

November 9, 2009

**MINUTES:** THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Regular Meeting on Wednesday, November 4, 2009 at 7:00 p.m. in the Hamden High School Cafeteria, 2040 Dixwell Avenue, Hamden, CT and the following items were reviewed:

*Commissioners in attendance:*

Nancy Rosenbaum, Chairperson  
Mike Montgomery  
Andrew Brand  
Kirk Shadle  
Mike Stone, arrived at 8:10 p.m.  
Annalisa Zinn, sitting for Bill Tito  
Bob Anastasio  
Eric Annes  
Lynne Krynicki  
Joan Lakin

*Staff in attendance:*

Tom Vocelli, IW Enforcement Officer  
Stacy Shellard, Commission Clerk  
Tim Lee, Assistant Town Attorney

Ms. Rosenbaum called the meeting to order at 7:00 p.m. and reviewed the meeting procedures. Mr. Montgomery called the roll and there was a quorum.

**I. Applications**

**A. New applications --- site inspection TBA**

**09-1152** 20 & 36 Todd Street – construction of a residential building – Trailside Village III  
Ravenswood Construction LLC, Owner/Applicant

Attorney Bernard Pellegrino Jr. addressed the Commission and stated that an application was approved by the Commission in January of 2004 for a managed residential care age-restricted condominium. Phase I has been completed and construction has started on Phase II. The applicant is asking for an additional building that would consist of eight units. The wetlands area is located north of the proposed building. There will be a wetland crossing to connect the parking lot to the existing parking lot.

Mr. Tom Daly, Professional Engineer from Milone and MacBroom, addressed the Commission and reviewed the Phase III proposal and explained where the building would be located. He said that the applicant had previously come before the Commission and had been denied on a proposal for a twelve-unit building. He stated that when the application was denied it was indicated that the applicant might return to the Commission with a less dense alternative design for what would now be Phase III. There is a watercourse that runs through the site at the toe of the slope. There is an area that was a former pond which is silted and has brushy vegetation. The eight unit building would be

forty feet shorter than the previous proposal. The new proposal would require less cut and fill. There would be a reduction in impervious surface coverage by 10,000 square feet, and 30 percent less than the previous application. The activity would be pulled 28 feet away from the watercourse. Mr. Daly said that the water quality features will include stormwater basins, vegetated swales to direct the flow of runoff, and rain gardens to be placed at the rear of the building. He reviewed with the Commission where the sediment basin would be located. There is no underground storm drainage and it will be a sheet flow that goes through an infiltration basin. The eight parking spaces nearest to the wetlands would be constructed of a permeable pavement. He reviewed the planting plan for the stormwater management basin and for the area along the wetlands.

Mr. Shadle asked where the fill was coming from. Mr. Daly stated that they would use a cut and fill approach from the back of the building to the front of the building. Mr. Shadle asked if the existing conservation area is deeded. Mr. Pellegrino stated that there is a 25 foot non-disturbance buffer agreement that was executed but never recorded. He is unable to locate the original agreement and he has prepared a new one which he will submit to Enforcement Officer Tom Vocelli. The non-disturbance buffer was a condition of the Trailside I & II approval. Mr. Vocelli indicated that he would ask Mr. Lee to review the language of the document that Mr. Pellegrino has prepared. Mr. Pellegrino also said that if this new application is approved, he believes the non-disturbance buffer restriction would have to be amended or changed depending on the conditions-of-approval. Ms. Rosenbaum noted that application requirements include a 100 foot non-disturbance area and a 200 foot upland review area. Mr. Daly reviewed the requirements and located them on the plan. He also reviewed the grading plan with the Commission.

Mr. Pellegrino stated that the original application was complicated and that there was a corresponding commercial application which was approved. The Phase III building was holding up the applications and was removed from the plans. There are now additional resources available to address this challenge and Mr. Pellegrino feels that the overall project is better than originally proposed.

