

Town of Newington Conservation Commission  
Newington Town Hall  
131 East Cedar Street  
Conference Room L-101, Lower Level, Town Hall  
7:06 P.M.

#### I. MEMBERS PRESENT

Chairman Philip Block  
Commissioner John Igielski  
Commissioner Kathleen-Marie Clark  
Commissioner Jeffrey Zelek (absent)  
Commissioner John Casasanta  
Commissioner Andreas Sadil  
Commissioner Benjamin Ancona (absent)  
Commissioner Alan Paskewich  
Commissioner Deborah Anne Krawiec

PRESENT: Chris Greenlaw  
Town Engineer

#### III. PUBLIC PARTICIPATION

Mr. Gary Bolles had a question regarding a conservation easement issue and whether or not a home owner has to address this issue before the Conservation Commission to which Chairman Block responded that there is a dichotomy in the terminology in which in the past open space easements were entitled as conservation easements and there is a difference between those that go before the Town Planning and Zoning Commission and those that involved the wetlands which, as you said, should properly come before us, so that may explain that situation. In the past Chairman Block stated that he tried to clarify the labeling of these easement rights to resolve it.

#### IV. APPROVAL OF MINUTES

Commissioner Clark noted on page 3, Section 3, Public Participation the gentleman that came up to speak was ED HORAN and his name appeared several times within the paragraph. Also, on page 10, the second full paragraph, it is written Chris Clark and I assume it means Chris Greenlaw. Commissioner Sadil made a motion to accept the minutes as corrected. Commissioner Igielski seconded the motion. The motion passed unanimously.

#### V. PUBLIC HEARING

##### A. Inland Wetlands Regulation Changes - L.I.D. (Low Impact Development)

Town Engineer: Chris Greenlaw stated that there is nothing to report at this time and requested the commission to continue to table this item. He continued to clarify that the motion should include to keep the public hearing open as there is no termination upon a public hearing for a regulation change until the commission believes it has conducted its business accordingly.

Commissioner Paskewich wanted to expand on this question to clarify whether or not the Town has these practices in place in this town to which Chairman Block responded "I don't believe they are in place yet".

2.

Town Engineer Chris Greenlaw interjected: "If I Can, it is a little confusing and I want to clarify; at this time the TP&Z have accepted the L.I.D. regulations for both subdivision and zoning which falls under the purview of TPZ and that is really where the teeth of L.I.D. are now in addition to that we have a proposal in front of this commission here to accept certain things and we are waiting for two agencies to report back to us. One is the Council which it has not gone before; they have been very busy with some items and hopefully given the log jam that is breaking up, that we are going to see that happens in July, I am hoping for - and in addition, I've only had a verbal discussion with the agent for the DEEP and I will be meeting with that agent this Thursday and my subsequent training for legislative updates, so I would like to have something in writing from you, for them, to review and for consideration. TP&Z is the only other agency that we heard from and I believe you should now have electronically. So those are the two items that we are waiting for, for consideration to incorporate and ultimately we would send it back to council for adoption.

Commissioner Paskewich: We have the potential for large housing developments in application process now that may be looking forward to a permit sooner than later.

Town Engineer Chris Greenlaw: I believe the commissioner's question and again, I want to reiterate for a large housing development, there were four site plan applications that required L.I.D. involvement for the TP&Z regs. and they were large box unlimited size buildings. One was Panera Bread, another one was an addition to Data Mail. Another one was Doctor Patel and then the other one evades me, I believe there is another. Now, as I indicated before, the real teeth to the L.I.D. the other one written, for instance, for those large site plans it falls under "Zoning" and usually the course of what happens is that the planner gives it to me and says 'Chris, can you please, as part of your review, deal with their engineers and we have a huge uphill climb, it's education, we are talking VMP's, we are checking the calculations, it's been very laborious. But if you are looking at those zoning regs and if you look at the implementation, that is where it is happening. When you look at our regs it is more of an inclusion that as I have stated before, we have been requesting, NOT requiring it from applicants and they have acquiesced. When we have this written, then we can mandate it, now we are coincident with the TP&Z regs. but if you look at subdivision and you look at zoning, when you read those regs, it will talk about thresholds, it will talk about so many square feet, it will talk about BMP's and calculating the amount of runoff. That is where you see it.

