July 14, 2011

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Public Hearing & Regular Meeting on Wednesday, July 6, 2011 at 7:00 p.m. in Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden, CT and the following items were reviewed:

Commissioners in attendance:

Nancy Rosenbaum, Chairperson
Mike Montgomery
Eric Annes
Joan Lakin
Kirk Shadle
Mike Stone arrived at 7:11p.m.
Mike Milazzo
Kirk Shadle

Staff in attendance:

Dan Kops, Assistant Town Planner
Tim Lee, Assistant Town Attorney, arrived at 8:35 p.m.
Tom Vocelli, IW Enforcement Officer
Stacy Shellard, Commission Clerk
Lisa Raccio, Stenographer

Ms. Rosenbaum called the meeting to order at 7:01. Mr. Montgomery called the roll and there was a quorum. Ms. Rosenbaum introduced the Commission and staff. She welcomed the new Alternate Mr. Bob Gnida.

Ms. Rosenbaum explained the Public Hearing process. A copy of the plans was placed on a table for the public to view. She said that the initial presentation would be done by the Applicant and then the Commission would be allowed to ask questions. The public would then have the opportunity to speak and she asked that they state their name and address. Ms. Rosenbaum said after the public speaks the applicant would have the opportunity for rebuttal and then the Commissioners would be able to ask questions.

Ms. Rosenbaum stated that the purpose of this Commission is the regulations and protection of inland wetlands and watercourses and the comments should be related to wetlands and watercourses.

I. Public Hearing

a. 11-1171 170 Birchwood Drive - driveway culvert-crossing
Alberto DiChello, Applicant
Public Hearing continued from 6-1-2011 meeting

Ms. Patricia Cofrancesco, Attorney, addressed the Commission and reviewed the application. She explained that she was not present at the June 1, 2011 Public Hearing. Ms. Cofrancesco stated that she had reviewed the minutes of the June 1, 2011 meeting. She said that the required notice of a public hearing to the abutting property owners was

satisfied and Mr. Vocelli confirmed that it had been. Ms. Cofrancesco advised the Commission that the applicant Mr. DiChello has brought a civil action against the Town of Hamden to contest the Town's discharge of surface water which has been going over his property since the subdivision was developed in 1979. The defense counsel for the suit is being handled by the Town's insurance company and they have said that Mr. DiChello has failed to exhaust his administrative remedies by not coming to the IWC or any other applicable municipal agency to secure the designation of this property of a buildable lot opposed to a building lot. Ms. Cofrancesco said that in her humble view the lot is a building lot as opposed to a buildable lot. She said that similar defenses throughout the course of the litigation have been raised again by the insurance defense counsel that Mr. Dichello has failed to exhaust his administrative remedies by not coming to the IWC to mitigate his damages and to increase the value of his property. Ms. Cofrancesco said that Mr. DiChello is by virtue of this application as of right to farm this property. She said that with the caveat he cannot farm this property without access to the property and that this would be a reasonable use of the property. Ms. Cofrancesco said that Mr. David Lord will address issues that have been raised by the neighbors and their consultants. She said that Mr. DiChello is attempting to mitigate damages by coming before the IWC to make reasonable use of the property as a matter of right , and that this cannot be done without access to the property.

Mr. David Lord, Wetlands Scientist addressed the Commission and stated that the Commission should hear from the applicant's engineer before he adds his comments.

Mr. Francis Donofrio, Professional Engineer and Surveyor addressed the Commission and reviewed the property and survey (exhibit 6). He said that the property comes in from Birchwood and goes in approximately 300 feet and then opens up. Half of the area is water and to reach the other half which is dry land there needs to be an access drive. The planned driveway would have large riprap placed at the bottom and small riprap would be placed to fill in the gaps. At the top of the surface three inch gravel would be used. There are 12 inch existing pipes shown on the plan. There will be 4 pipes installed to carry water through and allow the water to pass. Mr. Donofrio said that his understanding from the site inspection is that there are two pipes on the southwest corner that drain across the high ground of Mr. DiChello's land and had drained across one of the perc test pits at 10 minutes per inch. It is possible that this could change the perc and Mr. Donofrio does not know what Mr. DiChello plans to do about this issue. Mr. Donofrio said that he believes that the people who are draining across the area should alter the course of the water..

Mr. Lord stated he would be responding to an overview of the responses which were contained in his June 28, 2011 letter to the applicant concerning responses to the Public Hearing issues generated by the application. A revised site plan drawing with a revision date of June 1, 2011 was submitted. Mr. Lord said that he would also review comments made by the Town Engineer and by the Consultant to a neighboring property owner. Mr. Lord stated that his report which was originally dated May 30, 2011 has been changed on the first page to reflect the existing homeowners DeNardis and O'Connor and that their properties are along either side of the easement which drains on to the applicant's property. He said that his original report of May 30, 2011 was submitted with the June 28, 2011 report.

Mr. Lord explained that the Wr and Ws symbols relate too and identify the earlier wetland soil that is Wilberham and it is a fine sandy loam wetland soil that is poorly drained. He said that a difference between the two symbols is that the Wr is the general at unit that is used for the Wilberham. The Ws is a slang modification and the S refers to the surface of the wetlands is very stony. Mr. Lord said that in his opinion the wetland being referred to is clearly and is identified and described by the Ws symbol. The soils functions of the Wr and Ws is that they function the same way and have the same soil profile, description and the ranges of depth. The only difference is that the Ws indicates a stonier surface layer than the Wr symbol.

Mr. Lord referred to the minutes of June 1, 2011 and said that the reference to the use of PVC culvert pipes and he clarified that the pipes that are proposed to be added to the one 12 inch existing corrugated metal pipe should have read reinforced concrete pipes (RCP).

Mr. Lord said that the property was presented to the commission at the June 1, 2011 meeting as either commercial use or personal farming use. He said for clarification that the commercial use of the vegetables that would be produced within the garden area could have a commercial use at off-site locations. There is not a proposal for a farm stand or any type of commercial activity at this location.

Mr. Lord stated that to create and operate the garden facility at this location which is shown on the site plan drawing the discharge from the two pipes coming onto the property from the southwest corner and the water flows through the garden must be handled. He feels that there are two solutions for the surface water flow. At some point in the future they may need to be proposed if the pipes continue to flow and discharge as they presently do. The discharge could be routed around the proposed garden area by connecting additional piping and to collect the water and discharge it in the manner it does presently at the onsite wetlands. Another alternative is to collect and convey the surface water flow around the garden area in a shallow surface drainage swale which would convey the water to the wetland. Mr. Lord said that the applicant would need to come back before the Commission with a proposal to obtain a permit once a determination is made by the applicant.

