

## Minutes

Wednesday, February 22, 2012

6:00 PM

Present Were: Jim King, President  
Robert Ghosio, Vice-President  
Dave Bergen, Trustee  
John Bredemeyer, Trustee  
Michael J. Domino, Trustee  
Lauren Standish, Secretarial Assistant  
Lori Hulse, Assistant Town Attorney

CALL MEETING TO ORDER  
PLEDGE OF ALLEGIANCE

NEXT FIELD INSPECTION: Wednesday, March 14, 2012 at 8:00 AM  
NEXT TRUSTEE MEETING: Wednesday, March 21, 2012 at 6:00 PM  
WORKSESSION: 5:30 PM

APPROVE MINUTES: Approve Minutes of December 2011

TRUSTEE KING: Thank you, folks. Welcome to our February meeting. We have just some housekeeping. Wayne Galante is here recording everything, so if you have any comments to make on any of these public hearings please come up to the microphone and identify yourself so he can get it on the record. Try and limit your comments to five minutes or less so we can move things along. Lori is here, our attorney. Derek Bossen is here from the Conservation Advisory Council. They advise us on some of the projects.

So with that we'll get going. We'll set the date for the next field inspection, March 14, eight o'clock in the morning.

TRUSTEE GHOSIO: So moved.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

Our next meeting is scheduled for Wednesday, March 21 at six o'clock, and we'll have the work session at 5:30.

TRUSTEE GHOSIO: So moved.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

Do I have a motion to approve the Minutes of December?

TRUSTEE BREDEMEYER: So moved.

TRUSTEE BERGEN: I'll second.

TRUSTEE KING: All in favor?

(ALL AYES).

### **I. MONTHLY REPORT:**

The Trustees monthly report for January, 2012. A check for \$4,433.48 was forwarded to the Supervisor's office for the General Fund.

### **II. PUBLIC NOTICES:**

Public Notices are posted on the Town Clerk's Bulletin Board for review.

### **III. STATE ENVIRONMENTAL QUALITY REVIEWS:**

RESOLVED that the Board of Trustees of the Town of Southold hereby finds that the following applications more fully described in Section VI Public Hearings Section of the Trustee agenda dated Wed., February 22, 2012, are classified as Type II Actions pursuant to SEQRA Rules and Regulations, and are not subject to further review under SEQRA:

We have a number of state environmental quality reviews. They are listed as follows:

Lawrence Higgins SCTM#119-1-18  
 Debra LaChance SCTM#52-2-26  
 Kevin LaTulip SCTM#128-2-13  
 James Luhrs SCTM#143-5-5  
 Madeline Schlaefter SCTM#37-5-20  
 Robert & Lauren Eicher SCTM#47-2-29  
 Joseph & Heidi Battaglia SCTM#64-3-3.2  
 James Orioli & Susan Magg (2) SCTM#116-7-4  
 Peter & Mary Kornman SCTM#56-5-39  
 John & Amelia Wood SCTM#122-4-19  
 John & Daniella Venetis SCTM#87-6-4  
 Seven Cats Investments LLC SCTM#74-1-1  
 Alice Mignerey SCTM#81-3-21  
 Robert Nelson SCTM#53-6-5  
 Hay Harbor Club SCTM#9-3-1  
 Leonard Orr SCTM#4-7-14  
 Eugene Burger (West Cove LLC) SCTM#111-5-1  
 John Reardon SCTM#90-2-19  
 Hess Lifetime QTIP Trust SCTM#128-2-4  
 Patricia Terry SCTM#90-1-22  
 Patricia Terry, Et. Al. SCTM#90-1-23  
 Greg Karas SCTM#15-3-3

TRUSTEE KING: So moved  
 TRUSTEE BREDEMEYER: Second.  
 TRUSTEE KING: All in favor?  
 (ALL AYES).

#### IV. RESOLUTIONS-ADMINISTRATIVE PERMITS:

TRUSTEE KING: Under resolutions and administrative permits, we have five. What we try and do, if there is no problems, no issues, and they are very simple and straightforward, we can lump some together. So what I would like to do is make a motion to approve number one, **C&L REALTY, INC.**, requests an Administrative Permit for the as-built picket fence. Located: 61600 Main Rd., Southold;  
 Number four, Garrett A. Strang, Architect on behalf of **CLUB 46 @ PORT OF EGYPT** requests an Administrative Permit to replace existing window with new exit door, exterior landing and ramp to grade. Located: 62300 Main Rd., Southold.  
 And number five, Mark Schwartz, Architect on behalf of **JAMES & JANET D'ADDARIO** requests an Administrative Permit to construct a one-story addition to the existing dwelling; existing septic system to be removed and filled with clean sand; new septic system to be relocated further from water at a higher elevation; and install drywells around dwelling to control water run-off. Located: 8905 Peconic Bay Blvd., Laurel.

TRUSTEE GHOSIO: Second.  
 TRUSTEE KING: All in favor?  
 (ALL AYES).

TRUSTEE KING: Before I go any further, we have some Postponements. On page five, number eleven, Patricia C. Moore, Esq., on behalf of **JOSEPH & HEIDI BATTAGLIA** request a Wetland Permit to construct a 4'X 68' fixed dock elevated a minimum of 4' above grade; install a 3'X 15' seasonal ramp; and a 6'X 20' seasonal floating dock. Located: 2100 Hobart Rd., Southold, has been postponed.

On page seven, number 22, Mark K. Schwartz, Architect on behalf of **DOUG & KATHLENE FOLTS** requests a Wetland Permit to re-frame the existing first-floor with attached garage, wrap around porch and new second-floor; existing septic system to be removed and new one to be installed further from the water; and install drywells to control water run-off from dwelling.

Located: 90 Oak St., Cutchogue, has been postponed.

Number 23, Cramer Consulting Group on behalf of **NICHOLAS ALIANO** requests a Wetland Permit to construct a single-family dwelling 25'X 40' with associated sanitary system, driveway and retaining walls. Located: 3705 Duck Pond Rd., Cutchogue, has been postponed.

Number 24, J.M.O. Environmental Consulting Services on behalf of **FISHERS ISLAND DEVELOPMENT CORP.**, requests a Wetland Permit to construct a paved recreational path approx. 4,250' long and 8' wide; approx. 1,533' of the proposed path would be located within 100' of a regulated freshwater wetlands; construct approx. 570' of 8' wide elevated boardwalk secured by helical anchors within 100' of wetlands, which is a portion of the 4,250' total length of the proposed path; construct approx. 617' of retaining walls within 100' of wetlands; and to construct a

16'X 24' viewing deck that would be elevated approx. 9' above grade. Located: East End Rd., Fishers Island, has been postponed. And Number 25, Suffolk Environmental Consulting, Inc., on behalf of **EUGENE BURGER (WEST COVE, LLC)** requests a Wetland Permit to construct a 4'X 123' fixed elevated catwalk, 3'X 15' hinged ramp and a 6'X 20' floating dock attached to the existing bulkhead; and legalize the existing 12'X 21' platform; legalize and reconstruct the existing landing 4'X 5' and stairs 4'X 6' all located along the seaward side of the bulkhead. Located: 1050 West Cove Rd., Cutchogue, has been postponed. I think that's it. So we won't be addressing those tonight.

Going back to number two under Resolutions, **ARTHUR LEUDES DORF** requests an Administrative Permit to trim trees and plant vegetation within the area seaward of the top of the bluff, as needed, in order to maintain the present view of L.I. Sound. Located: 1700 Hyatt Rd., Southold.

This was found inconsistent with the LWRP. He finds the existing vegetation serves as a buffer and recommends the existing vegetation be maintained. I think the idea was not to remove any vegetation, it was just to maintain his view by trimming the tops. And we had recommended a little planted buffer along the top of the bluff, if I remember right. The Conservation Advisory Council is not needed because it's administrative. I think we all went out and looked at it and didn't think it was an issue to speak of. Other than the fact we should have a little non-turf buffer along the top of the bluff. I think we talked maybe ten feet or so.

TRUSTEE BREDEMEYER: Right, and recommend check the soil conservation, what might work there.

TRUSTEE BERGEN: Yes, I don't think it's the intention of the applicant to remove any vegetation. That would address the inconsistency.

TRUSTEE GHOSIO: I do know offhand, the little bit of plantings there we couldn't really see because it was winter, that is there when it's springtime, so.

TRUSTEE KING: So the top, there was mulch along the top. So I would make a motion to approve this application with the stipulation that there be a ten-foot, non-turf buffer along the top of the bluff to be planted with native vegetation.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: Number three, Gary Parker on behalf of **ORIENT WHARF CO.**, requests an Administrative Permit for the as-built 4'X 13' shed. Located: 2110 Village Lane, Orient.

This was also found inconsistent. I really don't understand why. It just says protect and restore tidal and freshwater wetlands, protect and restore the Town of Southold electric system. Construction -- was constructed without a permit. That's why it's found inconsistent, because they didn't have a permit for the structure. That's the inconsistency. To me it was

minimal. It was much smaller than what was there, that was washed away in the storm. They replaced a much smaller section of it. I don't think any of us had an issue with it. I would make a motion to approve.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: As submitted.

TRUSTEE BERGEN: How do you address the inconsistency?

TRUSTEE KING: They came in for a permit and are paying the fees.

MS. HULSE: And it's downsized.

TRUSTEE KING: It's much smaller than what was there originally.

I think the original was 30 feet long. This is 13. So it's been downsized quite a bit.

TRUSTEE BERGEN: That will do it.

TRUSTEE KING: That's my motion.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

#### **V. APPLICATIONS FOR EXTENSIONS/TRANSFERS/ ADMINISTRATIVE AMENDMENTS:**

TRUSTEE KING: We would like to do the same thing now with applications for extensions and administrative amendments. These were all reviewed. They were really insignificant, so I would make a motion to approve numbers one through six under applications for extensions, transfers and administrative amendments. They are listed as follows:

Number one, **KENNETH & ELIZABETH LESTRANGE** request a One-Year Extension to Wetland Permit #7256, as issues on March 17, 2010. Located: 960 Willis Dr., Mattituck.