Commissioner Paskewich: What I am hearing is if an applicant has in process a proposal for a large building development and the application is in process, they don't have a permit yet and by cause of this L.I.D. going into effect between their application process and the permit, would they be required to fulfill L.I.D.

Chairman Block: It's a chicken and egg situation - if they are under the wire, they are not. That is the case whenever there is an ordinance change they feel is anticipated, whether or not something gets to a 'granted or deny it' situation, before any change in law occurs. process, mainly from the departments

3.

Chairman Block: I think as Chris said, that those that are coming before the Town now are being told what is being asked for and they are attempting to work it in, earlier, rather than let them evade it.

Comm. Paskewich: That is just a question or comment of where we stand now, because I know how sometimes the application process in the various departments are reviewing them and they are not always at the same time.

Chairman Block: Can I have a second to the motion to table the L.I.D. regulation.

Town Engineer Chris Greenlaw: ...with the public hearing remaining open.

Commissioner Igielski: I second that motion.

Chairman Block: All in favor? The motion passed unanimously.

## VI. NEW BUSINESS

None.

## VIII: OLD BUSINESS

### A. Inland Wetlands Regulation Changes - L.I.D. (Low Impact Development)

Chairman Block: We just resolved A. L.I.D.

### B. Community Litter Pick-Up

Commissioner Krawiec noted that there was a picture in the Town Crier showing town residents picking up litter. Commissioner Krawiec also shared that the Environmental Quality Commission is preparing a booth at the annual extravaganza and is looking for volunteers.

### C. New initiative - Vernal Pools

Commissioner Paskewich stated that he and Commissioner Jeff Zelek attended a Ph.D. candidate's study on vernal pools in which they took and monitored the macro-vertebrae, its scales and counted them and also looked at the migration of turtles, salamanders and other amphibians. Also, part of the study was grounded on the amount of nitrogen vs. amount of carbon that these amphibians rely on in the forest area and canopy around the vernal pool. This was done in 2012 and went back to 2013 and discovered a dramatic difference; based on climate change in that area because the temperature of the water and methane levels had changed. She is going to continue with her study and report back to the commission. They also found that methane was a product of concern. It was quite a presentation. I was impressed with not only how they went about the study and how they took all the living organisms and how they lived on the decay of the leaf litter and the decomposition was a very important part of the vernal pool structure. I also asked her if this vernal pool had any inlets or outlets and she said "no" and I said, "Can they?" and she said "Yes" - I said "In what manner?" and she said, "As long as it dries up" and when the vernal pool dries up, it is still classified as a vernal pool.

4.

Chairman Block: Well again, vernal pool means seasonal, meaning it has to change its character in order to qualify as a pool.

Commissioner Paskewich: I was told by her that sustaining an inlet and outlet does not qualify as a vernal pool, so she was qualifying an "intending".

Chairman Block: I think that if you added a thin, tributary stream that a dry bed going down a stream, you know, that a portion of that certainly is a vernal situation, but it may not be a pool as it is configured.

Commissioner Paskewich: Another question that arose is what type of soils did they find that were indicative of a vernal pool and they said that part of their study is not on the soils, to determine that. So a gentleman that apparently visits this camp frequently and he is a geologist from Great Britain, spoke on soils and he said, in Connecticut it is typical that we have a hollis soil series and Jeff put down that there were also bedrock soils that are indicative of vernal pools. He was not aware of that. So finally that people from other countries have theories and it is nice that we can merge from other countries, information.

Chairman Block: Thank you. Going on to D. Invasive Plants. Does anyone have anything to say on that? We will table that, as well.

#### VIII. PUBLIC PARTICIPATION

None

#### IX. COMMUNICATIONS AND REPORTS

Commissioner Krawiec announced that on July 19, 2014 at the Extravaganza the TPZ is looking for anyone who would like to help out the environmental quality commission's endeavors on that date.

Chairman Block also wanted to share his experience when he worked in Wethersfield, the manager at that time created an event of the budget hearings and what he proposed and did for several years was that each department and each commission set up a booth in the auditorium and you could demonstrate at that booth any program that your department was involved with in order to explain your posture - so for example being the health department at that time I had public mosquito laden water; some stuff from restaurants and I don't know if that is what they are talking about at the extravaganza, but - if you guys have the time and the inclination and we wanted to put together some sort of presentation of 'show and tell' - it might be interesting.