Mr. Lord referred to the question by Mr. Shadle for the need to have a forestry plan and said that he has never seen a need for the area of 6400 square feet of garden area activity to have one. Mr. Lord said that a forestry plan generally relates to timber harvesting of a tract of land for timber production. The proposed plan is to clear the land for agriculture use. This will involve the removal of trees within the garden area and the stumps will be removed off site for proper disposal.

Mr. Lord referred to Mr. Brand's question regarding Japanese Knot Weed and it spreading. There is Japanese Knot Weed present within the existing westerly terminus of the existing portion of the access driveway and that would be removed by hand. Any material that is brought in for the remaining portion of the driveway would be monitored and obtained from a site and source that would be reviewed by Mr. Lord to make sure it does not have Japanese Knot Weed contamination. He said that for at least a three year period after the driveway is put in there would be monitoring for any spread or establishment of the Japanese Knot Weed. A recommendation for supervised removal (generally by hand) of Japanese Knot Weed would be presented to the Commission on an annual basis. This would include any new or existing Japanese Knot Weed to control and eliminate beyond the limits of what is present on the site.

Mr. Lord noted that the concern for water back up on to the driveway belonging to the D'Ambroses at 41 Post Falls Lane. He reviewed the location of the driveway and said that the existing contours at the rear of the property range from elevation of 262 to 268 and that the proposed top of the access driveway has a maximum elevation of 261.38. This is at least a half foot or more lower elevation than the lowest elevation on Mr. D'Ambrose's property and the house located further west on his property is several feet higher than the elevation on the rear of his property.

Mr. Lord said that there was a similar concern for flooding and also the use of pesticides in the garden area which may cause negative effects and adverse impacts on the Coutts property at 31 Post Falls Lane. He said that there are two grades of pesticides on the property. The pesticides which are generally accessible by homeowners, gardeners and individual land owners are of a degree that have a very short life span and are very specific to a target. The pests do not have long residence, time or duration of life span where they would propose a significant potential of impact to the wetlands to the east. Another category of pesticides are those applied by a commercially licensed applicator and the pesticide has a higher degree of toxicity and is more target specific to a particular pest. There is the assurance that the license of the applicator is at risk if unlawful or illegal applications of pesticides are done and Mr. Lord feels that the applicator would not do the application in a manner that would cause harm to the wetlands located to the east. Mr. Lord said that the Coutts property is significantly higher in elevation than the proposed garden area. He stated that the subsurface and surface flows from the garden flow in an easterly manner not in a westerly manner or up gradient towards the property. He does not see any potential of adverse impact of pesticide usage within the garden area occurring on property owners to the west.

Mr. Lord said that Mr. DeNardis at 790 Still Hill Road had concerns that the proposed driveway would exacerbate existing problems that he has in his basement with water from a storm event . The elevation at the rear of the DeNardis property is from 270.7 to 271 and this is several feet to as much as 8 feet above the top most elevation of the proposed driveway. He said that the proposed driveway would have to be more than 8 feet of water for water to back up on the rear of Mr. DeNardis's property and his house is set several feet higher than the elevation along the northern rear of his property. Mr. Lord stated that he did not do a survey, but that he had done a site visit and looked at Mr. DeNardis's house location relative to the drainage easement. The basement under this particular structure appears to

bring it in fairly close contact elevation wise to the drainage easement. Any water that sits in the drainage easement swale would likely be in a similar elevation to the basement. Mr. Lord said that in his opinion it would be an issue of foundation drainage, drainage around the house or the elevation of the basement relevant to the underlying ground water table which is present to the south of the applicant's property. Mr. Lord said he did not see any basis for any concerns from the proposed activity and the driveway and the hydrology of the wetlands after the construction of the driveway should not have negative effect on Mr. DeNardis's property. He explained that this type of wetland system is referred to as a discharge wetland and this means that along the edge between the upland and wetland ground water is discharged from a subsurface condition to a surface condition. It flows in relation to the existing contours and the ground water moves generally in a northerly to north easterly direction away from the DeNardis property and away from properties to the west of the site.

Mr. Lord referred to the report from Mr. Orson's report dated June 1, 2011 and noted the concern that the activity within the proposed access roadway would have a compaction factor or effect on the flow of water as it presently moves through the wetland system. The proposal is to remove the upper top soil layer of the Wilberham soils. Mr. Lord explained that this is the layer of the soil that is the most susceptible to compaction because it is a loose organically enhanced (organic matter) enriched surface layer. This layer will be removed to expose the underlying sub soil. Wilberham soils are characterized by a very dense slowly to almost no permeability relation. This means that water does not move downward through the Wilberham soils. It generally moves horizontally through upper layers and somewhat thru the sub soil layer but no significant downward movement. The underlying mineral nature of the wetland underneath the proposed driveway is a gravely fine sandy loam and is presently in a very dense compact condition. Mr. Lord said he does not expect the wetland to be further compacted to an extent where you would see a change in hydrology through the subsurface layers of the soil and the surface flows are a separate issue. He does not feel that the compaction of the underlying wetland soils in the area are a viable concern given the type of wetland soil and sub soil and given that the proposal is to remove the top soil layer.

Mr. Lord referred to Mr. Orson's opinion with regard to sheet flow conditions within the wetland systems from the south to the north and changing to a point concentration by the series of pipes that are being proposed. He said that during the site walk with the Commissioners present it was seen that along the orientation of the proposed driveway there are a number of man made or natural concentrations of flow where water does not spread out and it is not sheet flow. There are presently at least two points of concentration coming on to the subject property from the drainage easement off Still Hill Road that flow on to the subject property. These are shown generally by the twin dash lines that flow through the wetland system and the proposed culvert pipes that are sited to points where the concentration of flow presently occurs. He explained that water does not sheet flow entirely across this wetland system in a northerly direction. The majority of sheet flow conditions occur across the western side of the wetland and areas relative to wetland flag 14. Wetland flags 6-14 have flow that will be altered by the driveway and the discharge through pipes. Wetlands defined by 1-5 and 1-6 will continue to sheet flow north of the proposed driveway. Mr. Lord noted the description of the wetlands as having relatively slow sheet flow conditions within the wetlands as he described in his opinion, especially once you move into the area where the proposed culvert pipes are to be located it is not a slow moving sheet flow condition. The commissioners on the site walk would have seen the flow of water through the areas of concentration. Mr. Lord said that with regard to the question for the potential for changes within the hydrology both to the south of driveway to the north of the driveway has presented by the project engineer. He said that the project engineer had said that the sub base for the roadway is to be large rock and graduated from large too small to enhance movement for the passage of water through the driveway fill itself as well as the proposed culvert pipes. Mr. Lord said he feels that everything that is proposed is sound and viable and a means to promote and enhance and preserve as much as the hydrology as possible to move water from the south side to the north side of the driveway. The applicant is trying to maximize flow under and through the driveway cross section and spread out the concentrated flow as much as possible with the proposed culvert pipes.