***Mr. Shadle made a motion that this item be tabled until the December 2, 2009 meeting pending a site inspection to be conducted on November 21, 2009. Mr. Anastasio seconded the motion. The motion passed unanimously.***

**09-1153**      0 Downes Road – construction of a single-family home – BERL Associates

Mr. John Paul Garcia, Licensed Professional Engineer and Surveyor, addressed the Commission and stated that the application involves a 9 acre parcel located on the west side of Downes Road. There was a 2008 IWC approval for a curtain drain which was required before a sewage disposal system could be approved by QVHD. The curtain drain was installed and monitored. The results were given to QVHD, and Mr. Garcia believes they were favorable. The Health District is now requiring new perc test data because the original soils testing was done 10 years ago. The perc test will be done next week. The parcel has a non-disturbance buffer that was a condition of approval for the curtain drain application.

Mr. Montgomery stated that before a site inspection is done for this application he would like a letter from QVHD indicating a satisfactory perc test.

***Mr. Montgomery made a motion to table this item for a site inspection, pending receipt from QVHD of a letter indicating a satisfactory perc test and that their other concerns have been met. Mr. Annes seconded the motion.***

Mr. Shadle asked if the site inspection would take place in November or would we wait for a preliminary presentation at December's meeting. Mr. Montgomery stated that there is only one day this month that site inspections will be done and he wants to wait for the perc test to be completed. Mr. Shadle would like to amend the motion to eliminate the site inspection and to table the application until the perc test results and the signature from QVHD are received. He does not want to rush the site inspection. Mr. Montgomery would like to get the site inspection in as soon as possible before the bad weather comes in. Mr. Garcia stated he has no objection to tabling this item until the December 2, 2009 meeting with a deferral of the site inspection. Mr. Montgomery withdrew his original motion.

*Mr. Montgomery made a motion to table this item until the December 2, 2009 meeting pending receipt of a letter from QVHD indicating a satisfactory perc test. Mr. Shadle seconded the motion. The motion passed unanimously.*

#### **B. Pending applications**

**09-1151** 2210 Whitney Avenue – demolition of a substation – United Illuminating Company

Mr. Rod Cameron of CCA LLC represented the United Illuminating Company and reviewed the site inspection comments with the Commission. The plans have been submitted to the Town Engineer, to the RWA, and to the CT DPH. He reviewed their comments and he reviewed a letter that has been submitted to the IWC Chairperson. The plans have been modified to address the concerns raised in the comments by the various reviewing agencies. He has submitted a stamped and signed copy of the survey plan to the Town Engineer. Mr. Cameron stated that on the plan revisions it was noted that any piping, underground conduits and any other underground utilities would be terminated and abandoned in an appropriate manner consistent with the requirements of the Town of Hamden Engineering Department. The Town Engineer requested reference data from 1929 and information for the 100 year flood zone was provided. The 100 year flood elevation is 54. The existing paved driveway will be used as a construction entrance. Crushed stone will be placed if the pavement is damaged. The demolition plan indicates that the pavement into the site will remain. The concrete pad will be demolished. If it extends beyond 12 inches below finished grade the entire pad will be removed and replaced with clean fill. The seed mix that will be used is New England Wetlands seed mix for the shady areas to stabilize the area. The CT DPH comments indicate they have reviewed the plans. A letter has been received from the DPH stating they are satisfied that RWA concerns have been addressed and recommending periodic RWA access onto the site.

Mr. Montgomery asked when the seed mix would be applied and if it would be covered with sufficient mulch for the fiber in the mix. Mr. Cameron stated that if the work is completed before it snows, the seed mix will be put down then. If the work is not completed they will put down the mulch and the tackifier to stabilize the area and wait until the spring to put down the seed mix. Mr. Montgomery feels that this approach may not work and they should use a fiber in the mix which should be specified in writing. Mr. Cameron explained that they will use a celluloid mulch to stabilize the soil along with the tackifier and seed mix. Mr. Montgomery asked for the amount that will be used. Ms. Rosenbaum stated he should come back with an amount that will be used. Mr. Cameron suggested that the application of mulch should be sufficient to completely cover all the disturbed areas in order to stabilize the site. Mr. Montgomery stated he is concerned with protecting the oak trees and reviewed with Mr. Cameron the placement of the silt fence and the construction fence.