Commissioner Clark: I plan to be there and being part of the Conservation Commission - rather than just be supporting the environmental quality.

Chairman Block: Certainly, but I don't know if we would have to request space from the manager and whether or not at this late moment it would be simpler and easier to just share at their table.

Commissioner Clark: Obviously, we can't plan anything. This would be the last meeting that we could make a decision and that it is okay for us to represent the Conservation Commission at a table that would not interfere with the Environmental Quality Commission, I just want to walk out of here with that.

Chairman Block: Well, do you want to make a motion that we do so - John, do you think we need to do anything?

Comm. Igielski: What is being talked about is something totally new for this commission so in the interest of calling this the Conservation Commission when the Town Charter has changed the name of this commission, so let us share the table with the Wetlands Commission, too.

Comm. Krawiec: As reflected in the minutes.

Chairman Block: But do you think we have to do anything formal to participate.

Commissioner Igielski: That would be more of perhaps of a request or discussion with the Town Attorney to get his input and that this could all be done under the auspices of the Chair.

Chairman Block: I think what I will do is give a call to the Manager tomorrow and just find out under what auspices the Environmental Quality Commission is participating and whether there is room for us and what and then I will send an e-mail out and see if we can't perhaps have an emergency meeting in between in order to find out what we have accomplished.

Mr. Greenlaw: Mr. Chairman, if I will, could we not follow the same format when the EDC came forth and planned a community cleanup plan and they solicited the Town Manager's office to let them know of this group and I believe the letterhead that went out, didn't we have a column that the Conservation Commission was - I think we had all of the members or some of the members stated on one side - it was kind of a joint effort. I see that as being in accordance with the same type of request so I would recommend a quick 'stickle' about what we are going to present ourselves whether we are sharing a booth with the EDC but more of an informational that this is the desire of the commission - they voted as a commission that this is what they want to do at this event. It's been cleared with the event staff but we just want to notify you if there are any requirements - and may this e-mail serve as notification that you are going to do this on this date, as representation of this commission and are there any additional requirements that we need to bring forth, quite simply.

Chairman Block: I agree with all of that, but beyond that, to man a booth, it is usually beneficial to have some materials and something to demonstrate, perhaps some of our maps that show the wetlands through town, a show and tell.

Commissioner Cassasanta: I think it would be perfect and maybe I like the Town's water fall and since it is going to be right there and maybe a presentation about that and the type of wetlands, etc.

Comm. Sadil: What about that survey.

Chairman Block: I will check with the manager to find out what we have to do to participate and I will send out the e-mail and if interest continues perhaps we could have a quick meeting and see how it works.

Commissioner Krawiec: I attended last week on Friday an educational workshop which was very informative and handouts for the commissioners were passed out and included the following information: that this commission had natural resource protection and there was high demand on the commissioners to be technical experts on wetlands and water courses and great pressure was placed on the commissioners. Several court cases were handed out as Commissioner Krawiec read from the information. Please refer to her in depth manuscript passed out to all of the commissioners - receiving their own personal copies of the report.

Commissioner Paskewich: I was involved with hydro-soil sampling in 1990 with the soil conservation service in Connecticut, contracted by towns to do hydro-soil sampling and it was very effective, more effective than just mapping. They would bring the soil samplings for the soil scientists and they would take a sampling and make determinations of what was in it to determine a hydro-work table and also that led us to go back out to mitigating the land. We also surveyed vegetation, witch hazel, skunk cabbage, etc., spent 6 months in the field and it was very technical with soil scientist, with graduate students of the engineering division as part of it. Being involved in this commission, that we were not doing that, I was amazed to hear that had gone away because I feel it is a very effective part of the survey in determining wetlands so I am glad to hear that this is being looked at. The Soil Conservation Service is no longer called that, it is now called the Natural Resources Conservation Service. Chairman Block: I found that the courts tendency to rely upon the geology and the mechanics to be disheartening because of the flux of environmental factors and the biotic importance of what the statutes originally intended to effectively detect seems to be getting lost with the bath water so I think it is narrowing the scope of our concerns and our duties and therefore losing sight of what the goal was originally, but that's why we talk to politicians to see what we can do, but beyond that we plug on. Any more from the commissioners?