Mr. Lord said page 4 number 3 has been addressed with regard to the top soil layer and the construction of the driveway and the lack of compaction factor through the wetlands under the footprint of the access driveway.
Mr. Lord, referring to the possibility of using side support walls to limit the amount of fill said that when you look at reasonable and prudent alternatives of that while an alternative may be feasible. The State Statutes that relate to this are concerning the prudent consideration of alternatives. Mr. Lord said is it prudent in light of the proposed use as a

garden area, because it will not have a large amount of traffic going over the area, and it will be a relatively low level of activity for gardening/agriculture use. He noted that the added expense and level of activity for construction, and asked if it is prudent in light of the resources being proposed to protect and in light of the intended land use. Mr. Lord said that he would stipulate that he does not feel that side support walls or alternatives such as bridges (no matter weight support) would be intended for a crossing to access an agricultural operation.

Mr. Lord noted the slope areas in the proposed access driveway would be seeded to a no mow mixture and he reviewed the specification sheet which establishes ground coverage vegetation to stabilize the side slope areas as they move through the wetland area. He said that the mixture would be suited for both the hydrology and the growth condition in the driveway cross section and would not need to be maintained, fertilized, cut or maintained in any manner. He said that he has used this mixture on roadway embankments and it establishes an extremely low fertility condition which is expected along the proposed driveway and would not require maintenance mowing or fertility management.

Mr. Lord said that in the minutes of the June 1, 2011 meeting there was mention of Dr. Orson's stating that this application does not have merit and digging in the wetlands is not a right. Another part of the comment was that the digging and the placement of the driveway is not as of right. Mr. Lord said that it was never made mention of that it was an as of right of use and he agrees with this statement because the roadway is a regulated activity to get to what is the as of right use of the agricultural use that is intended for the property. Mr. Lord noted the statement that the application does not have merit, and in his opinion the application is viable and it represents the only means of access off of Birchwood Drive to gain access to the usable non wetland portion of the subject property. Mr. Lord stated that over the years he has looked at other alternative locations for the access roadway; moving it further to the south and north would result in larger footprints, longer wetland crossing footprints and larger amounts of wetlands impact. There are no other means to access the agriculture portion of the lot. The properties entirely surrounding this location are individually owned and the access way was established in the late seventies when the sub division was conventionally approved.

Mr. Lord referred to the issue of the 5 culvert pipes vs the 1 eighteen inch pipe and said that he commented on the fact that the intention of the culvert pipes goes well beyond the ability and capacity to handle the storm flow volumes. There is 1 eighteen inch pipe that carries the storm water drainage that is in a section of Still Hill Road and discharges it into the easement area. The only additional water other than the drainage easement flows that come and would need to be carried by the proposed driveway culverts is some localized runoff from the wetlands from an adjacent property to the east, and localized surface runoff from the upland bordering this property to the east and the west. The increase in the amount and volume and flow from one 18 inch pipe and a small area from an adjacent drainage area does not come anywhere close to changing the ability of the 5 culvert pipes to safely convey the water. The pipes are not being changed to convey volume of water, and they want to keep the water dispersed as much as possible in the areas of present concentration of flow. Also to recognize that there are only small amounts of increase of localized surface water runoff. The main source of surface flow is the 18 inch surface pipe. The proposal is for one 18 inch culvert pipe and 5 twenty four inch diameter culvert pipes.

Mr. Lord concluded that in his professional opinion the proposed access driveway represents a means to access an on-site area of upland soil while creating a reasonable and prudent and minimal impact footprint to the existing on-site wetland resources. No significant or measurable short term or long term wetland functioning would be adversely affected by this driveway. The important point is wetland functioning because there will be an impact by putting the driveway through the area. A portion of vegetated wetland is being taken and changed for the installation of the proposed access driveway. Functions such as the conveyance of surface water runoff, storm flows, wildlife habitat, sediment filtering nutrient absorption and removal will be unaffected by the proposed driveway. The amount of impact is impossible to measure, but Mr. Lord sees no reason why there would be a significant impact from the proposed driveway to the wetland functions.

Ms. Rosenbaum asked for questions from the Commission.

Mr. Annes asked Mr. Lord what his professional expertise is. Mr. Lord stated what his professional background and experience is and educations is.

Mr. Annes asked where the engineering and soil scientists' line crosses over with regard to sheet flow of water and what the effects of pipes are. Mr. Lord said that calculations on the amount of water, volume of flow, the need for a particular size of a pipe and runoff calculations move in to the realm of engineering. He said that what he is relating to the Commission is a simple 18 inch pipe vs. 5 twenty four inch pipes and that he was not saying anything about the volume. Mr. Lord said that common sense tells him that one 18 inch pipe cannot carry more water than 5 twenty four inch pipes and the effect of sheet flow vs. sub surface flow through this wetland system definitely goes into the realm of soil science and wetland science.

Mr. Montgomery feels there is a mistake on the IW Application and said that item 13 which is to be completed by the inland wetland agency or by the applicant involves restoration. The answer is 0.17 acres which is the same amount as is indicated for wetland and watercourse area altered. Mr. Montgomery said that he did not hear anything about enhancement or restoration or creation of wetlands in the proposal.

Mr. Lord said that Mr. Montgomery is correct that a mistake was made when filling out the application. There is no proposal to do remediation, mitigation or enhancement with the proposed project.

Mr. Montgomery said that there have been various amounts that have been listed in terms of the wetlands that have been altered and one says .17 and the plan says .14. He asked if there is a firm figure on the plan that is currently in front of the Commission and the engineer's plan says .15.

Mr. Donofrio says that the proposed fill area outlined on the plan is 0.15.

Mr. Montgomery said that Mr. Lord had indicated the existing soils will be removed at a depth of six to twelve inches, but that it is not shown on the plan. Mr. Donofrio said that he was not planning to remove any soil and the plan is to place rip rap on the soils and then filling the voids with other rip rap. Mr. Montgomery asked if geo textile would be placed down first with rip rap over it and Mr Donofrio said yes. Mr. Montgomery said that the geo textile is not shown on the plans. Mr. Donofrio stated that a sketch was made of the actual cross section. Mr. Montgomery feels that it is a good idea to remove the soft base soils down to a depth and the Commission needs a more firm idea of how much needs to be removed. Mr. Montgomery said that in the description of soil the indication was that the soft layer may be deeper and Mr. Donofrio said that it may be two feet.

