebuilt in 2007.

**Reinhardt/10 Perkins Road - Cremona/8 Perkins Road/Unauthorized Cutting:** Mr. Picton noted

the Commission had won the appeal and that the court had found that the Commission had not been biased in its actions and that it had jurisdiction over wetlands, even if they weren't shown on the wetlands map. Mr. Ajello noted the Inland Wetlands Regs should be amended to specify that the EO has the authority to issue enforcement orders. It was noted copies of the DEP model regulations would be available for the commissioners to review before discussing possible revisions.

**Taylor/11 Sunset Lane/Unauthorized Excavation in Wetlands:** Mr. Ajello said he had not yet written to Mr. Taylor. Mr. Picton said the letter should include a request that the area be returned to one third each natural growth, wetlands buffer plants, and lawn as had been discussed at previous meetings.

**9 Main Street Assoc./9 Main Street/Unauthorized Construction of Stone Wall:** Mr. Ajello said he had not yet written to Mr. Johnson.

**Peck/10 Slaughterhouse Road/Excavation, Tree Removal:** It was noted the Commission is still waiting for the wetlands to be flagged. Mr. Picton suggested that if Mr. Peck is not responsive, a notice of violation should be posted on the Land Records.

**Moore/25 Litchfield Turnpike/Unauthorized Filling, Clearcutting:** It was noted the Commission had decided not to inspect the property until the wetlands had been flagged. Mr. Picton said he was concerned that the character of the wetlands may have been altered and asked Mr. Ajello to monitor the ongoing activities.

**Caco/16 Flirtation Avenue/Unauthorized Clearing, Grading:** Mr. Picton asked Mr. Ajello to determine what had been done on this property, which resulted in the increase of runoff onto down grade properties, and to make recommendations regarding how it could be remedied.

**Collins/323 West Shore Road/Unauthorized Clearcutting, Soil Disturbance:** Mr. Ajello said he had discussed this violation with the contractor who will hire an engineer to draw up a drainage plan for the property. Mr. Picton suggested a letter to the owner to request that he allow the area to regrow and asked Mr. Ajello to have recommendations prepared for the next meeting.

**Bennett/207 Bee Brook Road/Violation of Permit #IW-06-55:** This matter was resolved at the last meeting and will be taken off the agenda.

**Wright/59 Scofield Hill Road/Unauthorized Cutting, Filling, Soil Disturbance:** Mr. Ajello reported the Selectmen have recommended Mr. Wright hire an engineer to provide guidance on how to stabilize the channel. He said it appeared the Town and property owner were cooperating and that the outcome might be an armored swale. Mr. Picton asked Mr. Ajello to send a firm letter that if corrective actions are not taken quickly, further enforcement will follow. It was noted the Commission was concerned about downstream impacts.

**McTiernan/52 Calhoun Street/Unauthorized Clearing:** It was generally thought Mr. McTiernan should be permitted to clear the island with mitigation elsewhere. Mr. Picton recommended the trees and canopy be restored at the shoreline, especially if Mr. McTiernan planned to have trout in the pond. Mr. Ajello was requested to send a letter to request that the pond's shoreline be allowed to regrow naturally with native species.

#### Enforcement Report

**Holly Hill Farms, LLC./Whittlesey Road/Irrigation from the Shepaug:** Mr. Ajello reported the owners had inquired whether they could temporarily take 2400 gallons of water a day from the Shepaug River to irrigate their recent plantings during their ongoing construction project. Ms. Purnell said this request would be under the jurisdiction of the Commission because it is under 50,000 gpd, which would require an application to the DEP for water diversion. It was generally thought property owners should scale back their landscaping plans to what they can provide water for on their own. It



was noted feasible and prudent alternatives would be to drill some wells or truck in water from off site. Mr. Ajello was asked to inform the property owners the Commission would not permit water to be taken from the Shepaug.

**Gatto/155 Woodbury Road/Restoration Plan:** Mr. Ajello said Mr. Gatto had called to ask if pachysandra could be planted instead of native ferns. Ms. Purnell responded that part of the mitigation and compromise had been that a native buffer would be established, noting that pachysandra was not native. Mr. Picton asked Mr. Ajello to inform Mr. Gatto that if he did not want to plant the recommended ferns he could proposed a substitute native plant.

**Kleinberg/164 West Shore Road/Agent Approval for Repair Work and Reroofing:** Ms. Purnell questioned why the Commission had not reviewed this application. She noted in the past it has looked closely at all activities very close to the lake. Mr. Ajello said he had required that a tarp be installed to catch all the debris. Ms. Purnell pointed out the Commission's policy has always been to require permits for all activities around the lake. Mr. Ajello noted this was a small job that he had approved with conditions and he did not think it was necessary for the Commission to act on small jobs that would not impact the lake. Ms. Purnell said this would be a change in Commission policy.

#### Other Business

**Montessori School/240 Litchfield Turnpike/Request for Release of Bond:** There was nothing new to report.

**Walker Brook Subdivision II, New Milford:** Ms. Purnell reported the New Milford Inland Wetlands Commission had approved the application and the N. Milford Planning Commission had continued its hearing to 5/18. She said she had submitted a second letter from the Washington Planning Commission regarding how the application was not consistent with New Milford's Plan of Development and Subdivision Regulations.

**Administration Meeting:** It was noted the Commission had scheduled a Special Meeting to discuss administrative issues on May 17. Several members noted they would not be able to attend and so it was postponed. Mr. Picton noted one reason for the meeting was that the Board of Selectmen wanted to discuss topics such as feedback from the community, shorter meetings, and less litigation with the Commission. He asked everyone to make a list of topics that should be addressed at a future meeting. The Selectmen will be asked if they would like to meet prior to the meeting on the 24th. The recent funding for enforcement that was added to the Town budget was discussed. Mr. Thomson said the commissioners should get out the vote at the 5/18 Town Meeting to approve the budget.

#### Communications

Commission policy was discussed. Mr. LaMuniere thought the Commission should act consistently when dealing with various types of problems and issues. Mr. Bedini suggested it would be worthwhile to establish a consensus on issues such as deer fence and armoring the lake shore. Ms. Purnell noted that turnover in membership sometimes results in changes in policies, which she did not think should happen without good reason. Mr. Thomson noted that even with established policies, the Commission is required to review every application in terms of its impact to the wetlands. Mr. Picton asked the commissioners to make lists of potential policies to be discussed at a later date.

**MOTION:** To go into Executive Session to discuss pending litigation at 11:37 p.m. By Mrs. Hill, seconded by Ms. Purnell, and passed

5-0.

**MOTION:** To come out of Executive Session at 11:47 p.m. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

MOTION: To adjourn the meeting. By Mrs. Hill.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator