

**CONSERVATION COMMISSION &
INLAND WETLAND AGENCY MINUTES
June 8, 2021**

I. CALL TO ORDER

Mr. Moeling called the meeting to order at 6:00 p.m.

II. ROLL CALL

Ms. Cherichetti took the roll call.

PRESENT: John Moeling, Chair; Steve Klocke, Vice Chair; Ed Holowinko; Matt Pentz; John Levin; Jenn Balliett; and Farrah Marin.
Alexis Cherichetti, staff.

III. RECEIPT & DISCUSSION

IV. DISCUSSION &/OR DECISION

- a) **#S21-569 – 40 Princes Pine Road – Tate & Associates LLC** – Installation of an in-ground pool and associated retaining walls adjacent to a wetland and watercourse

Ms. Cherichetti provided an update on the application. She noted during discussion of the application, it came to light that trees had been removed next to the wetland without a permit. She stated she had issued a Notice of Violation earlier in the day for the tree clearing that had occurred on the property.

Ms. Cherichetti noted the applicant was present. She said that revised plans had been submitted that included the upland review areas of both the wetland and the watercourse. She discussed the applications required for Intermediate and Significant regulated activities. She noted the revised plans show some changes to the proposed retaining walls and elevation of the pool deck area, which together result in a disturbance just under 150 cubic yards.

Ms. Cherichetti noted the unusual situation of having a pending application and an unresolved violation concurrently. She recommended the violation be dealt with prior to the pending application. Mr. Moeling concurred.

Mr. Moeling added the Agency was waiting for information regarding any required changes to the septic systems. He noted his concern about the removal of trees without a permit.

Mr. Tate stated that he wanted to clarify that the back yard was lawn within three feet of the wetland. He noted there were only 12, not 16 trees removed and the pine and spruce trees were very tall and a potential danger to the residence. He stated the removal of the trees had very little impact on the wetland.

Mr. Tate discussed the estimated volume of fill and the changes to the site plan. He said the total fill was now 138 cubic yards. He noted they would now leave an area that was previously disturbed alone. He noted that he was confused about the new request to correct the violation. He stated that as a landscape architect, his plan already addresses any violation all needed landscaping with the proposal of the pool and the enhancement of the buffer with the retaining walls. He noted the deposited woodchips would be a positive enhancement to the wetland. He stated that the regulated area keeps expanding, but they have addressed that over the past three meetings. He added they would need to show a reserve septic system, but that could be a condition of approval.

Ms. Cherichetti suggested that she should issue an order, since the respondent does not seem to believe the violation is of import. She noted that it would not be fair to other property owners that have had to submit corrective action applications, if there was no separate enforcement requirements.

Mr. Tate interjected that the existing site plan should suffice. He asked Ms. Cherichetti for clarity and wanted to know what it would take to get a pool approval.

Ms. Cherichetti explained the Corrective Action permit application and its variance from a regular before-the-fact proposal application.

Mr. Moeling noted the Agency was not a mere audience to the violation process, but was also an active participant in the process.

Mr. Klocke asked if a peer review of the wetland impacts and potential mitigation had been required. Ms. Cherichetti responded that no, there had not been a second opinion required for the pool application. She recalled the wetland delineation had been reviewed, but there was no secondary analysis of wetland impacts. There was discussion regarding the proposed pool application versus the violation for tree clearing. Ms. Cherichetti noted he should wait to see what might be proposed in a future corrective action application, and if there were strong doubts about the adequacy of the corrective action work, then such review might be warranted.

Mr. Levin stated he had a concern, just because he has never seen an application with a violation before and it creates a new level of complexity. He noted that to say the application for the pool was effectively a cure for the violation was impossible, since the violation only recently came to light. He noted that typically the Agency would look for a restoration plan is approved.

Mr. Moeling would take Ms. Cherichetti's advice to deal with the violation first and then the pool so that it isolates and details the items of the violation. Then once the violation is rectified it has no bearing on the pool application.

Mr. Tate emphasized the existing condition of the yard. He noted the upland review area comes to the rear of the house, however the whole upland review area, within less than ten feet, was lawn. On the perimeter there were spruce and pines, and the woodchips were put on lawn within three feet of the wetland.

Mr. Klocke noted the violation would be on the next meeting agenda.

- b) **#S21-570 – 40 Fullin Road – FRAP LLC** – Construction of twenty-eight (28) buildings (forty (40) residential units), with associated parking, site grading, wetland crossing and wetland creation, landscaping, utility connections and drainage systems, adjacent to a wetland and watercourse

Ms. Cherichetti provided an update on the search for a peer review consultant for the wetland impacts. She noted she had asked for quotes from six professionals. Proposals were due by the end of the day and she would work with the lowest qualified bidder to have the review done as promptly as possible.

Mr. Moeling noted they had previously noted their concerns with the application and are looking forward to the second opinion.

- c) **#S21-571 – 40 Cross Street – City of Norwalk TMP** – Construction of a trail connection to the Norwalk River Valley Trail (NRVT) adjacent to the Norwalk River

Mr. Moeling noted there were questions about this project raised at the previous meeting.

Ms. Cherichetti shared the revised site plan and cross-section submitted earlier in the day.

Mr. Phil Katz, Stantec, described the revisions and the location of the fence and stormwater swale.

Mr. Moeling noted the applicant was responsive and asked if the other members were ready to make a decision.

