

April 9, 2014

Special Meeting 5:00 p.m. Upper Level Meeting Room MEMBERS PRESENT: Mr. Bedini, Mr. LaMuniere, Mr. Papsin, Mr. Wadelton STAFF PRESENT: Mrs. Hill Mr. Bedini called the Meeting to order at 5:00 p.m. and seated Members Bedini, LaMuniere, Papsin, and Wadelton. Consideration of the Minutes MOTION: To accept the 3/26/14 Special Meeting minutes as written. By Mr. LaMuniere, seconded by Mr. Papsin, and passed 4-0.

Pending Issues: Section 2.25: It was noted that at the last meeting, it had been decided that native plants would refer to those plants native to New England. In response to the question of whether there was a DEEP or UConn source that could be referenced in the Regulations regarding invasive and/or native species, Mr. Bedini had contacted Ms. Winther of the DEEP, who recommended two documents; "Connecticut Native Tree and Shrub Availability List," by the Ct. DEP, revised to 5/2005 and "Alternatives for Invasive Ornamental Plant Species," by the US Dept. of Interior, Fish and Wildlife Service and The Connecticut Invasive Plant Working Group, dated Sept. 2004. Ms. Winther said these documents could be used as the standard for native plants. During a lengthy discussion that followed, the Commission's authority to control and require native plants in wetlands and in the upland review area was questioned. Mrs. Hill was directed to ask Atty. Olson these questions: 1) Does the IW Commission have the jurisdiction to direct what plants may be used in wetlands? In the upland review area? 2) May the Commission list these two documents in its Regs to define native plants? 3) Does the Commission have the authority to list plants/invasive species that may not be used in wetlands? In the upland review area? Is this covered by state statute? 4) How does the Commission's authority impact the property owners' right to landscape and to garden? Also, Mr. Bedini will contact Ms. Winther to get the list of plants that may not be sold or planted in Ct. Section 2.19: Mr. Bedini has a meeting scheduled with Mr. Showalter, Fire Dept. Chief, and Mr. Osborne, Fire Marshal, to discuss standards for fire ponds. Definition of "Wet Meadow:" Mr. LaMuniere had submitted a definition, which was circulated and agreed to. Wet Meadow: An herbaceous area characterized by moist to saturated soils with standing water present only for brief periods during the growing season. Definition of "Low Impact Development: Mr. LaMuniere recommended that this term be defined in the Regs and it was agreed to do so in the future. Section 2.17: Mrs. Hill said she had tried to look up section 1-1(q) of the state statutes, which is referenced in this section, but it was no longer included in the 2013 CGS. Mr. Bedini circulated CGS chapter 3, section 3-1; the state definition of agriculture, and recommended this three page document be substituted for the current Appendix A. Then to will be defined rather than "Farming." The definition of Agriculture will be moved up in Section 2 and the following entries renumbered. (CGS chapter 3, section 3-1 is attached.) Section 2.20: At the last meeting the commissioners had said they wanted the definition of "Floodplain" to match that in the Town's Floodplain Ordinance, but after a review, it was noted the Ordinance did not include a definition. Also, the state regulations for Floodplain Management were reviewed and they did not include a definition, either. It was decided to leave Section 2.20 as written. Definition of "Low Flow:" It was noted that at the last meeting it had been the consensus not to define this term in the Regs, but to include a fourth condition in the approval motion template that would require work to be done during dry weather conditions. New Business: The subcommittee agreed to the following revisions to the Inland Wetlands Regulations. Section 2.53: As written, the current definition seemed to include swimming pools