Commissioner Clark: Actually, I think we all got an e-mail from Jeff about questions that we had asked submitted to the Town Attorney and I just wondered what was going on with that.

Town Engineer Chris Greenlaw: A point of order on that - inquiries from the commissioners should go through the Chair to subsequently the Manager and the Town Attorney, so I believe the Chair has received it; I believe that e-mail was sent today.

Chairman Block: Yes, it was disseminated and we did review the town material and in this particular case what has happened is that a long standing permit...

Town Engineer Chris Greenlaw: Mr. Chairman, If I will - are you still speaking to the inquiry from Commissioner Clark as it pertains to Article 7, or have you moved on to something else?

Chairman Block: Again, as I understand Jeff's communication he was concerned as to whether or not an issue had been passed over that required the commission's determination - in looking at that particular - let me speak to it this way - that item was one that did not require the action by the commission because by statue it was being portrayed as a maintenance issue.

Town Engineer Chris Greenlaw: Mr. Chairman, I just want to be perfectly clear - a point of order - perhaps you can speak specifically to the question and allow the Chairman .

Commissioner Clark...if I can just, if I can read the e-mail so that it becomes part of this meeting is that the appropriate thing to do?

Town Engineer Chris Greenlaw: I understand from the Chairman, if you just give the Chairman a synopsis - I think we are talking about two different things, so if you would just read the email and then just reiterate, Mr. Chairman, I believe just confirmed, did you send this on to the Town Attorney, I believe that is the question.

Chairman Block: That is really the question, yes. The question was that he had specific questions and wondered if they would pass on to the Town Attorney and then he reported them within the body of the e-mail that was sent this morning.

Chairman Block: I was under the impression that the Town Attorney was familiar with the issue from a prior communication, but no, this most recent communication has not been forwarded to my knowledge.

Town Engineer Chris Greenlaw: What I would ask the Chairman to do is forward it to me as far as protocol, and then I will forward it to the town Attorney.

Chairman Block: Okay, and then we will deal with it at the next meeting.

Commissioner Clark: Okay, so it is being addressed. It is so important.

Commissioner Casasanta: One last thing, because we touched upon it last meeting and I don't know again whether it should have been under Old Business or Communications. We have brought to Mr. Greenlaw's attention the property by Star Park and I wanted to see if there is any additional information on that.

Chairman Block: If I can, I did raise that issue with Chris beforehand and will confirm in some rights that was a plumbing problem where a pipe broke across the road and the town had a duty to repair it so it functioned properly and put back together again. Right, Christ?

Town Engineer Chris Greenlaw: I commend you on your brevity on the item. Also, the commission provided me with an extensive stack of zoning forms with the official complaint form of our department and what I did was, of the information I received I had a meeting with the manager and we disseminated that information for those non-engineering non-wetland concerns; I gave those to my peers via the manager. So I would ask you to follow up on these three which I believe were mine, I would follow up with the Town Planner because it was filed on his complaint form and he should have disseminated that either to - the parks issues should have gone to Park and Recreation and the Zoning Enforcement's would go to the Zoning Enforcement officer, etc., I believe the 3 items I had were Commerce Court, Brook Street and Glen Oaks and Commerce Court I did ask Staff in their travels - and the end of the day - the long and the short of this situation what I believe we are seeing in that photo if you are on Commerce Court facing Fenn Road and you look to the right, all you are going to see is evidence of our public works maintenance as it pertains to just normal edge of the road mowing.

If you look out your right window and I do have a picture on my phone, you would see an area identical in the wetlands and conservation. That is a clear 70 feet so in its manicured lawn, so what you are seeing here is now activity by the owner which is restricted by a conservation easement, but just normal mowing from a public works staff to not back brush for proper sight distance. That is my report on that.

Chairman Block: We had a go around a year or so ago with that same area and at that point I had commented that rather than being concerned about the site that is shown in the picture, the other side which is being traditionally mowed and maintained as lawn which again is covered by the same type of easement, should be allowed to grow natural and at that time the position was that historically from the date that the easement had been placed it had been maintained as lawn and therefore there was no basis for us to call for it to be naturalized so you have both sides of the fence that comes into this location.