*Mr. Montgomery made a motion to approve Application 09-1151 with the following conditions:*

- 1) The application of mulch will be sufficient to cover all the disturbed areas completely and to ensure stabilization until the growing season. If the seeding should fail it will be reseeded.
- 2) The pin oaks will be protected by surrounding their drip line with construction fence.
- 3) The silt fence will be run along the existing fence and driveway instead of between the two 18 inch hemlock trees.
- 4) RWA personnel should be notified prior to the start of construction and should be allowed to periodically inspect this project to ensure that drinking water quality is not being adversely impacted.

*Mr. Anastasio seconded the motion. Mr. Montgomery, Mr. Brand, Ms. Lakin, Mr. Anastasio, Ms. Krynicki, Mr. Shadle, Ms. Zinn and Mr. Stone voted in favor of the motion. Mr. Annes abstained. The motion passed 8-0-1.*

### C. Other requests

#### *de minimis* request – 160 Hartford Turnpike – proposed removal of 32 additional trees - New Haven Country Club

Attorney Carl Porto addressed the Commission and stated that the golf course borders Lake Whitney at holes 10 and 11. A previous *de minimis* approval allowed the removal of nine trees at the 10<sup>th</sup> hole. He stated they are requesting a *de minimis* for the removal of trees at the 11<sup>th</sup> hole. At the IWC meeting of October 7, 2009 it was determined that the full Commission should hear this request and that RWA comments would be of great importance. Mr. Porto reviewed the comments from the RWA dated November 2, 2009. He reviewed the planting schedule, planting plan, maps and diagrams included in the members' packets. There would be 32 trees removed in order to create additional air flow and less shade around the 11<sup>th</sup> hole. Mr. Brand asked if the shade only occurred in the afternoon.

Mr. Jason Booth, New Haven Country Club Superintendent, addressed the Commission and reviewed the times of day the shade occurs. He stated that the first row of trees is the problem. Mr. Montgomery stated that he viewed the area in question on the hamdengis.com website and on the bing.com website. He asked if diseases and fungus in the turf grass is the concern. Mr. Booth said that to combat fungus and insects you must start with healthy grass and that this is a year round issue. Ms. Rosenbaum asked if disease is controlled. Mr. Booth said they can control disease with fungicides and pesticides. Mr. Montgomery questioned 3 trees on the plan that are proposed to be removed and that are within 50 feet of the lake; he would like them to remain. Mr. Montgomery would like a management plan, because there are 32 big trees proposed for removal and replacement with one small shrub for each tree. This would leave bare ground in the area. The RWA has a 25-foot easement and restricts what the Club can do. Mr. Porto explained that the DEP made the Club stop getting their water from the lake. The agreement then made with the RWA was to get their water from Ridge Road and Hartford Turnpike pipes. This may have negated those contracts concerning rights to water from the lake. Mr. Montgomery said that he would like to get a management plan showing no trees being removed within 50 feet of the water. He feels that planting tall grass may be better than planting small shrubs.