Number two, Samuels & Steelman Architects on behalf of **DAVID & LIBBY ROSS** requests an Administrative Amendment to Wetland Permit #7602 to add 89 square feet to the previously approved deck. Located: 170 Park Avenue Extension, Mattituck.

Number three, Docko, Inc., on behalf of **ROBERT WARDEN** requests an Administrative Amendment to Wetland Permit #7636 and 7636C to plant Bayberry and Beach Plum plantings along new stone stabilization wall for further erosion protection. Located: Equestrian Ave., Fishers Island.

Number four, Docko, Inc., on behalf of **NICHOLAS NOYES** requests an Administrative Amendment to Wetland Permit #7316 and Coastal Erosion Permit #7316C to include the planting of Bayberry and Beach Plum shrubs as well as Maritime seed mix , Panic grass, Switch grass, Seaside Goldenrod, Sea Lavender and Little Bluestem mix among the armor stone; and a One-Year Extension to Wetland Permit #7316 and Coastal Erosion Permit #7316C, as issued on May 19, 2010. Located: Off Private Rd. On Chocomount Cove, Fishers Island.

Number five, En-Consultants on behalf of **SWANSON LIVING TRUST** requests an Administrative Amendment to Wetland Permit #7694 and Coastal Erosion Permit #7694C to construct approx. 132 linear feet of vinyl sheathing on landward side of existing timber bulkhead to remain and install additional pilings to outside of existing bulkhead. Located: 1390 Willow Terrace Lane, Orient.

And number six, En-Consultants on behalf of **MICHAEL PHILLIPS** requests an Administrative Amendment to Wetland Permit #7646 to relocate the proposed swimming pool 5' closer to the westerly property line, resulting in an approximately 6' increase in the bluff setback to the pool; and enlarge/reconfigure proposed on-grade masonry patio

on east side of pool. Located: 1000 Sound Dr., Greenport.

Do I have a second?

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: I'll make a motion to go off our regular hearings and on to our public hearings section.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

## **VI. PUBLIC HEARINGS: AMENDMENTS:**

TRUSTEE BERGEN: Number one under amendments, is **JAMES ORIOLI & SUSAN MAGG** request an Amendment to Wetland Permit #4559 for the as-built 130' catwalk with extended walkway; a proposed 3x6' ramp; a 6x30' floating dock with two (2) 6" diameter pilings to secure dock; and one (1) seasonally removed 8x18' jet-ski floating dock. Located: 495 Halls Creek Drive, Mattituck.

The Board did go out and looked at this. It was found to be inconsistent under the LWRP review. And just bear with me for a minute. The recommendation from the LWRP coordinator is the as-built platform is not a permissible action under 275-11. And the ramp, 3x6' ramp and 6x30' platform, again, were constructed without a permit and so that those were the two reasons he found this inconsistent under the LWRP review. The Conservation Advisory Council resolved to not support this application because the dock and floats don't conform to Town Code.

So again, what we are looking at, just to clarify, is just number one, because we understand there are two applications, number one and number two on the agenda. We are just on number one right now, which has to do with the 130' catwalk, the ramp, a 6x30 float and a jet-ski float.

Now, as I said, the Board did go out and looked at this and we did have several questions. We had carefully measured what had been approved and what was out there, and it appeared to us that the catwalk has been extended at the seaward end by approximately 12' beyond what was originally approved, and that the landward end there is a walkway, I'll call it catwalk/walkway that, it's here on the application, extended walkway, that was constructed outside of what had been approved there. And there had also been, in the summer, a float, jet-ski float, I believe, out there, that also had not been approved at the time.

So is there anybody here to speak on this application?

MR. ORIOLI: James Orioli. Where do you start?

TRUSTEE BERGEN: Why don't we start with the dock.

MR. ORIOLI: Okay.

TRUSTEE BERGEN: And again, just passing out some plans here to the Board members. With the dock, why don't we start with that.

As I alluded to, you heard what we had measured out and what we thought had been approved and what is there now?

MR. ORIOLI: The dock or catwalk? I just want to make sure I'm on the same page as you are. I guess there is unfortunately about five parts to this, first amendment. The first part, I guess, as you had mentioned, was the catwalk on the length. It was an original permit for a hundred foot catwalk, not to repeat

myself, and I'm sure you know all this, but, and then we amended on this permit to make it 130' as-built. So that would be, let's call it the first part.

The second part is to, let's go to the second and third part, is a 3x6 ramp and 6x30 floating dock. That would be at the end in the water, with two pilings to secure it in place. Um, also, to put on the permit, or amend it, on the application, I should say, is the seasonally-removed jet-ski float, or jet-ski quote unquote floating dock. And that is where we are, I guess. I did the survey as you requested, it's all on there.

I don't think the -- the extension of the catwalk, I think is on the second amendment, if you want to, I don't know if you want to jump from the first to the second one, or we stay with just the first one, which is just, again, not to reiterate, or to reiterate, 130' and so forth. So that's where we are.

TRUSTEE BERGEN: Okay.

TRUSTEE KING: If I remember now, some of the history of this, it was a 100' catwalk that was approved originally, and then it was, there was, it was an amendment applied for, for 130' plus a ramp and float. And that was denied by the previous Board. Just so we know a little of the history of this.

MR. ORIOLI: I don't believe the ramp and float were put on that amendment. I think it was just go to 130 was put on it and it was denied. But now, again, as I explained, and again, not to bore you guys, but I guess the hundred feet going from the seaward, landward in, didn't reach the land, so it was built to go from the water to the land. And that took 130 feet.

My next door neighbor originally had 114 and that was amended to 124 so he could get from the water to the land. So -- TRUSTEE BERGEN: Well, as far as the length of the dock goes, we could start with that, or the catwalk, I should say. When we went out in the field, again, we measured it out and it, what we surmised out there in the field, what was approved, was coming from the very edge, originally, when the hundred foot catwalk was approved, was at the very edge of the marsh. Sorry, about the seaward end. Okay? And what has happened, there has been an extension. It goes beyond that right now. It does extend out over the seaward end of the marsh out, actually over on to the waterway. And we also -- just bear with me.

MR. ORIOLI: All right. Go ahead.

TRUSTEE BERGEN: So what we looked at was the possibility of the catwalk leaving that seaward end the way it is right now, as it appears right now, today, and then coming back and ending the catwalk where the curvature is and it becomes a walkway through the non-disturbance, what was classified as a non-disturbance buffer.

As far as the jet-ski float out there, as we explained to you in the field, that is something that is not currently approved under Town Code, so we would not be able to, we are not willing right now to consider a jet-ski float. Also in that area we, I believe the history has been a catwalk with a set of stairs so that access could be gained to a small boat, kayak,

canoe, whatever it might be, but not a float at the end.

MR. ORIOLI: Why is that? I mean, my neighbor has it, and again, I'm just asking for that. The jet-ski --

TRUSTEE BERGEN: Well, we are not sure whether -- we can't speak tonight whether what your neighbor has there is approved or not approved.

MR. ORIOLI: I have the permit, so, I brought it, and --

MS. HULSE: That's irrelevant to this discussion during this hearing. It's not even relevant and I'll direct them not to review that.

TRUSTEE BERGEN: Again, what I'm proposing here on behalf of the Board, for you to consider, is that we allow this added piece of seaward end of this catwalk to remain, that somehow was put on there, allow that to remain, and a set of stairs. And that's it. At the seaward end. No float, no jet-ski float, because we are not allowed under the code to do that.

MR. ORIOLI: Well the code -- I have to interrupt you, Mr. Bergen.

The code says jet-ski floats are permitted as long as you obtain a permit from the town. So they are permitted, as long as you get a permit. So I'm asking for a permit. And I'm not asking for it to stay in there year-round, I'm saying it would be seasonal. My neighbor has a permit -- and it is relevant to tonight -- he has a permit for a ramp. He has a permit for a float. He's right my next door neighbor. He had a catwalk at 114 feet. He amended it to 124 and you gave him the permits. So I don't know how it's not relevant tonight. It has everything to do with tonight. I mean, I went, you gave me a permit for 100 feet. It didn't reach the land. It was as built to 130 feet, I did what you wanted, I submitted the application. I did the survey, as you wanted. I put in the application for the dock. I put it on the survey. Again, my neighbor has it. I can't understand how you could say no, if, for lack of better words, you know. I just don't understand the, you would have to almost explain it to me.

TRUSTEE BERGEN: Well, that Halls Creek in there is a very environmentally sensitive creek. There are very few structures in that creek. And back there, because of the depth of the water, it's realistically, you won't be navigating many large vessels or any large vessels back there.

MR. ORIOLI: I'm looking to navigate --

TRUSTEE BERGEN: If I could finish.

MR. ORIOLI: Sure. Absolutely.

TRUSTEE BERGEN: If you look at some of the other creeks in town there are similar to Halls, you'll notice also there are other creeks in town that also have very limited structures. What is termed as West Creek behind Kimogenor Point there, once you get under that bridge and back in there, there is very limited structures in there. And that's pretty close. It's the next creek over from Halls. Downs Creek, I don't believe we allow any structure in there whatsoever. So again, it's a give and take here. And what we are saying is we are willing to allow a little bit more than what was originally approved in that we are

willing to let it extend out slightly into the water, where it currently is. In other words we are not asking you to take the end of that dock off. We are telling you you can leave the end of that catwalk on there. But again, I'm just one person, I'll wait to hear from the other Board members, but it sounded like what the other Board members agreed to was we were not going to permit the floats out there and in that extended walkway in the non-disturbance buffer at the other end. I know that's not a large concern as what is in the water, but I want to address both of them because they are on this application here, so I want to make sure we touch on both.