Town Engineer Chris Greenlaw: These are activities of maintenance by the Town of Newington that existed prior to the 1989-90 conservation easement. We are not going to limit ourselves to our maintenance operations that we had conducted prior; that easement was put on the land with regard to the owner, such that if the owner - these are not activities of the owner, these are normal maintenance activities, they go on all over the town to restore, maintain and cut back brush and grass, etc. What you are referring to, that conservation easement is on the land as it pertains to the owner - when you read every conservation easement - it is a little bit different. Some are set by TPZ such as under the auspices of open space or maybe tree preservation as such. This conservation easement I think, if we read into the body of an individual that was proposing structures, i.e., signs and things as that, to come forth to this commission to place on the land as a restricted covenant to the owner, this is an activity by the Town of Newington for maintenance much like your CL&P with those transmission wires that you see going overhead, if they were to come out and do their regular maintenance and cut back the brush, they are exempt from coming before the commission as well.

Chairman Block: There was a discussion as to whether or not the tree could or should be removed but as far as I am aware, it is still there again, Chris is relating to us - the area that is shown in the photograph is subject to the requirements of public safety, so that the line of sight is maintained.

Chairman Block: I am gong to talk about the tree just because I know that the commissioners who have been out there have been talking about the tree, and you know - has the sidewalk changed and I don't think the tree has gotten any bigger as an apple tree, so I guess I am just saying is the tree safe? Is the town gong to suddenly get more enthusiastic and cut that further because it is a good idea and then say, well, it is in the interest of public safety after all these discussions that created a lot of discussion, involved the tree as much as the surrounding property.

Town Engineer Chris Greenlaw: Right now, I would say that is speculation and if it is deemed that it is necessary for public safety certainly the consideration of taking down the tree at that time would be considered, but I would ask you to go to that intersection and look over your left shoulder and notice how far back that opened his lawn and it is manicured and cut to the ground so I caution you about exercising prejudice towards one property owner vs. another property owner over the auspices of a tree. I mean this is just normal maintenance by the town of Newington, to the best of my knowledge.

This is not the owner trying to go in and clear cut for his own advantage for a structure, a sign or a building. There is no egregious act.

Chairman Block: Yeah, but again, let me suggest this, that if in fact speculatively, if there was a reason for the apple tree to be removed, I think the onus of this commission would be to see that there is a replanting in a more secure location of some equivalent vegetation, you know, it is not a monument, it is a process that we should be concerned with and again, as I said before, if you want to look at that neighborhood, the question is really not the maintenance of the - I call it the right side of the intersection - I think it is the law - and on the left which should be more egregious to us - the naturalist - that is open land, it is open grass.

Commissioner Clark: Yes, I agree but I think you are climbing on a slippery slope that will predate...

Chairman Block...as far as my research went, that lawn was there from the get go of the development of that property and that is the reason why it would be difficult for us to say it should go natural.

Commissioner Clark: ...and I would never presume to say that, but my point is it did belong; preceded the inland wetlands regulations.

Town Engineer Chris Greenlaw: I think we are missing the point. The restrictive covenant placed on the land pertains to the owner and the Town is going to maintain their property for public safety as they always have. It has been dictated under public safety so they are going to continue to mow and clear cut and clean to the extent possible that they have practiced over the years. I think the way we have been asked to look at this and I told the commissioner immediately because he asked me after the meeting, to look at this and I said, if we are talking about normal maintenance by the town, you know that is going to continue to be conducted. If we are tackling about the easements specifically put on the land as a restrictive covenant to the owner, then we would look to the owner to see if he was clear cutting for his advantage to put in a structure or a pool or a wall or whatever it may be and then we would look at this in a whole different light. To speculate about another tree falling down or being cut down by the town, right now there is no intent of that - they are just conducting their maintenance responsibilities.

Commissioner Paskewich: So at this point, there is no intent to cut the tree?

Chairman Block: Nobody's ever mentioned it.

Town Engineer Chris Greenlaw: Let me interject - any tree that does get taken down by town forces is supposed to be by the tree ward of Parks and Recreation and there is a certain amount of time for that and there is a process.

Comm. Paskewich: The line of site - for public safety - who determines that on that type of road?

Town Engineer Chris Greenlaw: I would say the LTA, which is the Chief of Police.

Town Engineer Chris Greenlaw: I would say the LTA which is the Chief of Police.

Comm. Paskewich: So, what would prompt him to go there - or anyone in town to look at an area for that - an accident?