Mr. Montgomery said that Mr. Lord had indicated the placement of top soils on slopes with the seeding of the slopes. He feels that the slopes are coarse stone or rip rap which are 2 to 1 slopes and vegetate them. Mr. Donofrio said that the side slopes would by hydro seeded. Mr. Montgomery said that unless soil is placed on the 2-1 side slopes it is rip rap. Mr. Donofrio said that the gravel will grow with the hydro seed. Mr. Montgomery said that it was said that the top layer was going to be done to an elevation of three inches below finished grade and the finish is gravel and Mr. Donofrio agreed. Mr. Montgomery said that with a 2 to 1 slope grade and it being gravel he asked Mr. Donofrio if he feels the gravel will stay in place and if the grass will grow and Mr. Donofrio replied yes.

Mr. Montgomery said that Mr. Lord had stated that the pipes were of sufficient capacity for the water and he asked why such large pipes are being used. Mr. Donofrio stated that they are trying to keep the water flowing underneath the crossing and he is not trying to drain the area. Mr. Montgomery said that there are two pipes on the plan and in the area he had seen water flowing through one pipe. He indicated how much water was in the pipe and asked Mr. Donofrio if he would be replacing the pipe. Mr. Donofrio said that he would not be replacing the pipe. Mr. Montgomery said that the plan shows it to be replaced. Mr. Donofrio said that the plan says existing to maybe be replaced. Mr. Montgomery said sheet 2 of the plan shows a 24 inch pipe and Mr. Donofrio said that it shows a 12 inch pipe. Mr. Montgomery says the note on the plan says "replace 12 inch cmt, and extend it if necessary "and he would like to know what Mr. Donofrio plans on doing. Mr. Donofrio said that he will do whatever the Commission would like and if they want it to be replaced he will do it. Mr. Montgomery said that the pipe was placed without the Commission's approval. Mr. Donofrio said he does not know how long the pipe will be there. Mr. Montgomery said that it is the feeling of the Commission that more damage would be done if the pvc pipe were to be removed. Mr. Montgomery stated that if Mr. Donofrio does not feel that the pipe needs to be removed or extended there would be no impact. Mr. Donofrio said that if it is not broke do not fix it and Mr. Montgomery agreed with him.

Mr. Montgomery asked about the two pipes that are very long and go beyond the lowest point of the driveway and asked why they are 24 inches diameter because that much capacity is not needed. Mr. Donofrio said that capacity is not needed but is being proposed so that the water will continue to flow through. Mr. Montgomery asked if a smaller pipe could be used and he said that a large pipe would only be used because it is less likely to clog. Mr. Donofrio said there is a need for a paving plan and this is why a 24 inch pipe is proposed. Mr. Montgomery said that the size of the pipe is important to minimize the impact. There is 6,500 square feet to 7,000 square feet that the proposed driveway will cross wetlands which will be excavated, covered with fill and may be up to five feet high. If an 18 inch pipe is put in instead of a 24 inch pipe it reduces the amount of the height needed in the fill. Mr. Montgomery discussed with the Mr. Donofrio how reducing the size of the pipe would reduce the height and width of the pipe would reduce the amount of fill that is needed. Mr. Montgomery said that if coarse rip rap is placed at the crossing the water would flow across it and would create hard base that could be driven across. Mr. Montgomery said then the footprint could be 12 feet instead of 35 feet and Mr. Donofrio replied that he would take this information under advisement.

Mr. Montgomery said that there are two pipes at the west end of the area which has the greatest flow of water because there is a ditch that seems to receive the greatest flow of water and it starts to go up hill. He noticed that the reason the fifth pipe was added was because the water was flowing down in to the ditch and it may be better to channel it in the ditch or to the outside. The fifth pipe may cause less impact vs changing the watercourses. He wants to see the least amount of wetlands destroyed. The proposed plan for 6,400 square feet of garden area will displace 6,500-7000 square feet of wetlands. Mr. Montgomery showed Mr. Donofrio where he would like to see the driveway placed and make the footprint smaller.

Mr. Donofrio stated that the original engineer Mr. Saverese had four pipes of the same size grouped together on the plan and it was like a big culvert. Mr. Montgomery said the issue for that proposed plan was for the driveway to a house and not to a garden.

Mr. Montgomery asked if the width of the driveway is 12 feet or 15 feet and Mr. Donofrio said it would be 12 feet. Mr. Montgomery said that in some places the driveway is 12 feet with a sub grade width. Mr. Donofrio said that the top of the driveway is 12 feet but must add the 2 to 1 slope going down. Mr. Montgomery said that 12 feet is enough for the sub grade and that the largest vehicle that is permitted on Connecticut highways is 8 ½ feet wide. He said that logging roads can be as narrow as 10 feet wide but when going around curves they need to be larger. Mr. Montgomery would like to see the width of the driveway to be 12 feet. He feels this is reasonable and would still allow for larger vehicles. Mr. Donofrio said that he would rather have a width of 15 feet for fire trucks if it becomes necessary. Mr. Montgomery asked about the road needing a plow and when the road is cleared what would be burning in the area.

Mr. Montgomery said that silt fences will need to be placed around the area that is being cleared for the garden which is proposed to be 80 feet by 80 feet and the clearing for the roadway and the turnaround.

Mr. Lord asked if the recommendation is to remove 2 of the proposed pipes instead of 5 pipes. Mr. Montgomery stated that he is only trying to give guidance. Mr. Lord asked Mr. Montgomery if in his opinion the western most pipe is not necessary or would they change the course of the outer bank flow and move the western most pipe and Mr. Montgomery said no. Mr. Montgomery said that he did not recommend another pipe be placed there. He did not make a judgment, because he did not know and would defer to the professionals. He did not know if a pipe should be placed in or divert to the stream. Mr. Montgomery said it is not flowing into the watercourse because when the watercourse was dug the material was placed in a pile. Mr. Lord said that between the two pipes there is obvious oil that came out of the channelization activity and because of a bend in the watercourse channel to the south of the driveway there is some flow out of the bank which goes into the area where they would place the fifth pipe. The water flow could be changed and direct it back into the main channel. Mr. Lord said that he did not propose this change because he was concerned with the need to move outside of the driveway footprint to do some channel realignment work. Mr. Lord said that if the Commission would like to see work done to the south of the driveway to make sure that the flow moves into the main channel and remove the fifth pipe they would agree to it.