MR. ORIOLI: Right. However, again, I can't sit down until you explain to me how my neighbor --

TRUSTEE BERGEN: I just tried to.

TRUSTEE KING: I think you have pretty much given the feeling of the whole Board on this issue. And we are not going to debate it.

MR. ORIOLI: Mr. King, that's why I'm standing here is to give me a few minutes to debate it and I'll try to keep it to the five minutes of course; I'm not going to stay all night, but --

TRUSTEE KING: This is found inconsistent with the LWRP and also the Conservation Advisory Council voted it down, correct?

TRUSTEE BERGEN: Correct.

MR. ORIOLI: I have a DEC permit for the float, the walkway and everything. I have an Army Corps of Engineers permit. So I have a state and federal permit. As you could see, the end of the catwalk, I'm glad you brought that, it's a Google shot.

Again, is what you think is extended today, as you could see it's all twisted in the front from the years of ice and so forth. So really it is where it was originally. Again, that whole end was broken off, the pilings that were out there are missing from that storm. However I have to go back to the fact that Kevin Candy, my next door neighbor, has a permit for a float, and there is no reason why -- and subsequently they did dredge Halls Creek, thank you, it's actually brought a tremendous amount of life back to the creek. It was, for lack of better words, a dead creek for a long time. It's flowing again and there is a ten-year maintenance permit, which is great. So navigable for the boat that my son has, it is. And just like everybody else's boat, and Mr. McGoldrick at the end has a floating dock and he has a boat in there, too.

So again, the consistencies are that it's inconsistent in what you are saying tonight. So again, it's very hard for me to sit down.

TRUSTEE BERGEN: I understand that, but what I want to do now is see if there is anybody else who would like to speak for or against this application and give others the opportunity to talk.

MR. ORIOLI: Sure.

TRUSTEE BERGEN: Is there anybody else here in the audience who wanted to speak for or against this application?

(No response).

Thank you. I just want to make sure we covered all bases there.

MR. ORIOLI: Sure.

TRUSTEE BERGEN: Any other comments from the Board?

TRUSTEE KING: I don't think so.

(No response).

TRUSTEE BERGEN: Okay, then being no other comments, I'll -- I think we were pretty clear on it here. So I'll make a motion to close this application. Close the hearing. Sorry. Thank you.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. ORIOLI: Okay, I see where I have to go with that.

TRUSTEE BERGEN: Okay, now I'll make a motion to deny this amendment to #4559 for the as-built 130' catwalk and extended walkway, the proposed 3x6' ramp, the 6x30' floating dock, two six-inch diameter pilings to secure dock and one seasonally removed 8x18' jet-ski floating dock.

TRUSTEE KING: I'll second it. All in favor?

(ALL AYES).

MR. ORIOLI: Can I speak?

TRUSTEE BERGEN: That one is done. It's over with.

MR. ORIOLI: Okay.

TRUSTEE BREDEMEYER: The next hearing in the matter of **JAMES ORIOLI & SUSAN MAGG** request an Amendment to Wetland Permit #6352 to include the as-built 20x40' inground swimming pool and drywell for pool backwash; 10x10' open pergola; 4x16' walkway; plant four (4) 6" wide oak trees; and revegetate non-disturbance buffer as required. Located: 495 Halls Creek Drive, Mattituck.

This application was reviewed by the LWRP plan and it was deemed to be inconsistent. It requires that because it has, the application has to conform to the rules and regulations of the Trustees in that it didn't have a permit for these activities, so that to protect the water quality and function of the town's creeks and eco-systems and we have to go through the permit process that we are presently considering.

The Town's Conservation Advisory Council moved to support this application with the condition that disturbed area is vegetated with native vegetation and they seek a 20-foot non-turf buffer landward of the eight-foot berm, and planted with native vegetation.

The Trustees, we visited the site. We took some measurements of the proposed buffer area. Jim, do we have that on one of the maps here?

TRUSTEE KING: There is a new one that it was on. A new survey, too.

TRUSTEE BREDEMEYER: I know we had taken the measurements in the field.

TRUSTEE KING: This is the proposed buffer here but it's quite a bit further seaward than where we wanted it. We found the one monument on the north side.

TRUSTEE BREDEMEYER: We took a corner measurement off the --

TRUSTEE KING: We measured off the little ramp.

TRUSTEE BREDEMEYER: We took a measurement off the ramp of the house. We felt the proposed buffering area was too far seaward based on the -- the land use plan for the subdivision had set aside protections for that woodland road that is there.

TRUSTEE KING: It should be on the field notes, I believe. I think you guys went out and measured going up from the pool.

TRUSTEE BREDEMEYER: Right, we took a measurement, it was 20-foot from the seaward edge of the last step to the pool area.

Is there anyone here who wishes to speak on behalf of the application?

MR. ORIOLI: I am. James Orioli, 495 Halls Creek Drive, Mattituck, New York.

TRUSTEE BREDEMEYER: We also noticed there had been some disturbance to the non-disturbance buffer area seemingly by an off-road or ATV that had been disturbing the soils in the non-disturbance zone. And the, this walkway actually goes, the walkway actually goes through the non-disturbance zone itself.

In other words this was an area that was set aside that was supposed to be left inviolate; it was not supposed to have any construction activities or any disturbance to the vegetation. So I think the Board there, again, we are gathering information in the field and looking back in the old file and what was approved in the land use plan for the subdivision, we felt that that particular access walkway should be really restored to being just a four-foot wide path through the woodland and left to naturalize. And that the area, approximately 17 to 18 feet of sodded area, which is that area that is 20-feet to the seaward of the last step on your, to your swimming pool, all has to be returned to the native state to comport with what the previous approvals are, that this Board had granted, and what the town Planning Department had developed when the subdivision was created.

MR. ORIOLI: Again, as I explained, the walkway that is going through the non-disturbance is basically a walkway leading to the catwalk that I have. Instead of walking through dirt, scrub, oak, whatever you want to call it, there is a path, which again, in the code, if a path needs to be made, you know, file for it, ask for the permit, it's there. I put it on the permit for it to lead to the path and not walk through an area that if you left it undisturbed like you are asking me to, that area will be almost impossible to walk through it in a water environment, where my kids and stuff are not walking with work boots. So again --

TRUSTEE KING: We normally allow a four-foot path through a non-disturbance area.

TRUSTEE BREDEMEYER: We allow four-foot path that can be maintained --

MR. ORIOLI: It's under four feet, and that's what is there. I don't know what else to say. That's what is there. The rest is grass. It's not sod. It's grass that is there that you see on the downside of the picture. I think that's what you are

referring to as the second part of your -- yes? No?

TRUSTEE BREDEMEYER: It's not supposed to be maintained lawn.

MR. ORIOLI: Again, it is my backyard. I mean, it's not as if I'm building something there. It's grass. You know, we had this conversation, again, out in the field that telling me to leave it, not mow it, mow a certain part of it, would be almost, I mean even Mr. Bergen had made the comment it would be almost impossible to, you know, do that. So again, it's just grass up to the non-disturbance area, which as you could see is the dirt or whatever you want to call it, the scrub is, it starts or ends, whichever way you are looking at it from. So, I mean it is, it was deemed at one time a road to go from New Suffolk to the front property, which was way back, was the Smith property. So again, it was determined or deemed a road. This is just, it's grass. It's nothing more than grass. Is it mowed? It is mowed. It's my backyard. I pay \$21,000 a year in real estate taxes. It's mowed.

TRUSTEE KING: It doesn't have anything to do with what we are doing here tonight.

MR. ORIOLI: I understand that. But all it is is grass that's mowed.

TRUSTEE KING: It was established as a non-disturbance area when you bought the property. You knew it was there.

MR. ORIOLI: Well the disturbance is, the road is the road, I mean the road was -- that's the disturbance.

TRUSTEE KING: You knew what it was when you bought it.

TRUSTEE BREDEMEYER: These were rules what was established when the land use plan was established with the subdivision, so you had prior knowledge of these requirements, and we can't alter them at this point. We are without any remedy to change them. Also there was a violation issued for the four trees that were cut down. So I see you are trying to address that through this application. I think we are trying to work with you here to bring your project back in conformity with the town's established land use plan for the property --

MR. ORIOLI: Absolutely.

TRUSTEE BREDEMEYER: (Continuing) and whereby we would be in a position to hopefully have this set right and then we would be in a position to move ahead.

MR. ORIOLI: My ultimate goal, trust me.

TRUSTEE BERGEN: If I could just add, I have here a copy of a stipulation and agreement made in 1995 with regard to this property. And it states right in here, that -- and I'm summarizing. Under condition one, there will be no construction or filling in upon that portion of real property line easterly of the westerly line of the dirt path. That's this non-disturbance buffer.

MR. ORIOLI: Right.

TRUSTEE BERGEN: And, number two, the party acknowledges that any such construction or filling upon said portion without prior approval of the Trustees will result in immediate revocation of any and all applicable permits, certificates, licenses

previously issued by the Trustees. So that was in the agreement.

MR. ORIOLI: Right.

TRUSTEE BERGEN: And the agreement goes with the piece of property when you bought it.

MR. ORIOLI: Well, no. That stipulation was there when we went for the pool application. But again, I didn't fill or do any construction. It's grass. If you go look back at old pictures, unfortunately the four trees were taken down while we were doing construction of the pool, which the guy who did the pool went a little too far and caused me all the problems with the four trees. So, again, it's not sod, it's just grass. I do maintain it by mowing it. And the four trees are going to go back.

Again, I didn't take them down. They were taken down. I paid the fine for the trees of, I think it was about \$1,500. The trees have to go back. I agreed to put the trees back. It's grass. I didn't add fill, I didn't do construction, I didn't excavate, I didn't bring in fill. It's grass.

