

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES
GENERAL MEETING/PUBLIC HEARING
February 2, 2005

Room 206, Town Hall

7:30 PM

Commission Members Present: Peter Hillman (Chair), Ned Lewis, Reese Hutchison, Susan Cameron, Nina Miller, Ellen Kirby

Staff Members attending: David Keating

GENERAL MEETING

The meeting was called to order at 7:30 P.M. in Room 206 of the Darien Town Hall. Mr. Hillman said that the Commission would start with old business.

Discussion of Sediment and Erosion Controls for the Darien High School Project, EPC-49-2001, Board of Education, 80 High School Lane.

Mr. Joseph Canas of Tighe and Bond addressed the Commission. He stated that he had made 3 recent visits to the High School as of February 2, 2005. The grounds and sediment and erosion controls have been maintained. He noted that an anti track pad needed repair and that stones were added. Ms. Cameron stated that she was there at the site on Sunday. Ms. Miller said that she too had been at the site over the weekend. Mr. Hillman asked if there were any problems with a contractor that was on-site, maybe the HVAC contractor. Ms Cameron asked when the parking lot was last paved. Mr. Canas said that it was paved in December.

There being no further questions or comments, Mr. Hillman then read the next item.

EPC 2-2005 - Michael & Christina Cush, 1 Tanglewood Trail, represented by Peter C. Kurth, Architect, proposing propane gas tank and generator and other related activity within regulated area. The property is located on the north side of Tanglewood Trail at the northwest corner formed by the intersection of Tanglewood Trail and Rocaton Road and as shown on Tax Assessor's Map #18 as Lot #38.

Mr. Kurth addressed the Commission. He stated that he had contacted the contractor and supplier about the gas tank and that letters were sent to the Commission addressing when and how the propane tank had been installed. Mr. Keating said that additional information was needed in reference to the specifications. Mr. Hillman asked why and Mr. Keating said that information was needed on how corrosion would come into play with a high water table. He needed to know the safety and the longevity of the tank. Mr. Kurth said that it was a steel tank and not an ordinary oil tank, and that the tank was installed at 4 feet depth. Mr. Hillman said that the letter received did not state that and asked why it was installed under ground in the first place. Mr. Kurth said that the owner preferred it to be out of sight. Ms. Cameron stated that someone needed to go out when the water table is high to see how the tank might be affected. Mr. Kurth said that the water level was seven to eight feet below grade when the tank was installed.

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Ms. Cameron said that in the summertime, the water level was low due to the heat drying up the water and that maybe the spring was the best time when everything was thawing out. Mr. Hillman said that he agreed with Ms. Cameron.

Mr. Hillman said that he would move to approve the after-the-fact application for the propane tank installation with the stipulation that there be an exploratory hole dug near the tank to determine the high level of the water table in the spring. The results should be documented and a certification from the fuel company be submitted to Mr. Keating. Based on the results, the Commission will determine if the tank can remain in place or if it must be relocated. Mr. Lewis seconded that motion. Mr. Cush asked what would be the outcome if water was encountered at the tank level. Ms. Cameron said that in that case corrosion might be an issue. Mr. Cush said that there is a detector on the tank that would let him know in the event of a leak. Ms. Cameron said that maybe the tank should be put above ground if it could be affected by ground water. Mr. Cush said that if the tank was above ground it would be in view and was only five feet from the garage. Ms. Cameron said that he should have come to the Commission prior to installation. Mr. Hillman said that there was a deviation from the original plan and that the Commission was not going to give him any slack on the issue. He also said that the Commission wanted to be assured that there was no clear and present danger of potential corrosion of the tank or other impacts due to the high water table. The installer said that the hole was open for two weeks prior to installation and that no water was detected. Ms. Kirby asked what month was that and the installer said that it was the end of the year.

The Commission concluded the discussion and all members voted in favor of the motion to approve with the stipulation.

Mr. Hillman read the next agenda item:

EPC 108-2004, David & Barbra Bell, 50 Buttonwood Lane, proposing asphalt driveway, stonewall, footbridge, path, and selective clearing and related activities within the regulated area. The property is located on the south side of Buttonwood Lane approximately 630' east of the intersection of Buttonwood Lane and Mansfield Avenue, shown on Assessor's Map #10 as Lot #48.