Ms. Rosenbaum stated that the purpose of the Commission is not to tell the Applicant what to do and Mr. Montgomery was only giving his opinion and she would not poll the rest of the commissioners for their opinion. Mr. Lord said that

his experience with other commissions is that they will give some guidance to the applicant on what the consensus of the commission is regarding issues such as 4 pipes vs. 5 pipes. He said that he is not asking the commission to design what is being proposed but an alternative to the proposal. Mr. Lord said he would like some feedback from the Commission and it is not an unusual request to ask when there are changes discussed such as the number of pipes. This is talking about a specific element of a plan and in this case it is being asked about the elimination of one pipe. Mr. Lord said that the applicant is looking for an approval and if the consensus is 4 pipes then they can downsize the number of pipes and this is not an unreasonable request.

Mr. Montgomery said that he is not in the position to make the decision and was saying that there is an alternative. The reason he can not make the decision is that the Commission should be looking at the proposal for minimal impact to the area. Mr. Lord said he agrees and he had stated his reason for adding the fifth pipe was to convey the water that is moving through the area.

Mr. Shadle stated that the placement of the pipe or removal of the pipe is a potential alternative. Mr. Lord said that he gave his opinion regarding the pipes and is concerned with adding additional activity outside the foot print of the access roadway. He said the flow of water moves out of the main channel into the secondary channel as a result of past excavation in the area of the fourth pipe and he felt that to minimize the amount of impact was not to propose work that would redirect the flow. Mr. Lord said that he does not think it is a significant either/or but it is a viable reasonable alternative to do a slight amount of regrading to the south of the driveway to make sure that the flow and the flow of water continue as it did historically in the past in the main channel. This would eliminate the need for the fifth pipe. Mr. Lord said that he did not want to propose a new activity as part of the application. He feels either is viable that putting in the five pipes or taking out the western most fifth pipe and doing work along the western side of the channel. He said a third possibility would be to take out the fifth pipe and let the flow of water build up on that side and continue to feed back into the fourth pipe. Mr. Lord does not feel there is a significant amount of flow because it is a slight channel or swale almost in the area of the fifth pipe and was created by taking material out of the main channel and putting it on the west bank because of the angle and the bend in the watercourse.

Ms. Rosenbaum said that Mr. Lord should come back to the IWC with additional plans for the pipe.

Ms. Lakin asked Ms. Cofrancesco for clarification of what the relationship is between the litigation and the application. Ms. Cofrancesco said that there was special defense that was specifically raised in the litigation by the insurance defense counsel that her client Mr. Dichello was not exhausting his administrative remedies. Ms. Lakin asked what was meant by administrative remedies. Ms. Cofrancesco explained that Mr. Dichello did not come to the IWC or any other municipal agency seeking any permits.

Mr. Annes said that the IWC should know what the complaint was. Ms. Cofrancesco said that the complaint was that the Town of Hamden was discharging water over Mr. DiChello's property on a consistent basis in the form of a nuisance because surface water can be a nuisance, with pollutants, soil and debris. The complaint was brought in 2009. Ms. Cofrancesco said that it sounds in the nature of a nuisance with regard to the continued course of conduct on the part of the Town of Hamden. Ms. Cofrancesco explained that the Town of Hamden turned the case over to the counsel for the insurance company. She said she brought the suit up because the defense that is being assertied by the town in the litigation is that her client Mr. DiChello is not doing as much as he can to mitigate his damages and that he has not gone to the municipal agencies to abate the nuisance and to lessen the problem on the property.

Ms. Rosenbaum asked if the application is in relation to building the house. Mr. Milazzo said that it is any use of the property.

Mr. Annes said that the applicant's complaint is that the town of Hamden is damaging the property and that the problem is that the applicant is being told that they must fix the problem themselves. Mr. Annes said that the IWC should ask Mr. Lee for his professional opinion.

Mr. Milazzo said that the lawsuit and the application are unrelated and that Ms. Cofrancesco is saying that one of the reasons is the existence of litigation. The Commission discussed what is being presented and why it is being presented.

Mr. Milazzo said that the Commission is voting on the application based on its merit and if the application is denied it may have a bearing on the litigation and the value of the litigation. He said if the application is approved it may also affect the litigation. The litigation cannot be used as a determining factor and the IWC is looking at the application independent of the litigation and the information was provided as background as to why the application was submitted.

Ms. Lakin asked if an application can be heard when there is a pending litigation. Mr. Milazzo said that it can be heard because they are unrelated and that is why it is before the Commission and it does not affect the litigation out come. The Commissioners continued discussion as to whether the application should be heard and the reason they came before the Commission.

Mr. Annes said that the IWC must determine if the activity is as of right and if the road is necessary for the as a right. The Commission further discussed what the IWC must base their decision on and is it a relevant project and if thereare reasonable and prudent alternatives. Ms. Rosenbaum stated that the discussion should continue when Mr. Tim Lee, Assistant Town Attorney, is present so that he may give the Commission legal advice.

Ms. Cofrancesco stated that if the applicant comes before the Commission and it was denied then the applicant will have exhausted his administrative remedies.

Mr. Annes said if an application comes before the IWC and it is not appropriate and it is denied it does not mean the administrative remedy is exhausted. Ms. Cofrancesco says that it does mean that she would have exhausted the administrative remedies. Mr. Annes said that the IWC determines if the application is appropriate.

Mr. Gnida asked Mr. Lord about the reference to the changes of the sheet flow to wetland flag 14 and that there is no wetland flag 12 on the site plan. Mr. Lord said what he was referring to was the section between the proposed driveway in the area of flag number 6 and that it extends to flag 14 at its closest point to the indicated watercourse channel. The area has water that sheet flows to the south of the proposed driveway. Mr. Gnida asked which wetland flag fourteen Mr. Lord was referring too. Mr. Annes said that the flags should be renumbered.

Mr. Gnida asked Mr. Lord if there will be excavation from the proposed driveway to the upland drive area where there is proposed gravel to be placed near the garden. Mr. Donofrio said that there will be a six inch cut out and there will be a silt fence placed around the area.

Ms. Rosenbaum said that the Town Engineer has twice asked for the hydrology and the hydrology calculations. Mr. Donofrio said that there is no need for the hydraulic calculations because the area is not going to be drained and they will keep the flow going through the proposed driveway. If the area needs to be drained it would have to be done down to Willow Brook.

Ms. Rosenbaum said that she does not see a response to the RWA letter that was dated May 23, 2011. Mr. Donofrio said that he has not received a letter from the RWA. Ms. Rosenbaum asked if Mr. Lord or the Applicant had received it.