TRUSTEE BERGEN: And we have been very consistent with non-disturbance buffers where we told property owners who have non-disturbance, not non-turf, but non-disturbance buffers, they are not allowed to turn it into a lawn so --

MR. ORIOLI: But it's a non-disturbance --

TRUSTEE BERGEN: If you can let me finish.

MR. ORIOLI: Absolutely.

TRUSTEE BERGEN: We have been consistent with that, and so what we are doing is maintaining consistency plus complying with the stipulation that was entered into to resolve a previous violation. I mean, we could sit here, and we are not going to sit here and argue all night as to whether or not grass can go in a non-disturbance buffer. It can't. I think that's the opinion of the Board.

MR. ORIOLI: But where the grass isn't in a non-disturbance buffer. Where the dirt is, is a non-disturbance buffer. Where the grass is, is not a non-disturbance buffer.

TRUSTEE KING: Yes, it is. That's our problem.

MR. ORIOLI: In the stipulation it's just basically saying I can't do any construction because of the pool.

TRUSTEE KING: No, no, it's quite evident on the one survey we have. One of the older surveys. As a matter of fact if you look, it would be looking north from your property where the westerly side of that farm road used to be, is a concrete monument. And that monument is indicated on the survey.

MR. ORIOLI: Where, Mr. King?

TRUSTEE KING: As you look north. The concrete monument is right on the western edge where that road used to be. It's indicated on the survey, from that area seaward is to be a non-disturbance area.

MR. ORIOLI: I don't know where the monument is, I mean --

TRUSTEE BREDEMEYER: Is there -- do you have any additional comments with respect to this? We'll give everyone else an opportunity, other Board members, a chance to speak.

MR. ORIOLI: Okay, so where are we on the second amendment, then,

I mean --

TRUSTEE BREDEMEYER: The Board has not made a determination. We are still concluding the hearing process and it's only fair we allow anyone else who wishes to speak on the application? Other members of the Board?

(No response).

TRUSTEE BREDEMEYER: Is there anyone else here who wishes to speak on this application?

(No response).

Hearing none; other Board members, anyone else wish to speak on this?

TRUSTEE BERGEN: Again, just to segment it out, I don't think this Board had any problem with the part of the amendment that has to do with the inground swimming pool, the drywell with the backwash, the 10x10 pergola. So, you know -- and the four trees. That, to segment it out, we don't have a problem with any of that.

TRUSTEE KING: I think we need to put a time limit on it as far as restoring the non-turf and trees, planting of the trees.

TRUSTEE BREDEMEYER: I think if there is a possibility of a meeting of the minds, that the Board would obviously like to approve this application with your agreement to restore the non-turf buffer.

TRUSTEE KING: And remove the walk.

TRUSTEE BREDEMEYER: And remove the walk, the curved walkway with the lighting, and then restore this area that was previously the protected road area, as we mentioned. We would like to move on this and we would give you a certain time to do that. But if it's going to be all for naught then we'll, you know. We have to have some indication from you as to your willingness to restore this at this point.

MR. ORIOLI: Again, it's basically what happened on the other one. I'll have to see what I want to do. I mean, obviously, again, I can't say I'm 100% clear on what we are, what you are asking for and what is happening. So again, me not being perfectly clear, I don't want to say I agree to something either.

TRUSTEE BREDEMEYER: Thank you, for your concerns. We appreciate that. At this point I'll take a motion to close this hearing.

TRUSTEE KING: Second. All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: At this point I would make a motion to deny this application for all items as listed, and in the application --

MR. ORIOLI: Mr. Bredemeyer --

TRUSTEE BREDEMEYER: Because the project has been determined to be inconsistent with the Town regulations, and the Trustees have discussed this at the hearing, we see no way to restore the vegetated non-disturbance zone as requested.

MR. ORIOLI: I didn't say that. I said I was not clear, so I couldn't agree to it because I didn't understand it, Mr. Bergen.

MS. HULSE: There is a motion. You can't speak during the motion, please, sir.

MR. ORIOLI: Okay.

TRUSTEE BREDEMEYER: And there is no support for the application to meet the request of the Conservation Advisory Council, which also requested a 20-foot non-turf buffer.

TRUSTEE BERGEN: I personally, I would ask for that motion to be reviewed. I would like to see this segmented out to allow for the 20x40 inground swimming pool and backwash, the 10x10 pergola and allow for the four six-foot oak trees to be planted. So I would like to see a motion proposed that would allow for those things to be approved here tonight, and then we can also include in the motion that the non-disturbance buffer be re planted.

TRUSTEE BREDEMEYER: As a point of order there was no second to my motion, so I guess if yours is sufficient and maybe counsel would suggest if that's a way to go, that's fine.

MS. HULSE: Is there a second on Dave's motion?

TRUSTEE DOMINO: I'll second it.

TRUSTEE GHOSIO: Okay, we have to move on that motion.

TRUSTEE KING: There was a motion to deny?

TRUSTEE BERGEN: You have a motion to deny in toto.

TRUSTEE GHOSIO: And Mike seconded this.

TRUSTEE KING: All in favor?

MS. HULSE: Do you want to take a roll call on that?

TRUSTEE KING: Trustee Domino?

TRUSTEE DOMINO: Aye.

TRUSTEE KING: Jay?

TRUSTEE BREDEMEYER: Aye

TRUSTEE KING: Dave Bergen?

TRUSTEE BERGEN: Nay.

TRUSTEE KING: I'll vote aye.

TRUSTEE GHOSIO: I'll vote nay.

TRUSTEE KING: Motion carries three to two.

(Trustee King, aye. Trustee Bredemeyer, aye. Trustee Domino, aye). (Trustee Bergen, nay. Trustee Ghosio, nay).

TRUSTEE GHOSIO: It's been denied.

MR. ORIOLI: What's that, the permit I have for the pool?

TRUSTEE BERGEN: The amendment.

TRUSTEE GHOSIO: The amendment has been denied. Number two was denied.

MR. ORIOLI: Again, what part of the amendment is denied? The pool is there, I have a permit for it.

TRUSTEE KING: The pool was already permitted.

MR. ORIOLI: Right. Everything was permitted except --

TRUSTEE KING: I was a little confused on why the pool was included in this amendment. Because I know we did permit a pool there. The question at the time was for the pergola. This is really kind of --

MS. HULSE: He's applying for it as-built, you already gave a permit for it and he applied with that permit, this is basically a nothing. It's not enforceable. He's applying for an as-built. He already did it legally.

TRUSTEE KING: The pool had a permit, I know we issued the permit

for the pool. I know that.

MS. HULSE: Then that's fine.

TRUSTEE BERGEN: It was the pergola was not in the original permit.

MS. HULSE: Was the drywell included as well?

MR. ORIOLI: Yes, originally.

MS. HULSE: Okay.

TRUSTEE KING: So do we reopen the hearing?

TRUSTEE GHOSIO: What does Wetland Permit 6352 say? Because this was an amendment to that permit.

MS. HULSE: Jim, if you denied the permit, the original permit will stand. The amendment is denied. It won't have an affect on the underlying permit. It just means he doesn't get an amendment to that permit. You are not undoing anything.

TRUSTEE BREDEMEYER: The original permit 6352 was to restore 20x40 inground swimming pool with the conditions of a hay bale line at the non-disturbance line, a drywell for pool backwash, plant four six-inch wide oak trees to replace those that were removed, planted seaward of the pool as depicted on the plans prepared by Kathy Quigley and approved 4/19/06 by the Trustees.

TRUSTEE GHOSIO: That's what I thought. So he has the permit for the pool and drywell and the trees.

TRUSTEE KING: But the trees were never planted.

TRUSTEE GHOSIO: So really this amendment was to address the pergola, the walkway and to revegetate the non-disturbance buffer. So essentially nothing has changed. You have the permit for the pool, for the backwash and to plant those trees. The only issue now really that you want to deal with, and you'll have to deal with in the future at this point, since it was denied, is the pergola, the walkway and re-vegetating that non-disturbance buffer. You go away from here with the knowledge that you are probably not going to get the 4x16 walkway. That is a clue to you, at least in my opinion, that if you came to us you would like, for the pergola and to re-vegetate the non-disturbance buffer, you can go from there.

TRUSTEE BREDEMEYER: And there are potential violations of the previous permit with the non-disturbance zone.

MR. ORIOLI: What was that? Sorry, I didn't understand.

TRUSTEE BREDEMEYER: And there are potential violations of the previous permit because of the non-disturbance buffer. The non-disturbance zone.

MR. ORIOLI: I paid them. You made me pay them before I put in, before I could get hearing. I paid them. I settled them.

MS. HULSE: It's a continuing, it's a continuing situation. So if you leave it in the condition that it's in, you are basically open to an additional violation. That's what he's trying to say. You need to restore that to what the permit allows. You can't build on that area. It's a non-disturbance area.

TRUSTEE KING: You can always come back and apply.

MR. ORIOLI: I gotcha.

TRUSTEE KING: Number three, Proper-T Permit Services on behalf

of **KEVIN LATULIP** requests an Amendment to Wetland Permit #7677 to construct 3'X 8'8" steps with hand-rails from the top of the bulkhead to the beach grade level. Located: 5386 Peconic Bay Blvd., Laurel.

This was found consistent with the LWRP, and the Conservation Advisory Council resolved to support the application. I looked at this myself. This was a recently bulkheaded property. It was re-bulkheaded from storm damage, and they had an existing set of stairs down to the beach. They were gone. And they are just replacing the stairs. It's very simple and straightforward. Is there anybody here who wants to talk about this?

MR. FITZPATRICK: No, I couldn't do it any better than you could.

TRUSTEE KING: That was the previous picture, now it's all newly bulkheaded. It's all planted with American beach grass, and they are just looking for a set of stairs down off the new bulkhead.