Town Engineer Chris Greenlaw: Again, we are armchairing in a speculative event, if someone were to call and say they have limited site distance, it would probably be a two prong type of attack. Under zoning, there are requirements in the regulations as it pertains not to having vegetative as it relates to the property line. Secondly, if there was an accident or if they wanted to change the site line that could come through engineering and in addition, in consultation through the L.T.A. Chances are the L.T.A. depending on how we arm chair this if someone came in and said, this is the proper site distance here in this speed, this type of road, this stopping area, they might say, Chris, can you verify these calculations before it is clear cut, or Public Works, there is no guarantee. They have been doing this for a long time and they may go out and clear cut back as they deem necessary as they did here, so again, we are in the realm of speculation, we are asked to discuss why this was mowed back.

Chairman Block: Anything further?

Town Engineer Chris Greenlaw: Brook Street - Star Park. Star Park was originally referred to Star Park, Brook Street, when we checked our records. If you had gone 6 months earlier, those activities were corrective actions by maintenance by our Public Works. They were operating under a general permit one, if you had been out there maybe 9 months earlier, what you would have witnessed was a blocked pipe where water had come up through a manhole structure and eroded the whole thing. We were asked to assist with that as far as investigation efforts, as far as determining where we were, they were in a regulated area under general permit #1. There is a provision for them to do work as necessary even to ut in pipe installation, but this was the type of scenario that we had a failure - it was a public safety issue as well next to a wall. This was not the realm of drainage installation that we would see when I came before the public works yard where we had twin 30" pipes where additionally we were looking at the swell, I consider that - that was more of a proposed work. It was failing; we were going to do preventative work but we had enough foresight. This was emergent; water was on the ground, it was eroding, there were other physical structures that could fail; there is a public safety element. I know I talked to the Chairman about it verbally, we discussed the work under permit one. I just didn't have enough time to come back - I would have thought that I still would have mentioned it to you - because like anything else - why are the guys over here in a regulated area doing this minor work - this is a good opportunity to talk about our general permit #1 - you know, this is something I can send out to the commissioners, we have a couple of new commissioners - this was last updated April 12, 2011. We call it general permit #1 - it is a reissue - we do it every 5 years and basically this is something that discusses some of the activities you will see from Public Works staff in regulated areas i.e., doing some stream channel cleaning, pipe installation, general maintenance of outlets by pipe structures, pipe structures themselves and we update this every 5 years. We will see this again in the Spring of 2016. We will discuss some activities. So, we did look into that. What you will see today is a newly installed pipe and ----wraps so we won't have the erosion we had when the construction failed.

Commissioner Sadil: So the basis for this program was for emergency purposes.

Town Engineer Chris Greenlaw: ...emergency and foreseen preventative maintenance. If you are going to go into a stream over the winter when they have the resources...we don't have a lot of snow on the ground, we have frozen ground and we have the opportunity of resources where we were not clearing snow from other properties, we can focus on some areas within streams or even drainage structures, we can do that work in the winter. This was done in very early Spring.

Commissioner Clark: This is related to progress on properties and I was just at Saver's and in response to noticing that there was trash down the bank, they have put up a fence that you cannot see through, so you cannot look down the bank anymore. So that is what happened this week.

Commissioner Krawiec: There were two issues. One was the tires if they were removed from the Star Park.

Town Engineer Chris Greenlaw: That was given to Parks under their purview and you could follow up with Park & Rec or the Town Manager.

Basically anything that I did not discuss would have been disseminated to those other staff responsible. Glen Oaks?

Chairman Block: Let me synapse this, because of your interest in this, I went over it pretty carefully. The statute provides for maintenance of existing drainage structures and it falls under that. Beyond that the original permit that was issued called for beyond doing maintenance of the concrete spill pipe and the town attorney at that time, Mr. Ancona it turns out reviewed it and deemed that it was an ongoing maintenance that they were to maintain and could maintain and upon it being raised to us now, we had Attorney Boorman review the file as well and he again agreed with that provision at that time, that all along, as long as they are maintaining repairing what is there, then all they have to do is let us know.

And there is no further permit required. The only issue which might come before us is if they were going to change something, and according to our information to present to me, and they are not, they are just repairing the eroded concrete pipe. So, again, I think it is working the way it was intended to work.