Ms. Rosenbaum stated that she would like to see shorter growing trees planted instead of pine trees. Mr. Booth stated that the pine trees planted were at the request of the RWA to avoid leaves going into the reservoir. Mr. Booth reviewed with the Commission the trees that are currently in place. Ms. Rosenbaum said that the trees are needed because of the fungicides and pesticides being used on the golf course. Mr. Porto says that the plan does not call for more trees, because they are trying to penetrate the barrier and create better air flows. Ms. Rosenbaum asked how many trees have been removed to date. Mr. Booth reviewed a previous *de minimis* ruling that involved the removal of nine trees. Mr. Porto stated that none of the current 172 trees have yet been removed. They have been advised by the USGA that the barrier must be broken up to create a better airflow. There is a provision in the by-laws of the Country Club that nothing can be removed unless it is approved by the Board of Directors. Mr. Montgomery reviewed what types of trees the RWA has planted in the area. He reviewed the location of the trees and their distance from the water. He reviewed with Mr. Booth what he would like to see in the management plan. Mr. Shadle asked what criteria were used to determine which trees should be removed. Mr. Booth explained how it was determined based on the amount of shade and sunlight that would be provided. Mr. Shadle would like the Club to have a plan for the future that includes management from the grass edge to the tree locations. There is concern with the wholesale removal of vegetation. He does not see the benefit from the removal of trees and the airflow that would be created because there are trees located behind them. Mr. Porto stated that the USGA representative has provided information that the greens need sunlight 10 hours a day and airflow as well. It is a constant battle with disease and with the growth of the trees over the years. Mr. Shadle feels that a consideration might be to move the green. Mr. Porto explained that the cost to move the green would be prohibitive. Mr. Shadle stated that the wetland regulations stipulate that prudent alternatives should be looked at. Mr. Montgomery noted that the regulations call for 100-foot buffers. Trees 13 through 32 are setback 116 to 144 feet from the wetlands and their removal could be considered *de minimis*. The best time to remove the trees would be during the winter. He asked if the tree trunks would be left in place. Mr. Booth said that the tree trunks would not be removed. Mr. Brand advised that if mountain laurel is used for re-vegetation, it would require more management. Mr. Booth advised the Commission that the Club's intention is to allow plantings that would require minimum management. Ms. Krynicki stated that when the trees are removed, it could create invasive plant growth

which would need to be managed. Ms. Rosenbaum asked if there were any other areas of the course having the same problems. Mr. Porto stated that holes 10 and 11 were the only problem area.

Ms. Rosenbaum asked the Commission if the general consensus was to allow removing the trees that are greater than 100 feet away from the lake as a *de minimis* activity and to have the Country Club come back with a management plan. The Commission discussed the trees that can be removed as part of the *de minimis* and the need for a management plan. Mr. Porto stated that removing only those trees that are at least 100 feet away from the lake would work. He will meet with the RWA and if there are any concerns he will come back to the IWC. The members also discussed the suggested removal of trees closer than 100 feet and indicated that this should not be in the *de minimis*.

***Mr. Montgomery made a motion that the removal of trees 13 to 32 which are greater than 100 feet from Lake Whitney be considered de minimis provided the stumps and boles be left in place. Mr. Anastasio seconded the motion.***

Mr. Porto reviewed with the Commission the trees that would not be removed. ***Mr. Brand stated he would like the motion amended to include the RWA comment of 11-02-09: The areas where trees are to be cut should be regularly monitored for the presence of invasive species and if found removed by hand or mechanical means.***

The Commission discussed the need for monitoring the area and the need for a management plan. Mr. Brand would also like the motion amended to include: The work is not to be done before January or February when the ground is frozen.

Mr. Lee explained that a management plan cannot be made part of the motion since a *de minimis* ruling would mean that there is no impact on the wetlands. The Commission, Mr. Lee, and Mr. Porto discussed the motion and indicated that the Country Club should come back to the IWC and the RWA for approval if there should be a need to remove trees within 100 feet of the lake

***Mr. Montgomery amended the original motion to include the RWA comment of November 2, 2009. Mr. Anastasio accepted the amendment to the motion. Mr. Montgomery, Mr. Brand, Ms. Lakin, Mr. Anastasio, Ms. Krynicki, Mr. Stone and Ms. Zinn voted in favor of the motion. Mr. Shadle and Mr. Annes voted against the motion. The motion passed 7-2-0.***

***de minimis request - 55 West Woods Road – proposed parking modifications & reduced building size - West Woods Properties***

Mr. Montgomery stated that he would recuse himself from this item.

Attorney Carl Porto addressed the Commission and reviewed the request for a *de minimis* ruling. He stated that the building will be smaller than what was previously approved by approximately 26,000 square feet. There will still be 90 rooms and a conference center which will be reduced in size. The proposed restaurant has been removed from the plans. The reduction in the size of the building will reduce the amount of impervious surface. The original plan had an underground parking area which has been removed and the outdoor parking has been placed farther away from the wetlands.