I'll make a motion to close the hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

I'll make a motion to approve the application as submitted.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE GHOSIO: Number four, Costello Marine Contracting Corp., on behalf of **ROBERT & LAUREN EICHER** requests a Transfer of Wetland Permit #5467 from Monique Morris to Robert & Lauren Eicher, as issued on December 21, 2001 and an Amendment to Wetland Permit #5467 to install five (5) new bulkhead face pilings adjacent to the existing face pilings. Located: 1555 Shore Rd., Greenport.

The Conservation Advisory Council did take a look at this and supports the application, though would like to see a condition of a ten-foot, non-turf buffer. The Conservation Advisory Council does question the legality of the deck and the wire fence. The LWRP coordinator has found this to be consistent with LWRP but also recommends a vegetated buffer be required landward of the bulkhead. The Trustees have all gone out and seen this. And when we were out in the field there was also a question of the fence as well. Aside from that, we are pretty much in support of putting in these pilings. It's obviously needed. With that, is there anybody here who would like to address the application?

MR. COSTELLO: Jack Costello, Costello Marine, on behalf of the applicant. It's pretty simple. The new pilings cracked so we just want to sister them up without making it into a big fiasco. As far as the fence goes, I mean it's just to keep their dog in there. It's pretty, I mean it's not very structural. That's not an eyesore or anything like that. So I don't really feel it's much of an issue. As far as the deck and stuff, I don't know anything about that. I just suggest when he wants to put the

pilings up, I suggested he take the high route and come to you guys and get the permit, considering we are going to add structure.

TRUSTEE GHOSIO: It has been pretty much our stance not to allow these fences on the bulkhead like that.

MR. COSTELLO: You can see it's a nine-foot straight vertical drop, for kids and stuff like that, I mean.

TRUSTEE GHOSIO: Does anybody have any opinions on the Board as far as the fence is concerned? Is it something we want to address?

TRUSTEE KING: We have permitted them but we have moved them landward from the top of the bulkhead is what we have done in the past. The deck, I think we had them put in split rail with fencing on it and mesh on it.

TRUSTEE GHOSIO: Usually ten foot from the bulkhead on the other side of the buffer.

MR. COSTELLO: That will just add more structure. This seems the easiest way to approach it. Not that I had anything to do with the fence. It just seems less structure with this method.

TRUSTEE BERGEN: For myself, I have no problem with this fence remaining there. My reason for that is I do understand the safety issue of the height, but also the fact that going out there it was clearly evident going out on that property this fence is in no way preventing the geese from flying on to this property. And so for myself, I don't have a problem with maintaining that fence.

TRUSTEE BREDEMEYER: Likewise, I don't have of a huge problem with the fence in this location. That's quite a sheer drop. I think the non-turf buffer is something the Board would probably agree, we'll have to see.

TRUSTEE GHOSIO: No problem with the buffer, non-turf buffer?

MR. COSTELLO: I have to go back and find out. I considered this such a minor repair, I didn't think it would be an issue where he would be losing, you know.

TRUSTEE KING: Doesn't it say a buffer is requested when a bulkhead is rebuilt? It's a fairly recent bulkhead.

MR. COSTELLO: The bulkhead is ten, 12-years old.

TRUSTEE KING: We have been putting buffers in for quite a while now.

TRUSTEE BERGEN: I know vinyl was used about ten, 12 years ago.

TRUSTEE BREDEMEYER: It is about ten, 12 years ago, because I walk that beach.

TRUSTEE GHOSIO: There is an old permit here, from December of 2001, construct 100 feet of new bulkhead immediately in front of the existing bulkhead with the condition of a ten-foot, non-turf buffer is maintained behind the bulkhead. And that the piles are removed and C-Loc construction right against existing walers, and drywalls installed to contain roof runoff. I guess essentially that means it's in violation.

MR. COSTELLO: Okay, we have no problem with the ten-foot buffer.

TRUSTEE BERGEN: Good answer.

TRUSTEE KING: I love it when a meeting goes well.

MR. COSTELLO: When this bulkhead was constructed, it was a different owner of the property. It's a different owner.

MS. HULSE: You have to be transferring.

TRUSTEE KING: It's a different owner. Doesn't make any difference?

TRUSTEE GHOSIO: No, we can't transfer a violation.

MR. COSTELLO: I thought we were going to start picking up speed here tonight.

TRUSTEE GHOSIO: We'll have to make a motion to table this at this point. Sorry. If we transfer a violation, it's an issue, we can't do it. It would just cause you more trouble.

MR. COSTELLO: Let's move on to the next one. Table it.

TRUSTEE KING: Table it and see if we can get a handle on it.

TRUSTEE GHOSIO: I'll make a motion to table this application.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: Number five, Docko, Inc., on behalf of **LEONARD ORR** requests a One-Year Extension to Wetland Permit #7315 and Coastal Erosion Permit #7315C, as issued on May 19, 2010 and an Amendment to Wetland Permit #7315 and Coastal Erosion Permit #7315C to remove 255 linear feet of concrete seawall and construct 255 linear feet of new reinforced, cast-in-place concrete seawall with new reinforced, cast-in-place concrete footing, 275 cubic yards over 2,750 square feet and establish a 10' wide non-turf buffer landward of the new seawall all at and landward of the high tide line; place 35 cy., 80 tons of stone shoreline protection along the face of the new wall water of the apparent high tide line and landward of mean high water. Located: Private Rd. Off Equestrian Ave., Fishers Island.

It's an application for an extension and modification.

Before we go too far on this, it was consistent, on the original LWRP it was found consistent. The Conservation Advisory Council did not make an inspection so therefore there was no recommendation.

Is there anyone here to speak on behalf of or against this application?

MR. NIELSON: Yes. My name is Keith Nielson, I'm with Docko, Inc., and we prepared the application documents for the original application as well as for this modification.

The original proposal was to --

TRUSTEE KING: I think it was for about 60 feet, wasn't it?

MR. NIELSON: Yes, for about 60 feet, to remove the corner, put in stone that would surround the pier and to leave the rest of the concrete seawall basically as is, with the stone supporting the seawall.

After Tropical Storm Irene, there was enough damage to the wall that it appears it's begun to actively move, and so we need to replace it. I met with the DEC on December 28, to find out if there were any design characteristics which could be incorporated into the project which would expedite their review and approval, and they asked if we could just, instead of

putting out all the stone that we had shown previously, just rebuild the wall in place. It changed the project from about a \$300,000 project to about a \$500,000 project. The owner is agreeable to rebuilding the wall. And so the new project on the plans before you tonight are to remove all of this wall. The damaged section stops about over here, however we have shown the entire wall to be re-built. The first part of it, which is most important, is from about this point, 50 feet, to the west of the pier, to take all of this out and rebuild it. We've shown a conceptual design above footings with the base of the footing at mean low water. Concrete footing will be about ten-feet wide, foot-and-a-half to two-feet thick, reinforced top and bottom, and have a vertical retaining wall on top of it.

TRUSTEE KING: Did you say the wall will be at mean low water or mean high water?

MR. NIELSON: The bottom of the foundation will be at mean low water. And when the project is finished, the beige area I have sketched in here, is the full plan view of the footing. All right. So the footing starts at the face of the existing wall shown by the dashed line in the section. And goes back ten feet. The vertical wall will start a foot back from the face of the footing. And so the new wall will actually be setback a foot into the property. Once the footing and the wall are poured and cured then the backfill will be restored along over the top of the footing, and the weight of the soil is used to counteract the active soil pressures from behind the wall.

What I have also shown here is once the footing is set and the fill is replaced back on top of it, there will be a ten-foot non-turf buffer behind the wall. They want to restore that with bayberry and beach plumb and Rosa Rugosa. Most of the vegetation that grows there now is Rosa Rugosa. And this work will be conducted, could be conducted from land or from water. And we would like to be able to proceed with it this spring so the work can be finished before the beginning of June.

The DEC has indicated their agreement to approving the project this way, and it's been passed on from the Marine Habitat Protection Bureau to the environmental permits group.

TRUSTEE KING: Are they going to come out and take a look at it?

MR. NIELSON: I'm sure they will. If not before permitting, at least during construction. I'm sure everyone will be interested in this.

TRUSTEE KING: I would like to take a look at it. I think the original plan expires in May?

MR. NIELSON: Right. The Corps of Engineers is okay with this under nationwide permit, which takes care of the Department of State as well. And so with your approval we'll have all of the permits in line to move forward quickly.

TRUSTEE KING: I would like to get over there and take a look.

MR. NIELSON: We'll keep you apprised every step of the way.

TRUSTEE KING: Okay.

MR. NIELSON: We did mail out, we have poster -- we sent in the

photograph in the affidavit. We only received one of the notification cards back. We'll send the rest when we get them.

TRUSTEE KING: So this doesn't expire until May, so we have time as far as the extension of the permit goes, unless you want to us to extend it now, but.

MR. NIELSON: Can we extend it now? A year from May, please?

TRUSTEE KING: Yes, in case something happens. Any other comments from anybody on this? Board?

(No response).

I'll make a motion to approve the extension of the permit for another year, and the rest of the application I would like to table and get over there and take a look at the project.

TRUSTEE GHOSIO: I'll second.

TRUSTEE KING: All in favor?

(ALL AYES).

### **WETLAND AND COASTAL EROSION PERMITS:**

TRUSTEE BERGEN: Number one under Wetland and Coastal Erosion Permits, Patricia C. Moore, Esq., on behalf of **GREG KARAS** requests a Wetland Permit and Coastal Erosion Permit to construct a rock revetment with two courses of boulders to match existing size and shape of adjacent property to the east; lower course 4-5 ton, upper course 2-3 ton, and 8' wide at toe of existing bluff. Located: 135 Sound View Rd., Orient.