Mr. Keating said that there was no one here to represent the applicant and that none of the additional information requested by the Commission in January had been submitted. He recommended that the Commission deny the pending application as incomplete and unacceptable and let the applicant resubmit at a future date. The Commission agreed. Mr. Hillman moved to deny the application without prejudice, and Mr. Lewis seconded that motion. All members were in favor of the motion to deny.

Mr. Hillman then read the next item:

EPC 110-2004, Woodway Country Club, 540 Hoyt Street (a.k.a. 412 Hoyt Street), proposing dredging of two ponds and maintenance activity within regulated area. The property is located on the west side of Hoyt Street approximately 2,000' north of the intersection of Hoyt Street and Woodway Road, shown on Assessor's Map #9 as Lot #137. AT APPLICANT'S REQUEST, POSTPONE DISCUSSION UNTIL MARCH

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Approval of Minutes: Meeting Minutes for December 1, 2004 and January 5, 2005.

At this time Mr. Hillman said that the Commission would take time to approve the minutes of December 1st.

With respect to typo's and minor changes, Ms. Cameron said that on page two second paragraph and page eight needed to be corrected and handed Mr. Keating that information. Mr. Lewis said that the first paragraph of the second page and page seven, third paragraph needed to correct spelling and handed Mr. Keating that information. Mr. Lewis moved to approve the minutes with corrections, and Ms. Cameron seconded that motion. All members were in favor.

Mr. Hillman then said that the Commission would move on to discuss the minutes of January 5th. Mr. Hutchison said that he does not believe that he said what was said in the minutes and that it should be corrected. Ms. Cameron said that paragraph three needed some clarification. Ms. Kirby asked was cobblestone mentioned as a replacement to pavers because she does not remember that. Mr. Hillman and others said yes it was mentioned. Ms. Cameron moved to approve the minutes of January 5 as corrected and Ms. Miller seconded that motion. All members were in favor.

Preliminary Discussion of Update/Revision of the Town's Inland Wetlands and Watercourses Regulations.

Ms. Cameron said that the purpose of a separate meeting should be dedicated to that issue of revisions to the Wetlands Regulations. Ms. Miller said that each Commission member should take a community to review their regulations, and then meet again to discuss. Mr. Hillman said that he thought that was a good idea. Ms. Kirby said that she would review New Canaan and Ms. Miller said that she would review Norwalk's Regulations. Ms. Cameron said that she would review Westport's. Mr. Hillman asked Mr. Keating how heavy was the March EPC meeting. Mr. Keating said that he really did not have an idea at this time, but that he would get back to the Commission on a definite date in late March for a meeting where this item will be the main topic of discussion.

Mr. Hillman said that the Commission would now move on to new business.

New Business

EPC 7-2005 – Anne Pankowski, 17 Mystic Lane, proposing additions and alterations to the residence and related site development activities within the regulated area. The property is located on the southwest side of Mystic Lane approximately 500 feet south of its intersection with Leroy Avenue and is shown on Tax Assessor's Map No. 18 as Lot No. 62.

Ms. Pankowski addressed the Commission. Ms. Miller asked if there was a problem with the map and where is the 50 foot buffer going. Mr. Hillman said that this was not a complete application. Project architect, Mr. Totilo addressed the Commission and said that the property is on 1 ½ acres and the square area was about 75' x 75' and was the only conforming building area without getting into zoning setbacks or regulated areas around the wetlands. Ms. Cameron asked how much area was impervious surface. Mr. Totilo said 350-400 square feet would be added, but that some of the area was already screened off.

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Mr. Hillman asked was it the intent to build a two-car garage. Mr. Totilo said yes, however that is what is presently there.

Ms. Cameron asked if there is a patio. Mr. Totilo said they will be adding to the upper level. Ms. Cameron said that they needed more information on the drawing. Ms. Miller said that the labels were needed. Mr. Hillman said that the applicant needed to resubmit in a manner that the Commission is used to, and that they may put the item first on the old business agenda at the March 2nd meeting. Ms. Cameron said that the applicant needed to include calculations and the patio. Mr. Totilo said that they will do that and return on March 2nd. Ms. Cameron asked who did the survey. Mr. Totilo said that it was Moody and O'Brien.