Comm. Krawiec So from that information the property manager is to fix the retention basin as proposed to the town and is there any follow up by the town to make sure this is fixed, and what responsibility do we have to make sure it gets done.

Chairman Block: I would presume it is as the originally brought to the town's attention; if they having told us that they were going to be fixing it, didn't and they endanger the status of the impounded, then of course, we would come back and say to them, 'do what you told us you were going to do'.

Commissioner Krawiec: There is concern that there might be damage because of the months that it has taken them to correct the situation, if the current commission gets involved.

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Chairman Block: Again, at this point I could say yes, but, the burden of proof as to being something as substantial to endanger the reference of our going there, I think it would be a pretty hefty threshold, I don't know.

Comm. Krawiec: How would we present the case that there is a concern, how do we present it so that we can take the right action?

Chairman Block: I think it is like any claim of a violation throughout the town. Somebody has to raise the issue and it has to pass a threshold which I can't expound on at this time. Of significance when you are talking about a structure that is totally within private property the balancing has to be determined between the private property owner, in this case the condo's interest in preserving and protecting it, as against the public interest - I think it would raise another level of concern. I think that you, as a member of that condo association, feel that once the damage or the lack of maintenance, whatever else has damaged the value of that property I think it is something that would primarily be brought up to the association itself.

Town Engineer Chris Greenlaw: A couple of issues I would like to share - you can see I have a pretty extensive file in front of me, and this was an iceberg. This commission really acted thoroughly back in 1996. I went all the way back to 1974, there were different phases, 1974, 1979, there was an area that was kind of a bog and they turned it into this storm water conveyance detention pond with an outlet control device. It is an intricate part of their storm water. The Chairman at the time, in 1996 they came in some 20 years later, they had their VMP's, they had their sumps in their basins and things as such, well, they came in at 1996 and they said, you know what, we have sediment in our detention ponds so we are not getting our detention. They came in for a permit and the commission said basically, going forward we want you to have a maintenance plan so that this does not show up with sanding, you don't have to go in with equipment and completely dredge out this whole thing and take out invasives, etc., etc. So the Chairman at the time asked them for a maintenance plan and they said, we want you, and there is a provision and this is where we tried to achieve that balance because sometimes you as commissioners are doing your diligence but we have to put the onus of the responsibility on the maintenance personnel, your maintenance people, because we simply do not have the resources to check on everyone.

So, there is a provision in the statues that speaks to the fact that there are certain permitted operations and uses that allow you to go in and do certain maintenance while getting an application every one or two years. So the commission at the time realized that and said, 'you know what' - it only took x-amount of years and less than 20 years and this thing completely filled up, so you might have had a habitat and everything's getting hogged out because they did not have a plan. So we went back to the minutes of '96 and it said, because the Chairman said, do you have a plan, we want you to develop a plan and it says are you cleaning your catch basins, are you removing sediment buildup and every 15 years are you checking the water in the pond to see if it is filling up. So what they did was they said 'yes' we are going to do that and they made it part of the condition, they put it on the plan. What do you think happens, they end up coming back to them in 2009 and in 2009 they came back and they said we need to go back in, we need to dredge. Given the BMP's what they are, they still get sand and sediment buildup.