This was reviewed under the LWRP and found to be consistent. However, I'm just reading from the LWRP memo here. It's recommended the Board prohibit the relocation/removal of the existing boulders/rocks currently on the beach. The CAC supports the application with the condition the non-turf buffer is increased to a total of five feet. Again, the Board did go out and looked at this application. Is there anybody here to speak on behalf of this application?

MS. MOORE: Thank you. Patricia Moore on behalf of Mr. and Mrs. Karas. Obviously you have gone to see the property and they are experiencing some erosion of the bluff face. Before it gets very serious, they do want to place the boulders, continue the line of boulders as the property to the, in line with the property to the east. The neighbor is here in support. That's why I looked to her. It's pretty much spelled out in the application and I don't believe there is any plan on, I mean, moving any boulders that are there already naturally occurring. As far as the five-foot buffer at the top of the bank, I don't see a problem with that, so I'll pass it on to the clients. I assumed you might ask for something like that.

TRUSTEE BERGEN: Pat, how is access going to be gained for the equipment to get to this project?

MS. MOORE: Good question. I'm trying to remember if -- John, did you look at Karas for the rock revetment, by chance? Is that yours?

MR. COSTELLO: My brother did.

MS. MOORE: How would you generally get access? By barge?

MR. COSTELLO: By crane, over the top of the bluff.

MS. MOORE: I knew that a Costello was involved, I just didn't remember which one.

MR. COSTELLO: If you put the rocks on the barge, it's (inaudible).

MS. MOORE: For the record, it's Mr. Costello speaking with expertise. His brother went to look at the property and the recommendation is with the crane from the top of the bank.

TRUSTEE BERGEN: Yes, I looked at the area between the house and the property line to the east and hoping there is enough room through there where they can get the equipment through. You know, I'm hoping that's the access area the applicant is looking to use.

Okay, anybody else in the audience that wanted to speak with regard to this application?

MS. RETUS: My name is Mary Retus, I am the rock part, and we are all in favor.

TRUSTEE BERGEN: Yours is the property to the east?

MS. RETUS: Yes, those are our rocks there. We have been waiting and hoping for this.

TRUSTEE KING: Thank you.

TRUSTEE BERGEN: Is there anybody else in the audience who wishes to speak?

(No response).

Any other comments from the Board?

(No response).

TRUSTEE KING: No, that was pretty straightforward.

TRUSTEE BERGEN: If not, I'll make a motion to close this application.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: I'll make a motion to approve the Wetland and Coastal Erosion permits for Patricia Moore on behalf of Greg Karas at 135 Sound View Road in Orient with the condition of a five-foot, non-turf before is added to the top of the bluff.

And this has been found consistent under the LWRP.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

#### **WETLAND PERMITS:**

TRUSTEE DOMINO: Number one under Wetland Permits, **STEPHEN G. LATHAM** requests a Wetland Permit to replace, in-place, storm damaged timber bulkhead with 150' of vinyl sheathing and approx. 2' higher than present bulkhead; replace storm damaged 4'X 4' platform and stairs; replenish beach with 400 cubic yards of sand; and install rip-rap ½ to 1 ton stone armor seaward of bulkhead. Located: 845 Rogers Rd., Southold.

This is found to be consistent under the LWRP. The

Conservation Advisory Council found in favor of this application. Is there anyone here to speak to this application?

MR. LATHAM: Stephen Latham, 60 Rogers Road, Southold. I'm not going to speak, I'll answer questions.

TRUSTEE BREDEMEYER: This is a straightforward application, with the submission of the additional line drawings, I think the Board went and took a look at them subsequent to the original site visit. I don't think any of the members of the Board had a problem that I saw during field inspection.

TRUSTEE KING: Not at all.

TRUSTEE DOMINO: We had requested an additional drawing, which I have, and we reviewed that, and have no comments about that.

Does anyone else wish to speak to this application?

(No response).

I make a motion to close the hearing.

TRUSTEE KING: Second. All in favor?

(ALL AYES).

TRUSTEE DOMINO: I make a motion to approve this application.

TRUSTEE KING: Second. All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next hearing is Docko, Inc., on behalf of **HAY HARBOR CLUB** requests a Wetland Permit to conduct maintenance dredging, 25 cubic yards of sand from the diving area for upland disposal at the beach, on site.

Located: Fox Ave., Fishers Island.

I'll say I'm personally familiar with the project area. In my former life as county health inspector I actually requested they make the diving area safer for swimming. But I left that life behind. Is there anyone here who wishes to speak on behalf of this application?

MR. NIELSON: My name is Keith Nielson I'm with Docko, Inc., and I prepared the application documents you are reviewing tonight. This project was approved three years ago, three-and-a-half years ago, but due to other priorities at the club and the marginal depth maintained at the diving area, they elected not to do the project. And so in the nor' easter in the middle of October, this past year, a fair amount of sand came in and so the project priority moved up in their budgetary programs.

The project work description is the same. This material, it's a pretty archaic process because they have to dredge the sand using a crane barge, store the sand on a deck barge with steel walls placed around the edges, filter fabric on the inside to retain the sand, then tow the barge over to West Harbor, to the mobile dock, offload it there, and then the material is trucked back to the beach site which is only five-hundred feet from the swimming dock. But we can't, there is no way to access this with the marine equipment. And hydraulic dredging was considered to be, believe it or not, more expensive and more problematic. So it's the same project it was three years ago and we'll probably be in here, you know, in five years again, doing the same thing.

TRUSTEE BREDEMEYER: The project was deemed consistent under the LWRP, but the request was to employ a silt boom in the dredge area, which would seem because of the structure in the swimming area they should be able to deploy fairly easily from the walkways in the swim area, I would think.

MR. NIELSON: Right. There is a walkway on two sides and a net cable on the west side and a silt boom will not be a problem. The material being dredged is not really silty.

TRUSTEE BREDEMEYER: It's very sandy.

MR. NIELSON: Right. It's white sand.

TRUSTEE BERGEN: I have to be honest with you. I appreciate the comments from the LWRP coordinator, but I think in this case it's all sand and I don't see what the silt boom --

TRUSTEE BREDEMEYER: I think we addressed that, because of the consistency and the knowledge of the material --

MR. NIELSON: The turbidity will be of a very minimal and short duration.

TRUSTEE KING: I agree. It's not like it's going to be --

TRUSTEE BERGEN: And it will help keep the cost down.

MR. NIELSON: Thank you.

TRUSTEE BREDEMEYER: Great, any additional --

TRUSTEE KING: I think we should make it ten-year maintenance.

TRUSTEE BREDEMEYER: I was going to ask about that.

TRUSTEE KING: Yes, I think that's the right way to go.

TRUSTEE BREDEMEYER: Okay, hearing no further discussion, I'll make a motion to close the hearing in this matter.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I make a motion to approve the application as submitted with a permit to allow for ten-year maintenance.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. NIELSON: Thank you.

TRUSTEE GHOSIO: Number three, Ronald W. Abrams on behalf of **JOHN & AMELIA WOOD** requests a Wetland Permit to replace a wooden bulkhead with navy style timber bulkhead installed adjacent and inland of existing bulkhead; remove old bulkhead by cutting pilings at or near grade, preserving existing wetland substrate; remove and replace existing brick walkway on sand bed and leveling as needed. Located: 3150 Ole Jule Lane, Mattituck.

The Trustees have been out to this site and we are recommending removing bricks and installing ten-foot non-turf buffer. These are the field notes. And suggest that perhaps tying into the neighbor's bulkhead, getting rid of that indentation that you'll see on the plan. The Conservation Advisory Council went out and resolved to support the application with the condition of a ten-foot, non-turf buffer, and the LWRP coordinator has found this to be exempt from LWRP. With that I'll ask anybody here to address this application?

MR. ABRAMS: Yes. This is Ron Abrams of Drew Associates, Inc. I'm here with John and Amelia Wood.

Our initial reaction, of course, about the brick walk, is that has been there for a very long time. It serves the function of allowing water to percolate under natural conditions. It prevents the application of any treatments to lawn. So I think that brick walk is doing the same job that, for most of the functions that a non-turf buffer would represent. And since it pre-exists, I think that brick walkway has been there, maybe forever, I don't understand the requirement to remove it. But we do definitely agree with tying into the adjacent bulkheads. The one to the south, there is an indent. The intent is to reach it so we would just go straight to it. The one to the north, we showed what existed but if the Board wants us to straighten that out to join the neighbor's bulkhead, I don't think that would be a problem.

TRUSTEE KING: It's remove and replace in the application, Dave.

TRUSTEE BERGEN: I know.

TRUSTEE GHOSIO: So there is no issue with bringing the bulkheads to match the neighbor's bulkheads on both sides.

MR. ABRAMS: Well, we intended to join our return to the south neighbor's bulkhead. Does that satisfy your request?

TRUSTEE BERGEN: The Conklin's.

MR. ABRAMS: Yes. And I represented the Conklin's and I'm quite sure they'll have no problem with joining that in. We just have to work that out with the contractor. And similarly on the north side, it's more obvious because it requires straightening out that edge.

TRUSTEE KING: It would be a better looking job.

MR. ABRAMS: Remember, this bulkhead has been here a very long time, and the others came along afterwards.

TRUSTEE BREDEMEYER: I don't think any of us that saw the brick walkway thought anything other than it's gorgeous, and it is non-turf and a porous area. We thought it was just affording the seagulls and extra special area to drop a heck of a lot of muscles. I think it was more of a suggestion for a more conventional non-turf area. We felt if it was softer the gulls might decide to take their muscles up to the main road.

MR. ABRAMS: I had to take a look underneath it. The ground is very sandy there. So I think that treatment, and it's not laid in any mortar at all. It's completely on sand. I think that treatment serves a very good function. They would probably struggle to get something to grow there if they were required to lift it up.