under the definition of "Watercourse" and so this definition was revised to: Watercourse: Rivers, streams, brooks, waterways, lakes, ponds, seeps, marshes, swamps, bogs, and all other bodies of water, natural or man made, vernal or intermittent, public or private, that are contained within, flow through, or border upon the Town or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended. Swimming pools are specifically excluded from this definition. Section 4.03: This section was revised to: All activities in wetlands or watercourses or in upland review areas involving filling, excavating, dredging, clear cutting, clearing, grading, planting, or any other alternation or use of a wetland or watercourse not specifically permitted by this section.... Section 2.39: The phrase, "the use of pesticides and herbicides," will be added to the 7th line in the definition of "Regulated Activity." Section 7.02: In line #1 "A written notice requesting" will be changed to "A written request for." Section 8.01: "Office of the Agency" will be revised to "Land Use Office." Section 8.02: In line #1, Commission should be singular. In line #2, "first cut," will be added to read, "...subdivision, resubdivision, or first cut of land...." Section 8.08: It was noted use of the word, "application," in this section was a problem because Atty. Olson had advised that if requests for amendments and renewals were called applications, they had to be processed in the same way an application for a permit is processed. It was the consensus to revise this section to state: Any request to renew or amend an existing permit shall be filed with the Agency in accordance with Section 9 of these Regulations prior to the expiration date of the permit. Any request to amend or renew such existing permit shall contain the information under Section 8 of these Regulations and shall.... Mrs. Hill was directed to ask Atty. Olson whether the difference in the procedures for these types of requests vs applications should be specified in the Regulations. Sections 9.01 and 9.04: Appeals are referenced in these two sections. Atty. Olson will be asked if the only kind of appeal that would be heard by the Commission is an appeal of the Wetlands Agent's decision. If so, this language will be added. Section 9.03: Mrs. Hill questioned how this section could be enforced when the boundaries of the watersheds of the Town's water companies are not known. Mr. Bedini will research section 16-1 of the CGS and after this information is reviewed, Atty. Olson will be contacted. Section 10.05: This section will be changed to: It shall be the responsibility of the applicant to send written notification of the public hearing using a form provided by the Land Use Office, to all property owners within two hundred (200) feet of the subject property. Notification shall be by certificate of mailing and shall be postmarked no later than ten (10) days prior to the start of the hearing.... Section 10.06: Mrs. Hill questioned whether this section as written was legal and Mr. Bedini stated that according to advice from Atty. Branse, it was not. Therefore, the entire section will be sent to Atty. Olson for review and for advice on how to handle documentation that is submitted at the end of a public hearing, giving the public no opportunity to review and rebut it. MOTION: To adjourn the meeting. By Mr. Papsin. Mr. Bedini adjourned the meeting at 6:45 p.m. FILED SUBJECT TO APPROVAL Respectfully submitted, Janet M. Hill Land Use Administrator

Regular Meeting 7:00 p.m. Upper Level Meeting Room MEMBERS PRESENT: Mr. Bedini, Mr. LaMuniere, Mr. Papsin, Mr. Wadelton MEMBER ABSENT: Ms. Cheney ALTERNATE PRESENT: Mr. Davis ALTERNATE ABSENT: Mr. Martino STAFF PRESENT: Mr. Ajello, Mrs. Hill ALSO PRESENT: Mrs. Laverge, Atty. Fisher, Mr. Szymanski, Mr. Angiollo, Mr. Dobson, Ms. Dobson, Mr. Charles, Mr. Gambino Mr. Bedini called the Meeting to order at 7:00 p.m. and seated Members Bedini, LaMuniere, Papsin, and Wadelton and Alternate Davis for Ms. Cheney. MOTION: To add the following subsequent business to the agenda: VII. Other

Business: D. Referral from Planning Commission/Plan of Conservation and Development. By Mr. Wadelton, seconded by Mr. LaMuniere, and passed 5-0. Consideration of the Minutes

MOTION: To accept the 3/26/14 Regular Meeting minutes as submitted. By Mr. Wadelton, seconded by Mr. Papsin, and passed 5-0. The 4/2/14 25 West Shore Road site inspection minutes were accepted as corrected. Mr. Matthews, arborist, was added to the list of those who attended.

MOTION: To accept the 4/2/14 25 West Shore Road site inspection minutes as corrected. By Mr. Papsin, seconded by Mr. Davis, and passed 5-0.