EPC-8-2005 – Michelle Proulx and Charles Connell, 31 Highfield Lane, proposing modifications to the existing storm drainage system and related site development activities within the regulated area. The property is located on the west side of Highfield Lane at the northwest corner formed by the intersection of Priscilla Lane and Highfield Lane and is shown on Tax Assessor's Map No. 6 as Lot No. 19.

Ms. Proulx addressed the Commission. She explained that the plan involves installing replacement pipes to collect surface water on the north side of the house from the driveway and the neighbor's land and then carry the water around the west side of the house. The water would be discharged into the open watercourse in the same manner as the existing drainage system. The old pipes would be removed. Mr. Keating said that he review the plans with the Public Works Department and there were no issues.

Ms. Miller asked about the clubhouse and trees on the property. Ms. Proulx said the clubhouse would come down and no trees will be harmed. Mr. Hillman moved to approve the application and Mr. Hutchison seconded the motion. All members voted in favor.

Mr. Hillman then read the next item

EPC-9-2005 – Mark Filanowski and Monica McNally, 71 Arrowhead Way, proposing site work including a vegetable garden, resurfacing of the driveway, restoration of disturbed area and building maintenance within regulated areas, and determination and, if necessary, modification of the Inland Wetlands and Watercourses Map. The property is located on the east side of Arrowhead Way approximately 250 feet south of its intersection with Canoe Trail. The site is shown on Tax Assessor's Map No. 69 as Lot No. 20.

Mr. Gleason addressed the Commission and handed out copies of assessors map showing the wetlands area of the property in question. Ms. Cameron said that the tidal wetlands were the areas subject to tidal fluctuation within the cove. Mr. Gleason said that it was within state jurisdiction. Ms. Cameron said that it was several feet above sea level. Mr. Gleason said that the soil type would determine who has jurisdiction of the wetlands. He has a contractor going over the maps to determine the extent of the tidal flows, however the current condition shows that tidal waters end at the dam/roadway just to the south of this site. Mr. Hutchison asked if it was in the EPC's jurisdiction. Mr. Gleason said no, the tidal waters and tidal wetlands are not. Only the upland or

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freshwater wetlands are within the jurisdiction of the EPC. He submitted an evaluation from Otto Theall on the inland wetlands.

There was also an investigation done by Henry Mouller on September 14, 2004. Like Mr. Theall, he too is a soil scientist. Ms. Cameron asked if he was in agreement with Otto Theall's evaluation of the location of the inland wetland. Mr. Mouller said that his conclusion was different and that he based it on site conditions and many years of experience. Mr. Hillman said that it is unusual that two soil scientists work together and have different opinions.

Mr. Gleason said the application was to put lawn in the disturbed areas, and to fix the roof on the garage. Mr. Hillman asked if that fell under maintenance. Mr. Gleason said it was exempt activity because of the wetland area of gardening in Section 4.1 of the Regulations. He said that they also wanted to re-pave the driveway and get rid of the stone and use asphalt. Mr. Hillman asked if there was going to be an increase in impervious areas. Mr. Gleason said no, it would remain the same.

Mr. Hillman asked where the playhouse was. Ms. Cameron said that they didn't have a problem with the playhouse. Mr. Hutchison asked what was being affected and are there plans to make the lawn or structure or development any bigger. The owner said that there are no plans to increase upon anything.

Mr. Hillman said that the town map has different inland wetlands compared to the two evaluations presented by the applicant's soil scientists. Ms. Cameron said that they should go with the town map. After discussion, Mr. Hillman said that the Commission will dismiss both conflicting findings and go with the town map.

Ms. Cameron asked where the owner was putting the grass clippings. The owner said that he was not dumping illegally. Also, that Sarah Ungermack, the landscape contractor, was to restore the lawn, not change the grade of the present condition, the vegetation would stay, he would add crab apple trees, put a garden in the back of the garage with a lattice fence surrounding it. Ms. Cameron asked if the fence would be 9 feet tall because of the deer being able to scale everything under that height. Mr. Hillman asked about the irrigation system. Ms. Sarah said that they would install a sprinkler system at the same time that the restoration work was to be done. Mr. Keating said that an irrigation system might make the wet land area worse. Mr. Mouller said that it would only cause a problem in the summer when things dried out.