Ms. Rosenbaum said that the driveway length is 518 feet. Mr. Donofrio said that the existing part of the driveway is 320 feet long and the new driveway is 288 feet long. Ms. Rosenbaum said that the proposed plan shows the driveway that crosses the wetland is 288 feet and Mr. Donofrio stated that she was correct. Ms. Rosenbaum says that the most recent proposed plan the driveway is longer because a turnaround was added. Mr. Donofrio said that it was added because of the request from the June 1, 2011meeting and the total would be 288 feet plus 6,957 feet plus the cul-de-sac and the upland area would be 33,841 square feet.

Ms. Rosenbaum said that the detail shows the water pipe that starts out at Birchwood Drive and then there is a proposed two inch water service and asked if it goes down to the garden. Mr. Donofrio said that in the construction sequence the line goes to the end of the existing drive and near the property line. He feels that the RWA would handle how the pipe would be installed. Ms. Rosenbaum said that the pipe shown in the plan is not clear. Mr. Donofrio said that he started with the watergate that is on Birchwood Drive and then goes to the center line of the proposed driveway and then it stops. He was then thinking a hydrant would be installed because hose would have to be carried 320 feet. Mr. Donofrio said he has not designed the waterline. Ms. Rosenbaum asked where the pipe would be placed and Mr. Donofrio said that it would be a decision made by the RWA. Mr. Donofrio said that the thought is the pipe would be placed in a sleeve under the roadway or outside the roadway on supports or stilts which would need thermal lined sheath. Ms. Rosenbaum asked Mr. Donofrio for a cross section for the suggestions showing the placement of the pipe.

Ms. Rosenbaum said that it was mentioned that there would be a building for farm equipment on the property and it is not shown on the proposed plan. Mr. Lord said he does not recall a discussion with regards to a structure for equipment and Ms. Rosenbaum apologized and said that she could be wrong, but she thought there would be something to store equipment.

Mr. Lord stated that he had received the RWA letter and is prepared to comment on it.

Mr. Ronald Walters, RWA, addressed the Commission and stated that he has discussed the site plan with the contracts department. The RWA is responsible from the water main in the street on Birchwood Drive and then they would tap the applicant's pipe. The Applicant's responsibility would be to run the service line through their property and the RWA does not get involved with the installation of the service lines on private property. The RWA would tap the line and bring it to a curb box.

Ms. Rosenbaum asked for comments in favor of the application and there was none.

Ms. Rosenbaum asked for comments against the application:

Ms. Marilyn D'Ambrose, 41 Post Falls Lane, addressed the Commission and stated that she received an email from Orson Environmental Consulting and that she has taken the time and the effort to email Dr. Orson all the correspondence. She read the letter dated July 5, 2011(exhibit #5) from Orson Environmental Consulting. Ms. D'Ambrose feels that the letter says it all and the proposed plan is excessive and will impact the wetland. She stated that a garden is an as of right but the proposed road is not. Ms. D'Ambrose said that the road is approximately her height and if the road width is taken down to 12 feet across the width will be 24 feet across with the side slopes. She feels that the length of the road is excessive for a proposed 80 square feet x 80 square feet garden. Ms. D'Ambrose asked that the Commission reject the application.

Mr. Fred D'Ambrose, 41 Post Falls Lane, addressed the Commission and stated that the driveway will not run parallel with the water flow and it will go across the driveway. He feels that the flow of water will interfere with water flow in some way and destroy a beautiful wetland. Mr. D'Ambrose said that he was raising the topic of the hydraulics with the amount of water and rate of flow. He said that Dr. Orson, the Town Engineer, Mr. D'Ambrose himself and his wife have addressed it. He did not understand the answer given and was unsure if a satisfactory study was done. At the last meeting the applicant indicated that he wanted to plow the road when gardens grow in the summer. Mr. D'Ambrose said that the reply from the applicant was because he might want to park a vehicle on the driveway. Mr. D'Ambrose stated that the neighborhood is upscale and to park any construction vehicles on the driveway would be horrendous. There was no water connection and it was measured this week as the RWA had indicated. Mr. D'Ambrose said that it was stated there would be a drawing of all parts of Mr. Lord's communication. Mr. D'Ambrose said that he has not received the amount of trees to be removed and that this was requested at the June 1, 2011 meeting. He said the height of the road was indicated to be 5 feet seven inches and he feels this would interfere with the water flow and lead to the destruction of the wetland. On page two number of Mr. Lord's report indicated that the elevation of Mr. D'Ambrose's property would be from 262 feet to 268 feet, and the driveway will be 261. The report said that the difference would be six inches and that Mr. D'Ambrose's would not flood. Mr. D'Ambrose said that there are considerable water flows on the west side and this is where his property is located. The discussion

tonight was to remove the pipe on the west side of the driveway and this alarms Mr. D'Ambrose. He asked if there was consideration given with regard to the 50 year or 100 year storm event which is possible. Mr. D'Ambrose asked that the Commission consider the privacy and property value issue and ask that they reject the project.

Mr. John Strampach, 1100 Still Hill Road, addressed the Commission and stated that he is against the application because the wetland water that comes off the applicant's property will go onto his property. He said that no consideration was given whether if more wetlands would be created downstream and to the north. He is concerned with the application of chemicals and how it will affect the watercourse. Mr. Strampach said that if the monitoring of the invasive plants is not done or removed properly it could affect the Mill River. Mr. Strampach stated that he is against the application.

Mr. George Coutts, 31 Post Falls Lane, addressed the Commission and stated that the proposed application would have a huge impact on the wetlands. The proposed driveway is excessive for a small commercial garden. He is concerned about the amount of fill and gravel that would go over the wetland, a six foot high access road and the invasive vegetation that might come in with the fill. He asked if the driveway is 33,841.2 square feet. He is concerned because the driveway goes over the heart of the wetland and a major flow of water. Mr. Coutts is concerned that the proposed plan will have a major impact on the wetland and he stated that the application should be denied.

Mr. Paul Cartier, 150 Birchwood Drive, addressed the Commission and asked how many truckloads of fill will cross the wetlands and what damage would be caused.

Ms. Marylou DeNardis, 790 Still Hill Road, addressed the Commission and stated that she likes to garden and has a small garden. She said that she hates the proposed road and if the application is passed it would impact the IWC's credibility.