TRUSTEE GHOSIO: The brick walkway, it doesn't show the width of the walkway itself.

TRUSTEE KING: We want to see a ten-foot, non-turf.

MR. ABRAMS: If you look at the survey, I think the width is represented by a solid line.

TRUSTEE KING: What's the measurement; four feet? Five feet? Ten feet?

MR. ABRAMS: This is to scale. So to scale it, it's about eight feet.

TRUSTEE GHOSIO: I'm not sure if these copies are to scale.

MR. ABRAMS: Yes, they are. If you have the legal size paper, they were to scale and they were the ones stamped by DEC.

TRUSTEE GHOSIO: There may be an issue tying into the Mello bulkhead because of the property line.

MR. ABRAMS: I see what you mean, to the corner there.

TRUSTEE KING: Could we possibly get permission from them to tie into their bulkhead?

MR. ABRAMS: We would be willing to ask. The question, Amelia, is to straighten out here. And we would have to ask the Mello's.

MS. WOOD: He told me. I already got -- he's happy. He's very happy.

MR. ABRAMS: So, yes, it sounds like we can comply with that request.

TRUSTEE GHOSIO: We'll need that in an official, notarized letter, I imagine.

MR. ABRAMS: Yes, and I would revise the site plan on your instructions.

TRUSTEE KING: The walkway scales off at four feet.

MS. HULSE: Ma'am, if you could put your name on the record

MS. WOOD: Amelia Wood. The Mello's are very happy because they are losing the top soil there. So when we, already told them, he's very happy we are having it done. Thank you.

TRUSTEE BERGEN: Thank you.

TRUSTEE BREDEMEYER: We could put the non-turf in front and have the walkway back.

TRUSTEE KING: Whichever way they want to go.

TRUSTEE GHOSIO: To reiterate, we'll need a letter from Chad Mello stating he understands you'll be crossing the property line and tying into his existing bulkhead. Until then we can't actually issue a permit but we can move on it tonight.

MR. ABRAMS: As long as we know where we are going and also to save my returning to this meeting, cost effectiveness.

TRUSTEE GHOSIO: Any other comments or questions?

(No response).

I'll make a motion to close the hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE GHOSIO: I'll make a motion to approve the application with the additional notation that the bulkheads will be adjoining and tying into the neighboring bulkheads on both the north and south sides. Understanding that a letter will be provided with permission from the neighbor to cross this property line to make that tie in. That we are requiring a ten-foot, non-turf buffer to include the four-foot brick walkway as applied for and an additional six feet landward of that being non-turf buffer.

MR. ABRAMS: So a total of ten feet from the bulkhead being to be non-turf.

TRUSTEE KING: And you can do that any way you want as long as you get the ten feet.

MR. ABRAMS: We'll discuss that with the contractor to make it most practical.

TRUSTEE GHOSIO: And with that we'll be requiring an updated set of plans.

MR. ABRAMS: Yes, because I'll resubmit this to DEC for an amendment.

TRUSTEE GHOSIO: I believe that's it. Do I have a second?

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: Number four, Proper-T Permit Services on behalf of **JOHN REARDON** requests a Wetland Permit to reconstruct 200' of storm-damaged bulkhead using vinyl sheathing, increasing height by 1'+/- with stairs to grade on seaward side; replace 184' of storm-damaged concrete retaining wall, with stairs from upland grade and 5' returns at each end, with 200' of retaining wall, using vinyl sheathing, with stairs from upland grade and 8' returns at each end; construct new deck 10'X 20' between bulkhead and retaining wall; and fill area between bulkhead and retaining wall with clean sandy soil from upland location, approx. 350 cy. Located: 920 Cedar Point Drive East, Southold.

This was found consistent and also part of it was found inconsistent with the LWRP. Bulkhead replacement is consistent. The construction of the proposed 200-square foot deck is not a permissible action. And this was found inconsistent with the LWRP. The Conservation Advisory Council supports the application however there is a serious runoff problem coming off of the dwelling and down the bluff and there is a pipe coming out of the bluff. The Conservation Advisory Council recommends a ten-foot, non-turf buffer and new section of retaining wall is extended to the property line with the return on the west end and the bulkhead is connected to the adjacent bulkheads. Those are the comments from the LWRP coordinator and Conservation Advisory Council. Anybody else want to speak on this application, for or against is it?

(No response).

TRUSTEE KING: I guess not. We all went out and looked at this. This was really beat up from the last storm we had.

MR. FITZGERALD: Yes.

TRUSTEE KING: I don't think any of us had any real issues. Do you know what that PVC pipe is coming out that is four inches in diameter?

MR. FITZGERALD: No, but I can guess.

TRUSTEE KING: What's your guess?

MR. FITZGERALD: I guess it shouldn't be there.

TRUSTEE KING: Good guess.

MR. FITZGERALD: I mean on no matter what it is, I think we'd all know if it was anything evil it's probably just rainwater but, even so.

TRUSTEE KING: Trying to figure out what the Conservation

Advisory Council is.

TRUSTEE GHOSIO: Derek is here, we could ask him.

MR. BOSSEN: Derek Bossen, from the Conservation Advisory Council. I think they are referring to the bulkhead, the upper retaining wall, that's what they were referring to. Bringing that to the property line to secure that edge from filling in.

MR. FITZGERALD: The overall dimension we give is for the whole thing.

TRUSTEE KING: That would be on the west side of the property.

MR. BOSSEN: Correct.

MR. FITZGERALD: The reason it's the way it is now is because of the tree, in the way of going over. But I think the tree is on its way, so.

TRUSTEE GHOSIO: Thank you.

TRUSTEE KING: The deck was the inconsistency part of it.

TRUSTEE BERGEN: Associated with stairs, can be no more than 32-square feet

TRUSTEE KING: Decks. Decks associated with stairs are limited to 32-square feet.

MR. FITZGERALD: That's intended to be a deck.

TRUSTEE KING: I don't know about anybody else, I don't have a real issue with this deck.

TRUSTEE BERGEN: I don't have an issue but it's what is in the code. And unfortunately --

MR. FITZGERALD: What does the code say?

TRUSTEE BERGEN: Decks associated with stairs are limited to 32-square feet in size. That's what is in the code.

MR. FITZGERALD: That's how you get to decks is with stairs, right?

TRUSTEE GHOSIO: I don't see that as being associated with the stairs. It's between the -- one stair goes to that deck and the other stair goes down to the beach.

MS. HULSE: No, the way the code reads, Bob, is no decks or platforms should be permitted on or near bluffs. Only platforms associated with stairs are not to be larger than 32-square feet. That's the only time you can have a deck or platform.

TRUSTEE GHOSIO: What was -- this is not on the bluff, is it?

MS. HULSE: That's another way to go.

TRUSTEE BREDEMEYER: It's not a bluff. If it's not a bluff, then it's not --

TRUSTEE KING: I would call it a bank. It's not a high bluff.

TRUSTEE BREDEMEYER: It has no point of inflection.

TRUSTEE KING: So it really doesn't apply.

MR. FITZGERALD: That's what I would have thought.

TRUSTEE BREDEMEYER: So that would address the inconsistency. It's not a bluff.

TRUSTEE KING: Yes, it's not a bluff. Anybody else? Any other comments? I didn't have any issues with this project.

TRUSTEE GHOSIO: Me either.

TRUSTEE KING: Are we going to extend that retaining wall to the property line?

MR. FITZGERALD: Yes, Jim, the dimensions I give in the project

description for that wall is for the entire width of the property.

TRUSTEE KING: Okay, it just didn't show it on the plans.

MR. BOSSEN: Jim, the permitter mentioned an issue with the retaining wall that there is a tree that may be needed to be taken down. So that part, if he needs to extend that retaining wall, he may need to take down a tree.

TRUSTEE KING: That's part of the project.

MR. FITZGERALD: Well, it's been a lot of trees that are out of business as a result of this. You can see, well, like that one, so.

TRUSTEE KING: Our field notes --

MR. FITZGERALD: So we want to keep whatever is reasonable to keep.

TRUSTEE KING: Our field notes just stated use untreated lumber on the deck.

The Conservation Advisory Council wanted a ten-foot, non-turf buffer. Where was that. We had it between the retaining wall and the bulkhead. Did they also want a buffer on top of the bank?

MR. BOSSEN: I think that was unclear at the meeting. I think the buffer between the bulkhead and retaining wall is sufficient. And just to, you know, support the, whatever bluff is above the upper retaining wall. Just a vegetated bluff. That's really all.

TRUSTEE GHOSIO: It really doesn't meet the definition of a bluff in the code, so.

MR. BOSSEN: The retained slope above the bulkhead.

TRUSTEE KING: Anybody else? Any comments? Board comments? (No response).

I'll make a motion to close the hearing.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

I'll make a motion to approve the application as submitted.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. FITZGERALD: Thank you.

TRUSTEE BERGEN: Number five, Frank Uellendahl, Architect on behalf of **ALICE MIGNEREY** requests a Wetland Permit to repair the existing steps and landings down to beach, replace handrails and piles. Located: 1480 Paradise Point Rd., Southold.

This was reviewed under the LWRP and found to be exempt. The Conservation Advisory Council supports the application with the condition of drainage plan to address erosion problem in the low spot near the top of the stairs. The Board did go out and looked at this. Is there anybody here to speak on behalf of this application?

MR. UELLEDAHL: My name is Frank Uellendahl on behalf of the applicant Alice Mignerey. The applicant is here, as well.

You looked, it's an existing, it's an old staircase, and with an intermediate landing. At this point it is really unsafe

to really reach the beach without any problems. The handrails are loose, they need to be replaced. The top landing, the step four or five steps landing is not level. I feel that the overall construction of the steps are in good condition but we do need to replace handrails and benches, the decking, the platform and we need to straighten out, in some of those piles, a couple of piles that are loose and I'm suggesting to sister up the piles and stabilize it that way. There is one tree, I don't know if that's part of the cause why the top stringers, top steps, are a little bit out of level. We may have to take the tree down if it continues to press up against the stair. But we are not planning to do this. I think we can save the tree.