Mr. Hillman said that he will move that the Commission disregard the conflicting evaluations of the applicant's two soil scientists and use the town map and to approve permit. Ms. Cameron seconded that motion, and all other members voted in favor.

EPC-10-2005 – Robert Kaplan, 18 Stephanie Lane, proposing construction vehicle access and installation of air conditioning units within the regulated area and updating of the Town Inland Wetlands and Watercourses Map. The property is located on the south side of Stephanie Lane approximately 140 feet west of the intersection of Stephanie Lane and Stephanie Lane South and is shown on Tax Assessor's Map No. 8 as Lot No. 56.

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Attorney Kathy Pasternak was present to represent the applicants. Mr. Hillman asked if there was going to be any outside activity. Ms. Pasternak said that the majority of the renovation will be inside the building, but they will need to have contractors access all around the house. The air conditioning units are proposed on the west side of the house, in an area that is within the wetlands shown on the Town map, but is not actually wetlands as determined by the soil scientist. The air conditioning units would be more than 50 feet from the actual wetlands. Ms. Cameron asked if there was a plan to access the westerly side of the house. Ms. Pasternak said only to install the air conditioner. Ms. Cameron asked if the work was being done on the east side of the house, where the actual wetlands are located. Attorney Pasternak said there was not.

At this time Mr. Hillman moved to accept the report of the applicant's soil scientist as to the actual location of the wetlands and to incorporate that information into the Town Wetland Map update that will take place in January of 2006, and to approve the application for the work that was requested. Ms. Miller seconded that motion. All members voted in favor.

Since it was 8:30, Mr. Hillman said that they would now move on to the Public Hearing. He read the following agenda item:

PUBLIC HEARING

EPC 5 -2005 – Darien High School Building Committee, 8 High School Lane, represented by Tighe & Bond, Inc. proposing modifications to the storm drainage system near the varsity baseball field on the east side of the high school site and within regulated area. The property is located on the north side of High School Lane approximately 450 west of the intersection of Middlesex Road and High School Lane and as shown on Tax Assessor's Map #9 as Lot #81.

Mr. Peter Maglathlin, Chairman of the High School Building Committee, addressed the Commission. They sent notices of the hearing to all of the adjacent neighbors and submitted proof of the notices to Mr. Keating. To explain the requested changes to the drainage system at the baseball field, he turned the presentation over to Mr. Canas of Tighe and Bond Engineering.

Mr. Canas said that as the engineer for the High School project they did the drawings of the High School site drainage, including the brook around the perimeter of the site. Mr. Hillman asked if there were any members of the audience who wished to see the drawing. Most members responded no. He then stated that the varsity baseball field has drainage going in two directions, and asked if it were the plan to connect to the basin to discharge into the Stony Brook to the east of the fields, or was it the plan to create a new outlet at the south end of the baseball field.

Mr. Canas said that they plan to minimize the work and that a catch basin to collect surface stormwater would be installed to drain the field inside the fence along the third base side. The collected water would be piped toward the area behind home plate and a discharge structure would be installed to release the water into the wetlands. The embankment behind home plate and outside the safety fence has not yet been stabilized. This project would also stabilize that embankment to prevent future erosion. Mr. Hutchison asked if they were going to add fill to the left of the field. And he asked that Mr. Canas explain any change in the east buffer zone. Mr. Canas said that there would be no fill added to the field and no change to the condition to the east or south of the field except at the outlet structure behind the home plate area. The east buffer zone

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would remain the same. Mr. Hutchison asked if the ground is pitched in that direction (toward the third base and left field side line). Ms Cameron said that it is already going that way and Mr. Canas agreed. Ms. Cameron said that conditions needed to be watched. Mr. Hutchison asked if there were any filter fabric and Mr. Canas said yes.