***** MR. LEVIN MADE A MOTION TO APPROVE THE APPLICATION AFTER REVIEWING THE APPLICATION AND ALL FACTORS FOR CONSIDERATION FOR DECISION LAID OUT IN THE REGULATIONS.**

***** MR. MOELING SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

V. BOND RELEASE/REDUCTION REQUESTS

- a. **#S16-498 – 4 Kristen Lane – Schneider** – Release of bond (\$1,681.50) held for corrective action restoration of a wetland

Ms. Cherichetti gave a brief overview of the regulated activities and bond requirements. She indicated a recent inspection confirmed the restored wetland area was being satisfactorily maintained.

***** MR. KLOCKE MADE A MOTION TO RELEASE THE BOND.**

***** MR. LEVIN SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

Ms. Cherichetti asked if there could be a request for fee waiver added to the agenda. It was determined it would be best to add the request to the next agenda.

VI. CONSERVATION COMMISSION BUSINESS

- a. **Open Space Fund Request - Norwalk Land Trust – Hoyt Island** – Request for \$200,000.00 for contamination remediation costs on Hoyt Island

Mr. Moeling recused himself from discussion of the item and left the meeting. He asked Mr. Klocke to lead the discussion.

Ms. Cherichetti reviewed all of the information provided by the Norwalk Land Trust. She noted Mr. Hubbard and other members of the Board were present if there were any questions for them. She noted the questions before the Commission were, first, is the request in line with the purpose and goals of the Open Space Fund, and second, what amount of the fund would be appropriate.

Mr. Pentz asked if the work was completed or if there were any remaining issues. Mr. Hubbard replied that all work on the island is complete, but the excavated material was still on its way to the disposal site, so they were still awaiting paperwork related to that.

Ms. Balliett asked how much space the cottage took up of the island. She would see this as all open space now that there is no structure. There was discussion regarding the accessibility of the rest of the island was impacted by the contamination.

Mr. Pentz observed that the remediation and removal of the building does transform the space into open space. Mr. Levin noted that other open space properties had structures on them, and that did not take away from their open space status. He added that he just does not think that the request is in line with the main purpose of the fund, which is acquisition of new open space.

Mr. Levin had questions about the amount of the request relative to the cash needed to complete the remediation.

Mr. Klocke noted he feels that the property was open space prior to the remediation. He also expressed concern about the costs of the remediation and the accessibility of the land was very limited.

Mr. Holowinko stated that helping with the remediation does indeed make the island into usable open space. He noted accessibility to the public was not a concern and drew comparison to Alaska, which is mostly federal open space, but an area most Americans will never see. He noted the island would be accessible to kayakers and birders.

Mr. Pentz returned to the definition of open space.

Mr. Levin asked about the costs to the Land Trust and other sources of funding. He calculated that the Land Trust need was only \$78,000. He suggested the Land Trust ask the City for a special appropriation.

Ms. Cherichetti stated the City would direct them to the Open Space Fund, and the Land Trust itself could not ask for a special appropriation.

There was a prolonged discussion regarding the costs, the status of invoices, other expenses, operating budget, budgetary reserves and financial health of the Land Trust.

Ms. Peggy Holton, Land Trust board member, added the fund talks of acquiring and also protection open space. She described the Land Trust's efforts and costs associated with continual protection of open space.

There was additional discussion regarding the intent of the Open Space Fund and its funding over time. Ms. Cherichetti described the ways the Open Space Fund was used in the past.

***** MS. MARIN MADE A MOTION TO ALLOCATE \$78,000 TO THE NORWALK LAND TRUST.**

***** MS. BALLIETT SECONDED THE MOTION.**

Mr. Levin stated he would like to require the City to make a match allocation to the Open Space Fund. Mr. Klocke asked if the motion to give the Land Trust funds contingent on the City replenishing the Fund. Mr. Pentz asked if the motion could be contingent on the completion and confirmation of all remediation requirements.

There was additional discussion regarding how any funds would be used by the Land Trust.

Mr. Holowinko pointed out the important role the Land Trust has played in Open Space acquisition in the City.

Ms. Marin declined to retract her motion and also declined any amendments to her original motion.

***** MOTION FAILED WITH A TIE VOTE (MARIN, BALLIETT AND HOLOWINKO IN FAVOR, KLOCKE, LEVIN AND PENTZ IN OPPOSITION).**

Mr. Levin asked about the process for funding the Fund. Ms. Cherichetti discussed the Capital Budget process.

Mr. Klocke noted the Land Trust was invited to return with a request again.

Mr. Moeling returned to the meeting.

VII. MINUTES

VII. May 25, 2021 meeting minutes

Mr. Pentz requested a minor edit.

***** MR. MOELING MADE A MOTION TO ACCEPT THE MINUTES AS AMENDED.**
***** MR. LEVIN SECONDED THE MOTION.**
***** MOTION PASSED UNANIMOUSLY.**

VIII. PUBLIC COMMENT

There were none.

IX. COMMENTS OF STAFF

- a) Report of the Senior Environmental Officer

There were none.

X. COMMENTS OF COMMISSIONERS

- a) Report of the Commission Chair

Mr. Moeling thanked Mr. Pentz for further investigating House Bill 6441.

Mr. Levin asked to add a meeting to look at just Conservation Commission issues. Ms. Cherichetti suggested that perhaps the fourth Tuesday of August could be the date of a special meeting. There was discussion regarding public meetings.

VIII. ADJOURNMENT

***** MS. MARIN MADE A MOTION TO ADJOURN.**
***** MR. MOELING SECONDED THE MOTION.**
***** THE MOTION PASSED UNANIMOUSLY.**

Meeting adjourned at 7:54PM.