Mr. Ryan McEvoy, Professional Engineer from Milone & Macbroom, addressed the Commission and reviewed the map of the area and the location of the wetlands. The new plan reduces the size of the building by 8,000 square feet. He reviewed the original plan approved by the IWC. The northern side of the building on the original plan was 120 feet from the wetlands and the new plan will put it 142 feet from the wetlands. The parking spaces will be reduced from 119 spaces to 106 spaces which will be located outside on the south side of the building. This will decrease the impervious surface by 2700 feet or 1 percent. There is no change to the stormwater management plan and the non-disturbance area remains the same. Mr. McEvoy reviewed with the Commission the plans and diagrams of the changes that were submitted and that are in the meeting packet.

Mr. Porto reviewed with the Commission the letter from the RWA dated 10-29-2009, and there were no objections to the changes. Mr. McEvoy stated that the S&E control plan is identical to the original application. Ms. Lakin asked how much of the impervious surface will change. Mr. McEvoy said that there will be a decrease of 2,700 square feet and he reviewed the proposed building and parking plans. Mr. Shadle asked if there would be an increase in the number of catch basins. Mr. McEvoy stated that the locations will change to allow for the driveway access, but the number of catch basins will remain the same.

***Mr. Shadle made a motion to approve a de minimis ruling. Mr. Annes seconded the motion. The motion passed unanimously.***

## **II. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appear**

### **a. C.&D. 186 & 196 Denslow Hill Rd - Dumping & deposition of fill in or near wetlands**

Ms. Rosenbaum reviewed for the Commission the Cease & Desist order that had been issued back in 2008. Mr. John Paul Garcia, Professional Engineer and Land Surveyor, addressed the Commission and discussed the location of the wetlands and the 200 foot review area which were superimposed onto the site plan. The wetlands were field delineated by a soil scientist at the end of 2005. Mr. Garcia stated that the wetlands were recently field located by a survey crew from his company. The bank elevations taken show the grades from the wetlands up to the top of the banks. The wetlands are behind 186 Denslow Hill Road and spill onto the rear of 196 Denslow Hill Road. The majority of the wetlands are located off the properties. There are no mitigation plans because of the question of exactly where the wetlands were located in relation to the fill. The plans submitted show the toe of the bank and the top of the bank. The 2 RCP pipes that had been located at the bottom of the slope were removed.

Ms. Krynicki said the plan doesn't show the limit of the fill. Mr. Garcia reviewed the wetlands and he stated that fill runs east to the middle of the septic system. Ms. Krynicki reviewed with Mr. Garcia where the RCP pipes had been located and she discussed the disturbance on the slope and the discharge of fill. Mr. Garcia stated that the disturbance of the area may have been caused when the pipes were removed. Mr. Shadle asked if Mr. Garcia's client had actively placed fill on top of an existing wetland. Mr. Garcia was unable to answer and said he could only answer where the flags were placed in 2005. Mr. Shadle asked if the exact location of the fill material ends at the exact border of the current and historical wetlands flagging. Mr. Garcia said the wetland flags were placed in 2005 and located three days ago. Some wetland flags have had no filling. Mr. Shadle reviewed the location of the flags with Mr. Garcia. The missing flags are 7, 8, and 9. The field assessment does not indicate flags 7, 8, 9, 10 and 11. Mr. Garcia said there are some flags that are missing. Mr. Shadle asked for verification that the end of the fill is where flags 7, 8, 10 and 11 would have been or are they under the fill. Mr. Garcia was unable to locate these flags. Mr. Montgomery asked if the Commission is looking at plans from 2005 and asked if the contours were recently added. Mr. Garcia said the revision date for the plans is November 2, 2009, and there is a note on the plans showing when the flags were located. Mr. Garcia said the plans verify the toe of slope, the top of the slope and the wetland flags that he could locate. Mr. Shadle asked if the site plan map for November 1, 2005 is available. Mr. Garcia stated that it is referenced on the plans and he can resubmit. He reviewed the previous wetland flagging that had been done. They were unable to locate any surveyor pins.