Mr. Hillman said that there are reports of severe flooding problems downstream from the high school project and asked how these modifications might or could effect the flooding conditions. Mr. Canas said that there would be no increase in the drainage getting off of the high school site and going downstream. Mr. Hutchison asked if there would be an increase of water getting to the brook. Mr. Canas said no. Mr. Keating asked if the installation of the catch basin and piping system would increase the speed of the flow from the baseball field to the brook? Mr. Canas said no, the ground is flat and the resulting pitch of the proposed pipe is only about 10 inches in about 210 linear feet. This results in a 0.40% slope of the pipe, which is virtually flat. The water will not travel measurably faster through the pipe than it would over land. Ms. Miller asked who would maintain the grounds and Mr. Canas said the Board of Education. Ms. Miller then asked if he or his firm would inspect and Mr. Canas said yes, his firm would inspect the installation to make sure that the proposed system was properly placed and pitched. Ms Miller asked if they were going to use rip rap at the outlet to dissipate the potential scouring energy at the outflow pipe and then hide it with plants. Ms. Cameron said that would be a good idea to use shrubs to screen the stone (rip rap) at the outflow. Mr. Canas said neither would be a problem.

Mr. Hillman asked if there was any one that wanted to be heard at this public hearing.

Mr. Russell of 18 Holly Lane addressed the Commission and asked the Commission if there were under drains under the baseball field. Mr. Canas said yes. Mr. Russell asked where were they going to be directed and where do they actually direct the water. Mr. Canas said that the under drains were designed to direct water to the basin to the south of the field (the third base side) but, the contractor installed the under drains to direct water to the east (the first base side). Mr. Russell asked if there was any back pressure (preventing water from being discharged) due to the change of pitch from the original design. Mr. Canas said no. Mr. Russell said then the flow would increase and Mr. Canas said yes, a slight increase to the east and a reduction of flow to the south. Mr. Russell said, that would mean more water. Mr. Canas said no, the drain would be freely moving with no back up and all the water eventually flows south east to Stony Brook. Mr. Hillman asked if there would be an increase in flow. Ms. Cameron said that the water would be going thru a wetland buffer and then to the brook. Mr. Hutchison asked if it would be a slower path. Mr. John Block, engineer from Tighe and Bond, addressed the Commission and said that the under drainage system direction would not impact flooding downstream. The uphill water shed is 1100 acres. The direction of flow of under drain water and surface water from the ball field will not make any difference to the flooding experienced near Holly Lane. He said that there was a meeting with the Town engineering department in reference to Holly Lane to ensure that there would be no extra flooding. The current request to add the catch basin and pipe is to correct a construction problem and will not increase flooding of downstream areas.

Mr. Block said that they were careful to design the project, so that even if a new school was built while the old school was still in place, there would be no increase in the peak discharge of runoff water, which could then cause an increase in flooding. Mr. Hillman asked why there was flooding on Holly Lane. Mr. Block said it was from heavy rains and there is no direct run off to the brook.

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Mr. Hillman asked if the flow of runoff from the high school site could be decreased. Ms. Cameron said that the current application is to better handle surface water and water off the field. Mr. Hillman asked if the water was going into the wetlands. Mr. Russell said that the elevation was different and it is not draining now. Ms. Cameron asked where is the tributary is, and Mr. Russell responded that it was from Libby Lane. Ms. Cameron said that the flooding is a problem all over town. Mr. Russell said the south side does not have an underdrain. Mr. Hutchison said that the underdrains were full to capacity, and asked if it was going to be installed. Mr. Canas said no, because it would not help. Mr. Russell said the tributary would be unable to drain properly and that the Stony Brook needed to be dredged.

Ms. Carolyn Lavoie of 8 Holly Lane addressed the Commission. She showed pictures of the flooding conditions on Holly Lane and said that they were taken in September when we experienced a heavy rain storm. Ms. Miller asked where they were taken, and Ms. Lavoie said two doors down from where she lives. She felt that the proposed catch basin and pipe at the baseball field would cause the rate of flow to increase into the brook. Mr. Hillman asked that someone address that issue. Mr. Block said that the rate of flow would not increase. Ms. Cameron asked that he explain the water shed. Mr. Block said that it was 1100 acres in size and that the existing drainage pattern brings all that water down to the Stony Brook and passes through the high school site and then the Holly Lane area. All development activities and creation of imperious surfaces on all of the uphill properties has increased the peak flow and overburdened the storm management system downhill of Holly Lane and that constriction causes the water to backup in that neighborhood. A suggestion was made to neighbors to check, monitor what people (landowners) are doing in the neighborhood upstream to cause flooding on Holly Lane.