Mr. Larry DeNardis, 790 Still Hill Road, addressed the Commission and stated that he agrees with Dr. Orson's comments. Mr. DeNardis said that Mr. Lord referred to his property and had investigated the hydrology of the property without going onto Mr. DeNardis's property. Mr. DeNardis has lived at this address for 37 years and his property and other properties in the area have flooded repeatedly. In February of 2011 Mr. DeNardis's basement had 8 inches of water and he had called the Hamden Fire Department. The areas between Still Hill Road, Post Falls Road and Tom Swamp Road have a high water table. Mr.Denardis said that the proposed road will be an approach and an egress for an activity called a garden. He asked when a garden is not a garden. An 8 foot by 10 foot garden can produce up to 30 pounds of tomatoes a year. The proposed 80 foot x 80 foot commercial enterprise is placed in a non-farm residential neighborhood and is equal to more than 50 percent of building lots in the Town of Hamden. He noted that if you live in Whitneyville, Spring Glen, Pinewood, Pine Rock, Hamden Bank Section, Church Street, Centerville, State Street, Ridge Road, Southern portion of Mt. Carmel the proposed commercial enterprise size is more than 50 percent of lot sizes in the stated areas. He feels that it is a large commercial enterprise that will serve a store and a restaurant in Wallingford. Mr. DeNardis stated that the proposed use is an outsized and an inappropriate use that will cause irreparable damage to a precious wetland area in Hamden. He asked the Commission to reject the application.

Ms. Rosenbaum stated that farming is as of a right. Mr. DeNardis stated that he understands it is an as of right, but the issue of the access to and egress from, the size and scope of the activity called a farm which can be an agriculture enterprise. The use may be fine in many sections of town but is inappropriate in a neighborhood. He feels that the proposed use would cause irreparable damage to the wetlands.

Mr. Bernie Kycia, 774 Still Hill Road, addressed the Commission and stated that he is opposed to the application.

Ms. Rosenbaum asked for additional comments from the public and there were none and she asked for any rebuttal from the applicant.

Mr. Lord explained that the proposed plans show the amount of fill as being 482 cubic yards of materials and equates to 26 truckloads of fill material. The truck loads will not cross the wetland and will be used as fill beginning at the eastern end of the existing driveway terminus and move westerly and fill using the material. He understands that

additional details must be provided to the Commission. The details will include a silt fence and culvert detail. Also a revised culvert design which will show 4 culvert pipes downsized to 18 inch diameter down from 24 inches. A layer of top soil outside of the edge of the driveway proper and specifications will be provided for any edge area and side slopes which will include a growth media for the no mow seed mix. The specification sheet for the no mow seed mix is a standard sheet that was given to the Commission as an example because it is not specific until the order is placed. The seed mix that would be used on this property would not have crown vetch because it grows aggressively.

Mr. Lord said that the water that flows to the north onto Mr. Strampach's property will continue to flow on to his property. The proposal is not to alter the water that flows though the applicant's property, but will preserve the water flow in its existing character. Permeable gravel will be used for the roadway fill and surface so as not to add to the impervious surface. Mr. Lord said the size of the driveway is necessary to get from Birchwood Drive along the only means of access and to get over the wetland as proposed. There is no other way to get to the area of the upland soils where the proposed garden is to occur other than crossing the wetlands and there is no alternative. The applicant is limited to an access strip off of Birchwood Drive and the size is necessary to get from point A to point B and would be the quickest way over the wetlands with the least impact.

Mr. Lord made note to Mr. DeNardis's comments and he said that his comments were only relative to the existing topographic survey elevation along the north side of Mr. DeNardis's property and the existing relationship between the drainage easement to the east of his property and the house location, (also, to the statement with regard to the 8 inches of water in his basement in February, 2010). Mr. Lord does not disagree that there is a high water table in the area. Mr. Lord said he was stating that the relationship elevation for the existing subject property and the driveway being proposed across the wetland do not result in a negative effect to Mr. DeNardis's property or the properties to the west.

Mr. Lord said that he will need to make revisions to the proposed plans and will provide revised drawings.

Mr. Lord referred to the RWA letter dated July 6, 2011. The proposed amount of fill is 482 cubic yards of material. The paved portion of the driveway is no longer proposed to be a paved area and will be gravel. It will be 12 feet wide but in some areas maybe be larger because of existing topography. Mr. Lord reviewed the proposed driveway and existing grades with the Commission. Mr. Lord said that the S&E control details will be added to the proposed plan and that it was agreed that stumps will be disposed off-site. He said that routine maintenance of equipment will be off-site. The refueling of equipment will be done outside the wetland area at either the entrance to the site on Birchwood Drive or at the terminus outside the wetland area. Mr. Lord explained that additional erosion control, and additional detail for the outlet of the proposed culverts will be provided. Cross section views will be shown and brought into agreement with the proposed driveway.

Mr. Lord said that they will revise the site plan drawing and will address further the comments made at this meeting.

Mr. Gnida asked how many trees will be removed in the area of the wetland because the stump removals will affect the ground water in the area. Mr. Lord said that there will be a total of 33 trees that have a base diameter of 8 inches or larger at breast height that will be removed for the entire project. Mr. Gnida said that the removal of the trees will create voids in the soil that was said to be undisturbed and where the rip rap is placed. Mr. Lord said that any stump holes created would be back filled and leveled off. In the driveway crossing area the depression area created by stump removal will be back filled with the material being used for the driveway.

Mr. Annes said to determine if the road and its size is necessary for the garden the Commission should know what equipment will be used for the garden. Mr. Lord said that equipment used for the operation of the garden may be small tractors and a wagon or trailer to bring materials in and out of the area. Mr. Annes said more detail is needed for the work that will be done in an 80 foot by 80 foot garden. Mr. Lord said the applicant will use a backhoe, bulldozer, dump truck, tractor for the construction and operation intended for vegetables. Mr. Lord discussed further what could be grown in the garden.

Ms. Rosenbaum said what is grown in the garden is not the concern of the Commission. The State Statute pertaining to the width of the road was reviewed. Mr. Lord said that there are requirements by the Town that dictate the size of a

drive way. There was further discussion regarding the width of the driveway and the width needed for safety. Mr. Annes asked if there were any alternatives and Mr. Lord advised he would check.

Mr. Shadle stated that what is on the proposed plan is not a driveway; it is an agricultural access way. The Commission will be judging the access way on the agricultural uses.

Ms. Rosenbaum asked Mr. Lord if he would like to continue the Public Hearing. Mr. Lord said that he would like the public hearing continued so he can present a formal response to the comments made.

Ms. Rosenbaum said that the Public Hearing will remain open to receive updated material if the applicant grants an extension because the IWC will not meet in August. Therefore, we will use the 65 day extension and allow the applicant to provide the materials needed in a timely fashion. Mr. Lord agreed to the 65 day extension. Ms. Rosenbaum explained that the public hearing must be closed at the September meeting because no further extensions can be granted. Mr. Tim Lee, Assistant Town Attorney advised Mr. Lord that he would need a letter granting the 65 day extension and Mr. Lord agreed.