Pending Applications Laverge/228 Bee Brook Road/#IW-14-02/Reapply for Bridge and Driveway: Atty. Fisher compared the boundary line and driveway location on two maps; the CCA plan, entitled, "Driveway Plan," revised to 1/22/14 and the A-2 survey map, "Lot Line Revision," by Mr. Alex, revised to 3/5/07, which, he said, accurately showed the boundary line running up the center of the driveway. He said both the survey map and the deed described the width of the driveway access as 25 feet on both sides of the driveway center line. He asked for approval of the application with the understanding that the new bridge and driveway would not be built if an alternative access could be found. He noted Mrs. Laverge would like to use the existing driveway to access the lot. Various access alternatives such as using the existing driveway, installing a second driveway completely on the Laverge property, widening the existing bridge, etc. and why they might or might not work were discussed. Mr. LaMuniere stated that the impact to the wetlands and watercourse from a potential alternate access would be less than that resulting from construction of the proposed new bridge and driveway and that considering the cuts and fills, stream crossing, and clearing required for the new bridge and driveway, the best solution to minimize the impact to the wetlands and watercourse would be to use the existing driveway. Mr. Bedini said the Commission was looking for feasible and prudent alternatives and asked Atty. Fisher if he had consulted with the Zoning Commission. Atty. Fisher responded that the ZBA had denied a variance in 1994. Mr. Bedini advised the applicant to exhaust all alternatives and if it was determined that no alternatives were possible, then the IW Commission would consider the new bridge and driveway. He also offered to write a letter from the Inland Wetlands Commission that could be submitted with a variance application. Atty. Fisher submitted another request for an extension of time in which the Commission has to act on the application.

MacLean/22 Nichols Hill Road/#IW-14-16/Inground Pool: Mr. Dobson, contractor, presented the map, "Site Development Plan," by Arthur H. Howland and Assoc., revised to 4/9/2010 on which he had drawn in the information for the proposed pool. He pointed out the pool location and the 100 ft. setback line and noted the pool would be more than 50 feet from the wetlands. Mrs. Hill noted there was an existing stonewall between the pool location and the wetlands. Mr. Dobson noted that the stockpile areas shown on the site plan were shown for subdivision feasibility and would not be used in connection with the pool installation; all excess material from the pool would be trucked off site. Mr. Bedini asked about the slope of the land and Mr. Dobson said it was a level site. Mr. Dobson said a filter system cartridge would be installed and there would be no backwash. The sequence of construction was reviewed and it was noted a silt fence would be installed surrounding the entire work area and that this was the limit of disturbance line. Mr. Davis said additional silt fence or hay bales may be required if gravel was spread on the access driveway.

MOTION: To approve Application #IW-14-16 submitted by Mr. and Mrs. MacLean to install an inground pool at 22 Nichols Hill Road per "Site Development Plan," by Arthur H. Howland and Assoc., revised to

4/9/10 with handwritten additions by Mr. Dobson, dated 4/9/14; the permit shall be valid for two years and is subject to the following conditions: 1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the WEO can inspect and approve the erosion control measures, 2. that the property owner give the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and 3. any change to the plans as approved must be submitted immediately to the Commission for reapproval. By Mr. Papsin, seconded by Mr. Wadelton, passed 5-0. Anderson (Stiles and Angiollo)/25 West Shore Road/#IW-14-17/Cut Trees and Brush, Install Dock, Remove Oil Tank: Mr. Szymanski, engineer, and Mr. Angiollo, potential property owner, submitted the 4/5/14 letter of authorization from Mr. and Mrs. Anderson. Mr. Szymanski reported that the existing oil tank located uphill of the driveway is leaking and so its removal had been added to the application and incorporated in the sequence of construction. He then reviewed the "Site Development Plan," sheet SD.1, by Arthur H. Howland and Assoc., dated 4/7/14, which included the Site Demolition and Reconstruction Plan and described how the demolition and removal of the house and foundation would be done safely from the "outside-in." The removal of the oil tank, soil testing, and clean up would be done by a licensed environmental professional. Mr. Bedini asked if blasting would be required to install a new foundation. Mr. Szymanski noted most of the ledge was on the west side and they would first attempt to remove it by hammering. Mr. LaMuniere was concerned the trees could be cut and then the plans to demolish and rebuild the house could be abandoned. Mr. Angiollo stated the trees would not be cut until all the plans for the demo work and reconstruction have been approved. Mr. Szymanski said that could be a condition of approval. Mr. Ajello said he was not concerned with the work proposed in this application or the demo work, but was concerned about reconstruction and the possibility of environmental problems and mistakes. He wanted to review the whole plan. Mr. LaMuniere asked how the septic system would be protected. Mr. Szymanski said there was no proposal to open the septic system and so there would be no downhill impacts. Mr. Bedini asked if the new house would require a new septic system. Mr. Angiollo said, no, and that the Health Dept. had advised him the septic system could be repaired, but not replaced. It was the consensus that none of the work, with the exception of the removal of the oil tank, should begin until all permits for the entire project have been approved. MOTION: To approve Application #IW-14-17 submitted by Mr. and Mrs. Anderson (Stiles and Angiollo) to cut trees and brush, install a dock, and remove the oil tank at 25 Wet Shore Road per "Site Development Plan," sheet SD.1, by Arthur H. Howland and Assoc., dated 4/7/2014; the permit shall be valid for two years and is subject to the following conditions: 1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the WEO can inspect and approve the erosion control measures, 2. that the property owner give the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and 3. any change to the plans as approved must be submitted immediately to the Commission for reapproval, and 4. no activity may begin on site until the detailed application for demolition and reconstruction of the house is in hand, except that work needed to remove the oil tank and contaminated land may be carried out now. By Mr. LaMuniere, seconded by Mr. Davis, passed 5-0. There were no new applications Other Business Mnuchin/218 Nettleton Hollow Road/Request to Renew #IW-10-16/ Application of Aquatic Herbicides: It was noted that notification of DEEP approval for the application of aquatic