Ms. Lavoie asked if the present problem is going to be aggravated. Mr. Block said no, that the water from the baseball field would be discharged from the site and would be gone before the peak flow from the uphill watershed reaches the high school site. Mr. Keating said that the Environmental Protection Commission does try to prevent erosion because the eroded material can cause damage to the natural wetlands and watercourses, but they do not function as a flood control board. Ms. Cameron asked who was, and Mr. Keating said that in his opinion, no single town agency acts to regulate or prevent all flooding. The flood problem was too complicated. Mr. Hillman said that there was a letter from Town Counsel to Cheryl Russell that the Commission needed to see. Ms. Cameron asked Mr. Keating if he could get copies to Commission members.

At this time Ms. Lavoie asked if the Environmental Protection Commission was comfortable with the proposed modifications and were they aware of the existing flooding problem in the Holly Lane area. Mr. Hillman said they are aware of the problem and they will try to ensure that the modifications do not aggravate the present conditions on Holly Lane, and that the engineer has said that the modifications will not affect Holly Lane. Mr. Hillman said they will refer to the letter from the Town counsel and that the Commission is very concerned about the problem on Holly Lane.

Mr. Depp of Holly Lane addressed the board and asked if the measurements and calculations of the flow are correct. Mr. Block said there have been several studies done, some involving the DOT, some involving the water shed and the FEMA was taken into consideration and he is confident that the results of the studies are accurate.

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Mr. Hillman asked if there were any others that wished to be heard.

Mr. Russell asked who would be responsible in the event of flooding. Mr. Hutchison said that would depend on the reason for the flooding. Ms. Cameron said that she knows that there has been some discussion at the Board of Selectmen's meetings about dredging parts of Stony Brook, or installing pipes to more efficiently drain water near the Brook. The area may be private property as well, and the Town would not be responsible to clear the problem.

Mr. Hillman asked if any one else wished to be heard on this application. No one else responded, and there was a motion to close the public hearing on this matter at 9:30 p.m. That motion was seconded, and unanimously approved.

Mr. Hillman moved to entertain new business, Ms. Cameron seconded and all were in favor.

New Business

Peter Cummings and Mr. Daigle addressed the Commission in reference to Royle Road.

They wish to amend the permit issued for the development of the lot on the corner of Mansfield Avenue and Royle Road. The house was approved with the orientation of the front door toward Mansfield Avenue and the wetlands in that area. The new design is to have the front door angled toward the intersection of the streets and to have a side patio (rather than the front walkway) adjacent to the wetlands. A retaining wall 2-3 feet tall would separate the buffer area around the wetlands from the patio. The net increase would be 800 square feet of impervious surface within the regulated area, but no impervious area would be any closer to the wetlands. Ms. Cameron asked why move in that direction. Mr. Cummings said that the view is better.

Mr. Hillman moved to approve and Mr. Lewis seconded the motion. All other members were in favor.

Request to release performance bonds for property at 504 Mansfield Avenue.

Mr. Hillman then said that the board would discuss the performance bonds for Permits 37-2003 and 97-2003. Mr. Keating said that there are two bonds. The first is in the amount of \$7,500.00 and allows \$2,500.00 to be returned if no wetlands are disturbed during the work and allows another \$2,500.00 to be released after the first growing season of the plants. The Landscape Architect has certified that the plants were installed in June of 2004, so they are through the first growing season. Mr. Keating recommended that a total of \$5,000.00 of the bond be released at this time. The applicant can request the release of the \$2,500.00 balance in October of 2005.

The second bond is in the amount of \$10,000.00 and was for the restoration work in the wetlands. It is to be held for three years, until May of 2006. In the bond, there is no mention of the early release.

Ms. Cameron moved to approve the partial release of \$5,000.00 from the first bond and not to release any of the other bond at this time. Mr. Hillman seconded and all members were in favor.

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Discussion and possible decision regarding EPC 5 – 2005, Darien High School, modification to storm drainage system near the varsity baseball field.

Mr. Hillman said they could address the Darien High School proposal of Drainage, and that they could approve with strong language in reference to the condition of improper installation of the under drains. Ms. Cameron wanted a submission of a draft resolution, and all other members were in favor of staff drafting a resolution for discussion at the next meeting.

There being no other business, the meeting was adjourned at 11:10 p.m.

Respectfully Submitted,

David J. Keating

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