Ms. Rosenbaum asked if there is fill to the rear of the property that is being proposed for a septic system. Mr. Garcia stated that the house at # 196 is not occupied and that a plan for the septic system had been submitted to QVHD in 2005. Ms. Rosenbaum asked if installing a septic system would make the hill unstable. Mr. Garcia indicated the system would be placed approximately 40 to 60 feet away from the top edge of the slope. Mr. Shadle asked if what Mr. Garcia was presenting at this meeting was for a proposed septic system or for a discussion of the deposition of fill on the site. Mr. Garcia said that his client was asked for an Existing Conditions Survey because of the Cease & Desist order that was issued for the site. The plan is only showing the potential development. The information being provided is to show where wetlands exist on the site. Whether there is fill in the wetlands, he is unable to answer. Mr. Garcia was asked if he agreed that fill was deposited within a 100 foot non-disturbance buffer area and within the 200-foot upland review area. Mr. Garcia said he agreed with this statement.

Mr. Montgomery asked Mr. Garcia about the original survey and about the house and the septic system. Mr. Garcia stated that in 2005 the survey was for a house and septic system. A plan had been submitted to QVHD. Ms. Rosenbaum stated that there was not a plan submitted to the IWC for a septic system. Mr. Lee advised that installing a septic system would require an application for IWC approval. Mr. Garcia said that an application for the septic system will be submitted with a remediation plan.

Mr. Shadle asked Mr. Garcia if he had assessed the stability of the fill and the slope. Mr. Garcia stated that the slope is stable. The chute needs to be stabilized where the dirt is exposed and has no vegetation. The bank will not go into the wetlands. Mr. Vocelli stated that he has been driving by and that he has observed no additional dumping since last year. Mr. Garcia said he has advised his client that he cannot do any dumping. Mr. Garcia also suggested that placing a fence at the top of the slope may act as a visual barrier and impediment to dumping. Mr. Lee asked how it could be determined if there was any fill placed in the wetlands. Mr. Garcia said that you would need to get a drilling rig to determine the fill in the wetlands. It would be difficult and expensive. He feels that placing a fence as a practical measure at the top of the slope would help deter any future dumping. Mr. Montgomery feels that a site inspection would help the new members of the Commission determine what is needed to resolve the issues. Mr. Vocelli has visited the site with Ms. Krynicki and will do so with Mr. Annes. The Commission discussed what could be done to stabilize the area. Mr. Lee discussed with the Commission removing the fines after the area is stabilized and after remediation is completed.

***Mr. Montgomery made a motion for the C & D at 186 & 196 Denslow Hill Road that the property owners will present a plan within 10 days to stabilize the slope and to install a fence at the top of the slope. If the plan is satisfactory to the Chairman action should be taken within 30 days to stabilize the slope for the winter months. This will be followed by seeding of vegetation in the spring, seeding of the slope in the spring, and the installation of permanent fencing. The Commission will take no action with regard to imposition of the accrued fines until the status of the site is reviewed in the spring. Mr. Shadle seconded the motion.***

Mr. Anastasio said that the motion should state the year and should say the spring of 2010. Specifying a submittal date rather than a 10-day period would also be advisable. Mr. Montgomery agreed with the amendment. Mr. Shadle asked if the fines will no longer accrue, or should they continue to accrue. Mr. Lee stated that the monetary fines were imposed until the Existing Conditions Survey was submitted. This was done this evening and a decision should be made whether to enforce and collect the fines. Mr. Shadle asked if new fines should be established so that the work needed will be completed. Mr. Stone asked if this can be done or does a fine continue. Mr. Lee stated that the owner is in violation of the IWW regulations and that they filled property within the non-disturbance and upland review areas without benefit of a permit. Mr. Vocelli asked for clarification if the fence will be installed along with the seeding of the slope in the spring. Mr. Montgomery said the fence can be installed with the seeding in the spring. Mr. Shadle feels the motion should state that the C&D is still in effect. The definition of the violation is defined as fill and deposition. Mr. Shadle asked if the Commission had a restore order in the letters sent to the owners. Mr. Lee stated that the implication was to restore the area and the IWC is not releasing the C&D. Mr. Shadle would like to have the Commission revisit the clean-up issue as part of the remediation plan. Mr. Lee said that clean-up could be part of the remediation plan. Mr. Garcia agreed.