herbicides had been received and that the local permit would expire on 5/23/14. Mr. Gambino, agent, said that for watershield the best time for the chemical treatment is June, and by that time the permit would have expired. He said he proposed no changes to the original permit. Mr. Ajello read the detailed description of the proposed activity. Mr. LaMuniere noted that for the initial application the Commission had had a biologist research the impact on wildlife and it had been determined there would be no impact. It was also noted that a condition of approval had been that the outflow pipe be blocked during the treatment and for a week afterwards and that that condition should remain in place. MOTION: To approve a 5 year extension of Permit #IW-10-16 issued to Mr. Mnuchin for the application of aquatic herbicides at 218 Nettleton Hollow Road; all previous conditions of approval apply. By Mr. Wadelton, seconded by Mr. Papsin, passed 5-0. Canal/142 Sabbaday Lane/#IW-11-14/Application of Aquatic Herbicide It was noted this permit would not expire until 5/11/2015 and so renewal was not necessary at this time. Mr. Davis left the meeting at 8:25 p.m. Town of Washington/Application of Herbicide to Knotweed Along the Shepaug River: SB #443, an act concerning pesticides on school grounds, parks, playgrounds, athletic fields, and municipal greens and banning the sale and use of genetically engineered lawn or turf seeds, was briefly discussed. Regarding the application of chemicals to the knotweed along the Shepaug River, Mr. LaMuniere noted there was a frost soon after the chemical was applied and so asked if the plants had had time to absorb it into their systems. Mr. Gambino said he had not yet inspected the treated areas. He submitted a progress report with photos, dated 4/9/14, and said he would not know for a few more weeks whether there had been a failure due to the frost. The photos in the report showed no new knotweed and no damage to adjacent plants. The treated areas will be reseeded with natural grasses and sedges. Mr. Bedini asked Mr. Gambino to submit his report to Mr. Lyon and Mrs. Payne as soon as possible. It was also noted that knotweed had been treated at New Preston Falls and the Town open space in New Preston on Rt. 202. Collins/321-323 West Shore Road/Request to Revise Permit #IW-13-05 /Changes to Elevated Footpath Systems: Different boardwalk designs were proposed for each of the properties. No pressure treated wood or posts will be used. Renderings of the designs were circulated and OK'd by the commissioners. MOTION: To approve the request to revise Permit #IW-13-05 issued to Mr. Collins for boardwalks at 321 and 323 West Shore Road per the plans, "Path System #1," for 321 West Shore Road and "Path System #2," for 323 West Shore Road and the 3/26/14 letter from Mr. Rosiello; all previous conditions of approval apply. By Mr. Papsin, seconded by Mr. LaMuniere, and passed 4-0. Enforcement Report: Mr. Ajello reviewed his 4/9/14 report. In addition, it was noted that the DEEP had sent a notice of tentative determination to approve an application to repair the dam on the Quist property at 19 Christian Street. Mrs. Hill sent the Quists a letter dated 3/24/14 to advise them that a local Inland Wetlands permit is also required. MOTION: To adjourn the meeting. By Mr. LaMuniere. Mr. Bedini adjourned the meeting at 8:45 p.m. FILED SUBJECT TO APPROVAL Respectfully submitted, Janet M. Hill Land Use Administrator