So at that time they said before they did their work they were required to come in to the agent which was Tony Ferraro at the time the Town Engineer, and they said this is the extent of our work, we want to go in, we want to dredge, etc., etc. and for working at the direction of the Chairman, so what they did was they sent in a letter and said this is what we want to do and the Town Attorney at the time said, well, what we are going to do, we are going to require you to report to us when you are going to do work and it doesn't mean over here in the statues that you can do just freely all of this work; we are at least informing the agent, hey, I am working in accordance with the land, I am working within the statue, it is a permitted use as of right, which I have but I want to give you a little narrative. So they sent that narrative in and when the commission heard about it in 2009, they said is this correct and asked the Town Attorney for an opinion. The Town Attorney did his homework and what he found was quite simply they wanted to go in and dredge under the auspices of preventive maintenance so they didn't have any type of cash profit failure, etc., etc. I could certainly read it to you but right out of the gate, the Town Attorney at the time said reference Glen Oaks maintenance plan for dredging or removal of sediments and to maintain the efficiency of the basin. And he wrote back, he says - Mr. Ferraro, this is the Town Attorney at the time writing to the town engineer, your query as to whether Glen Oaks Association must apply for a permit to conduct certain activities in request to maintain a retention pond on the residential property, the answer is NO. Now he goes on there to cite the statue, so when I first met with him I saw him as an agent and told him he had a minimum after meeting with staff, after being with the Chairman, I thought as a minimum given they very diligently came in, they gave me an estimate of what they wanted to do, and I said at a minimum you are going to need at least approval given this minimal impact potential. They came back to me and said, Mr. Greenlaw, we believe you are incorrect, here is my 'get out of jail' free card. Wow. So here goes 20 hours of my life. So I did my homework. I met with the Town attorney. The Town attorney reviewed this and he concurred and said what did they propose? We talked about the proposal and their proposal for their work was I would say, I like the word esoteric, it is far less complex as dredging a pond. They said they want to go in and do maintenance as it is referenced in the statue. So, the town attorney concurred with Mr. Ancona. He still wanted for us to review as Staff the nature of this; I met with the Chairman and we concurred that they are following their maintenance plan as directed back in 1996. Does this mean that they get a free card going forward to do maintenance without consulting with us? No. It does mean they do have the responsibility to be following their maintenance plan so that is something that people can bring up at the condo association board. I would hope that the maintenance people - the onus is on them to follow that plan. But, I wrote a correspondence to them outlining what I had found and my closing statement is that 'any future work to a regulated area they are still required to contact the agent, myself, to at least discuss at least a narrative of their intent because it may be found that at a minimum they may need to still come in.

Commissioner Paskewich: Education for me- is it retention or detention?

Town Engineer Chris Greenlaw: It is a detention acting as a retention pond giving the control mechanism that they have on that, so it's I would say, retention.

Commissioner Paskewich How many of these do we have in town?

Town Engineer Chris Greenlaw: I don't have an answer to that.

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Commissioner Paskewich: I didn't think you would. Okay, let's just say for the sake of discussion the historical count of the process going back to 2006, if this failure due to sanitation and a one vs. twenty of these detention retention basins, what's the cause and effect to the town's property over collection of storm water?

Town Engineer Chris Greenlaw: The commissioner could ask me to define, I think civil engineering I think than giving you the answer, I will tell you since that date we have done a lot with the town to protect our infrastructures such as we no longer use sand on our roads, we use a salt application, actually, a hybrid calcium chloride, but the point I am trying to make is so our sweeping is less extensive and the amount of the impact of sand to our basins and streams is less intensive, so you know we have to think progressively, moving forward and integrating L.I.D. into our regulations, changing our maintenance operations, the way we react to drainage problems, as we move forward we would hope - we have huge infrastructures to manage, but utilizing these BMP's, we are going to make things better and less intrusive but the take away on this is that people do have certain rights for maintenance on certain items where they may not need a permit, but they still need to report at a minimum to the agent, to the town and then decisions will be made based on an interpretation of the statute and that is why we have a town attorney.

Commissioner Paskewich: So is one of the purposes of the detention/retention pond to diminish flooding?

Town Engineer Chris Greenlaw: Detention, yes.

Commissioner Paskewich: Within the properties or downstream as well?

Town Engineer Chris Greenlaw: Both.

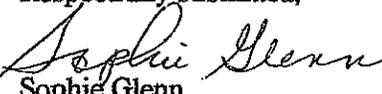
Chairman Block: You have to remember that all entropy requires that all things will level out, all depressions will fill, all protrusions will recede, it all goes down, everything goes down hill, so there is always going to be maintenance. Having said that, how about a motion to adjourn.

Town Engineer Chris Greenlaw: I have one last thing, there is a subcommittee to look at the regulations as it pertains the whole body of the regulations, Zero. Nothing updated at this time. I would hope that myself seeing that one of the other members is a retired engineer and has a little bit more time to assist me, and has petitioned me to carve out some time to look at that so currently zero, but it is something we have discussed and will try to plan a date to get together to report to you and we will start to look at the body of the regs.

X. ADJOURNMENT

Commissioner Sadil made a motion to adjourn the meeting. Commissioner Krawiec seconded the motion. The motion passed unanimously. The meeting adjourned at 8:20 P.M.

Respectfully submitted,

  
Sophie Glenn  
Recording Secretary