Mr. Milazzo made the motion to extend the public hearing to the September 7, 2011 meeting provided the Applicant signs a formal extension of 65 days as prepared by Attorney Lee. Ms. Lakin seconded the motion. The motion passed unanimously.

The public hearing was continued until the September 7, 2011 meeting.

Mr. Annes asked if the Commission may want to seek additional expertise regarding this application. The Commission discussed the practices of the Commission and the information the applicant should be providing for the proposed activity and use of the property and what is allowed as a matter of right.

Mr. Dan Kops, Assistant Town Planner advised the applicant that there will be an issue with the 480 cubic yards of fill that needs to be moved. He explained that under the Zoning Regulations it would not be permissible unless there is an approval by way of a Site Plan, Special Permit & Site Plan or a Zoning Permit.

II. Regular Meeting

1. <u>Pending applications</u>

a. 11-1171 170 Birchwood Drive - driveway culvert-crossing
Alberto DiChello, Applicant

Ms. Lakin made the motion to table Application 11-1171 until the September 7, 2011 meeting. Mr. Milazzo seconded the motion. The motion passed unanimously.

Ms. Rosenbaum asked for a motion to add to the agenda Application 11-1173.

Mr. Annes made the motion to add Application 11-1173 to the agenda. Ms. Lakin seconded the motion. The motion passed unanimously.

Ms. Rosenbaum asked for a motion to table this application pending a site inspection (at Waite Street and Gordon Street).

Mr. Milazzo made the motion to table this application pending a site inspection. Mr. Annes seconded the motion. The motion passed unanimously.

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

a. N.O.V. 64 Rocky Top Road – clearing of trees & removal of vegetation

Mr. Tim Lee, Assistant Town Attorney, updated the Commission with regard to the court case and the forestry consultant.

Mr. Annes made the motion to table this item until the September 7, 2011 meeting. Mr. Montgomery seconded the motion. The motion passed unanimously.

b. N.O.V. 790 Main Street – wetland conservation area encroachments (ref IWC #06-1095)

The members have received the monthly email update from L.E.P. Jeffrey Brown.

Mr. Milazzo made the motion to table this item until the September 7, 2011 meeting. Mr. Annes seconded the motion. The motion passed unanimously.

c. N.O.V. 251 Welton Street – oil spill or discharge

Mr. Shadle made the motion to table this item until the September 7, 2011 meeting. Mr. Stone seconded the motion. The motion passed unanimously.

d. C & D 114 Colony Street & 125 Thompson Street-retaining wall

Ms. Elissa Nevola, 125 Thompson Street, addressed the Commission and advised that nothing has changed with the status of the property at 114 Colony Street and 125 Thompson Street. Mr. Vocelli said that some fill has been removed but the site needs to be stabilized. Ms. Nevola said that what was requested by the Commission in November has not been done. There is still a lot of water to the back of her property. She has a daughter who is ill and stagnant water is not helping.

Ms. Rosenbaum asked if there is an engineer involved. Mr. Vocelli said that Mr. Bellonio does have an engineer plan that was done by a structural engineer and it was accepted by the Town Engineer and the Building Department. Mr. Bellonio needs to submit a schedule to complete wall and to stabilize the area.

The Commission discussed with Mr. Tim Lee, Assistant Town Attorney what actions can be taken that would make Mr. Bellonio complete the work necessary to stabilize the area.

Ms. Nevola explained to the Commission the yard condition and said that Mr. Bellonio has accessed the area going over her property causing further damage, and that she will not be able to sell her house.

The Commission discussed whether to issue monetary fines or take court action.

Mr. Vocelli advised the Commission that he is unable to determine why Mr. Bellonio has not completed the work as necessary. He explained that he has at times been able to hand deliver documents to Mr. Bellonio and other times he could not get a response or answer at the door.

Ms. Roberta Overend, Neighbor, addressed the Commission and explained that when Mr. Bellonio opened up the massive hole he flooded her entire back yard and she has brought a court suit against him. The grass is high in the area and cannot be mowed because the area is wet and there is an odor coming from the area. Mr. Milazzo asked if Mr. Bellonio has answered the lawsuit and Ms. Overend said no.

Ms. Novola asked what would happen if Mr. Bellunio ignores further action being taken by the Town and does not do the work. Mr. Lee said the Town will not do the work because it is private property.

Mr. Vocelli explained that until the area is stabilized via the completion of the retaining wall and the embankment. There is a threat of sediment getting into the watercourse. Mr. Bellonio had come before the Commission for approval and was authorized to get the building permit to finish the retaining wall.

The Commission discussed further with Mr. Lee and Mr. Vocelli the steps that should be taken to set schedule deadlines and the actions that will be taken if it is not completed.

Mr. Lee explained that once it is determined what action will be taken by the Commission he will send a letter to Mr. Bellonio.

Mr. Milazzo said with respect to the C&D at 114 Colony Street & 125 Thompson Street he makes a motion that the Assistant Town Attorney send a letter on behalf of the Commission indicating that the Commission impose a monetary fine of $150.00 a day beginning on July 6, 2011 and it will accrue until such time that the retaining wall is completed. The retaining wall is required to be completed by August 15, 2011. If the work is completed by the August 15, 2011 deadline the Commission will agree to waive all fines.

The Commission discussed the motion and that Mr. Bellonio should appear at the September meeting**.**

The members also indicated the use of Bti larvicide pellets in stagnant water under the supervision of Mr. Vocelli would be permissible.

Mr. Milazzo added to the motion: The C&D order is upheld and this item be tabled until the September 7, 2011 meeting and the owner will be informed that he must attend the September 7, 2011 meeting. Mr. Annes seconded. The motion passes.

4. Review Site Inspection Schedule

Mr. Vocelli will schedule the site inspection for Waite Street. The Commission discussed meeting on July 20, 2011.

5. Review June 1, 2011 meeting minutes

Mr. Montgomery submitted to the clerk changes he would like to the minutes. Mr. Kops stated that the minutes should be tabled to allow the Commissioners time to review his changes.

Mr. Milazzo made the motion to table this item until the September 7, 2011 meeting. Mr. Montgomery seconded the motion. The motion passed unanimously.

6. Other Business

Ms. Rosenbaum advised the Commissioners that there will be no meeting held in August. She explained that the Public Hearing for Application 11-1171 was granted a 65 day extension and the Public Hearing on September 7, 2011 must be closed. If no decision is made at this meeting then a decision must be made at the October 5, 2011 meeting.

7. Adjournment

A motion to adjourn was made by Mr. Annes and seconded by Mr. Stone. It passed with no dissenting votes. The meeting ended at 10:09 p.m

Submitted by: _____
Stacy Shellard, Clerk of the Commission