Ms. Rosenbaum asked that the motion be read back for clarification:

The property owners will present a plan to stabilize the slope and to install a fence at the top of the slope by November 13, 2009. If the plan is satisfactory to the Chairman action should be taken within 30 days to stabilize the slope for the winter months. This will be followed by seeding of vegetation in the spring of 2010, seeding of the slope in the spring of 2010, and the installation of permanent fencing. The Commission will take no action with regard to the imposition of the accrued fines until the status of the site is reviewed in the spring of 2010.

Mr. Lee stated that the motion should read that the Commission will take no action with regard to releasing the C&D order or the accrued fines until the spring. Mr. Garcia should include if necessary a remediation plan for the toe of the slope. Mr. Montgomery added to the motion: The IWC will consider removing the C&D order and the imposition of accrued fines after determining compliance with their remediation plan in the spring of 2010. The remediation plan should include the removal of the material at the toe of the slope as deemed necessary by the owner.

Ms. Rosenbaum asked that the motion be read in its entirety for the Commission:

*The property owners will present by November 13, 2009 for the approval of the Chairman a plan to stabilize the slope and to install a fence at the top of the slope. If the plan is satisfactory to the Chairman action should be taken within 30 days to stabilize the slope for the winter months. This shall be followed by seeding of vegetation in the spring, seeding of the slope in the spring of 2010, and the installation of permanent fencing. The Commission will take no action with regard to the imposition of the accrued fines until the status of the site is reviewed in the spring. The IWC will consider removing the C&D order and removing the imposition of accrued fines after determining compliance with their remediation plan in the spring of 2010. The remediation plan should include the removal of the material at the toe of the slope as deemed necessary by the owner.*

*The motion passed unanimously.*

- b. N.O.V. 64 Rocky Top – clearing of trees & removal of vegetation

Mr. Lee updated the Commission on the Town's lawsuit concerning the clear-cutting by Carlie Capital LLC. He stated that Carlie Capital LLC has been ordered by the court to provide the consulting forester's report and recommendations for the site to the court on November 24, 2009.

### III. Review Site Inspection Schedule

A site inspection will be scheduled at 20 & 36 Todd Street for Saturday, November 21, 2009. Ms. Lakin asked if she is unable to attend can she visit the site another day or does she need the permission of the land owner. Mr. Lee explained that when an application is submitted it gives consent for the Commission to have access to the property. He stated that a call should be made to the owner advising them of the intended visit.

### IV. Review October 7, 2009 meeting minutes

*Mr. Anastasio made a motion to accept the minutes as written. Mr. Brand seconded the motion. The motion passed unanimously.*

### V. Other Business

Ms. Rosenbaum reviewed the 2010 meeting schedule that was prepared by the Clerk.

*Mr. Shadle made a motion to approve the 2010 meeting schedule. Mr. Anastasio seconded the motion. The motion passed unanimously.*

Mr. Shadle announced to the Commission that he was the proud father of a new baby girl.

Ms. Rosenbaum thanked Mr. Vocelli for the *de minimis* spreadsheet summary that he prepared. She also reminded the Commission members and staff that Mike Guaglianone is no longer working for the RWA and that there is now only one person who reviews the applications for the IWC. She explained that the applicants do not always send their plans to the RWA. She reviewed IWW regulation 8.3 which states that the applicant is required to submit the proposed plans by certified mail and to submit the receipt to the Planning Office.

Mr. Brand stated that the plastic covers on the debris piles at 415 Putnam Avenue are shredding and that they need to be replaced. Mr. Vocelli said that he would visit the site and then contact Mr. Pellegrino and Mr. Natale.

### VI. Adjournment

*A motion to adjourn was made by Mr. Shadle and seconded by Mr. Anastasio. It passed with no dissenting votes. The meeting ended at 9:54 p.m*

Submitted by: \_\_\_\_\_  
Stacy Shellard – Clerk of the Commissions