TRUSTEE BERGEN: Important to us is this is an application for an application for permit to repair, not replace. Because initially we were concerned with its proximity to the property line. It's essentially right on the property line.

MR. UELLEND AHL: It's very close.

TRUSTEE BERGEN: So since this is just a repair and not replace, that's important to us here tonight.

MR. UELLEND AHL: As I stated in my application, I think it says repair existing stairs.

TRUSTEE BERGEN: Yup. As I said, the Board went and looked at it. We agree, it needs repair work, so we didn't have any problem with it per se. With regard to that tree, though, we are really hoping also, concur with you that tree could remain. And so I just ask you to do what you can to try and keep that tree there, because it helps stabilize that bank.

Is there anybody else here who wishes to speak?

MS. KOLYER: Hi, I'm Andrea Kolyer. We are the adjacent property where the stairs are. I think, if I understand, we bought the property last year. And I think sure the survey that you all were given was a 1993 survey.

TRUSTEE BERGEN: November 3, 1993.

MS. KOLYER: I believe since then, as I understand it from our predecessor, when we went to purchase the property last year and had a survey done, there was like maybe a hodgepodge, quick-fix done, maybe in the last five to eight years, but apparently something went on and now it's actually on our property, it's not on the property line. And it's a defect in title. And when this came up, our predecessor had contacted the Mignerey's and they said that it was dilapidated and when it was becoming repaired they would take it off. It's probably about nine-and-a-half inches into -- and I have our survey for you.

Mr. Mignerey stopped by a month ago to get our address and our E-mails and I'm assuming for the adjacent landowner notice, and when we got this survey it doesn't show our 2010 survey, which shows that platform is on our property by about nine-and-a-half inches. And we just wanted to respectfully request that when the repair happens it's taken off so there is no defect in title.

TRUSTEE BERGEN: Would you be willing to submit to us a copy of the survey you have?

MS. KOLYER: Yes, I brought you a copy. If you need the stamped copy, you are welcome to this. I blew this up to show you. This is the stamped copy and this is an extra. If you need this stamped.

TRUSTEE GHOSIO: This is fine.

MS. KOLYER: It's eight tenths, which is 9.6. They had mentioned that they knew it was on our property last month.

TRUSTEE BERGEN: Bob, what's the date on that survey?

TRUSTEE GHOSIO: It's the one she just handed me, April 6, 2010.

TRUSTEE BERGEN: Thank you.

TRUSTEE GHOSIO: I see, okay.

MS. KOLYER: Not only are the pilings but seat is the problem.

TRUSTEE BERGEN: Just step back to the mic so we can get your comments on the record. If you could repeat that, please.

MS. KOLYER: The pilings and I think there is a seat that is on the landing, and that's hanging over the property.

TRUSTEE BERGEN: Thank you.

MR. UELLEND AHL: May I take a look at the survey, because I was not aware of this.

MS. KOLYER: We thought maybe they just had an old survey.

MR. UELLEND AHL: We only have --

TRUSTEE BERGEN: Here it is blown up and it shows the property line going through the deck.

MR. UELLEND AHL: Well --

MS. MIGNEREY: I'm Alice Mignerey, the owner of the property. So when --

MR. UELLEND AHL: This is the corner of the intermediate landing is point eight feet encroaching onto the neighbor's property.

MS. MIGNEREY: May I see our survey, please? Because this does not agree with our survey.

TRUSTEE BERGEN: Yes, that's correct.

MS. MIGNEREY: And I don't know how we reconcile this. Because when we actually walked this with Frank and our contractor, I mean, I had thought like you did, that it was over. But then I looked at our survey and I noticed that the end of the deck, not the end of the deck, but the bulkhead was significantly away from our property line on that survey. And if I did a line, then we were not --

TRUSTEE KING: This is the survey we have in our file.

MS. KOLYER: Mr. King, I believe between 1993 and 2010 there was a --

MS. MIGNEREY: No, nothing was touched that for at least 20 years.

MR. UELLEND AHL: Visually, I must agree. Visually, if you shoot down the fence and it's a straight line down the property line, the deck does not appear to encroach on the neighbor's property. But this is visual, I mean --

MS. KOLYER: I disagree. I think visually it's clear.

MS. MIGNEREY: If you look at our survey, the distance between the line and this is different. That's the issue. I don't know how to resolve that.

TRUSTEE GHOSIO: On your survey it does show it is in the middle

of a right of way.

MS. MIGNEREY: Yes, these stairs are on a ten-foot right of way. That allows the property on the road to access the beach as part of the deed. It's a deeded right of way.

TRUSTEE BREDEMEYER: This may be a good time of addressing the 32-square foot deck associated with stairs also.

TRUSTEE BERGEN: Well, with this situation, we've had this happen in the past. This isn't the first time that I can recall where we've had property owners having different surveys. And we have a difference between your, the applicant's survey is an older survey, going back to 1993, and the neighbor's survey is more recent. So really we can't act on this tonight. And what we would ask is for the applicant to please have a new survey done, an updated survey done so we could see where this property line is.

MS. MIGNEREY: Okay.

TRUSTEE BERGEN: That's the only way we can go about this. I'm sure you can understand. We can't give a permit out now if there is a question as to what property the structure is on.

TRUSTEE KING: I would suggest the surveyor put a stake on the property line right where that deck is.

TRUSTEE BREDEMEYER: What about the issue of the 32-square foot limitation on decks associated with bluffs and this isn't a bluff --

TRUSTEE KING: It's usually -- this is just being repaired.

TRUSTEE BERGEN: This is just being repaired, it's not being replaced.

TRUSTEE KING: If it's replaced it would have to be downsized.

TRUSTEE BREDEMEYER: I see. So it's a material issue we don't know what property it's on.

MR. UELLEND AHL: If it turns out that in fact the existing condition encroaches on the neighbor's property, we can, obviously, we can slice off a foot to be on the safe side. That would be the fall back situation, I would think.

TRUSTEE KING: Yes, this is not first time I have seen two different surveys.

MS. MIGNEREY: So we'll get a revised survey.

MR. UELLEND AHL: So either revised survey or the owner agrees to make that change?

TRUSTEE BERGEN: We still need to see a revised survey because, again, we have two different surveys showing two different property lines.

MS. KOLYER: May I also mention one other thing, I have a picture. The platform at the top is just kind of sitting on the grass. It's pretty high up from the grass. Is there any way to like level that like everyone else's steps are? You know what I mean?

MR. UELLEND AHL: That's part of the application.

MS. KOLYER: Because I didn't see that on what you sent us.

TRUSTEE KING: Just address the Board. No conversations amongst you guys.

TRUSTEE BERGEN: Are there any other comments?

MS. KOLYER: Do you need to keep those?

TRUSTEE BERGEN: If we could.

TRUSTEE KING: Just the one, this is fine.

TRUSTEE BERGEN: I'll make a motion to table the application.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: Number six, Michael Sirico Home Improvements on behalf of **DEBRA LACHANCE** requests a Wetland Permit to construct/rebuild existing steps to water in-kind; replace existing deck at top of stairs with new 30-square foot deck; and trim vegetation within new step area. Located: 630 Ruch Lane, Greenport.

The LWRP found this to be consistent. The Conservation Advisory Council supports this application. The Trustees did a field inspection and there were no issues observed. The comment was made concerning the possible use of flow-thru decking on the deck. Is anyone here to speak to this application?

MR. SIRICO: Michael Sirico of Michael Sirico Home Improvement. Whatever you want, I'll do. I'll make it real easy. You want flow-thru or I can use natural cedar. I learn. I have been sitting here for two hours. Do we have a natural cedar we can use?

TRUSTEE BREDEMEYER: The flow-thru deck is the open-grate material that allows for marsh to grow.

MR. SIRICO: You want that on the steps to go down?

TRUSTEE DOMINO: On the 30-square foot deck.

MR. SIRICO: Oh, on the deck.

TRUSTEE KING: You can use it on the treads going down, sure.

TRUSTEE GHOSIO: It's very common to use on the stairs as well.

MR. SIRICO: I know. I was just wondering. The previous permit said one or the other and I was not sure what you wanted down. That's all. Thank you.

TRUSTEE DOMINO: Anyone else wish to speak to this application? (No response).

Any Board members?

(No response).

I'll make a motion to close this hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I'll make a motion to approve this application with the stipulation of the open-grate decking on the steps and the 30-square foot deck.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next hearing, number seven, KPC Planning Service, Inc., on behalf of **FHV LLC** requests a Wetland Permit to construct a 4'X 39' dock with a 3'X 12' ramp, 6'X 20' floating dock, three (3) two-pile (12" diameter) float securing dolphins and two (2) two-pile (12" diameter) boat securing dolphins. Located: 1500 Mason Dr., Cutchogue.

The Board visited this application previously and the site, I think that -- that says it all. Former Trustee President Jill Doherty is in the foreground of the picture.

The application is considered inconsistent under the town's LWRP. The several items that they want to see: Length of the vessel, it's located within the critical environmental area, and they recommend a non-disturbance be established to mitigate local impacts on the dock structure. Construction method has not been identified. And there is a question concerning adequate facilities for boat owners and operators and fuel discharge of waste and rubbish. Extension of the dock structure may result in a net increase in public access of underwater land, and assured access to public trust lands, mentions they seek two-and-a-half feet of water depth. And the applicant presently enjoys access of the public water body via an existing dock structure and the extension of the dock is therefore not warranted. Seasonal vessels and mooring may be more appropriate. There is a number of issues to the LWRP determination.

The Conservation Advisory Council report, this had a history of violations. I presume the chairman is discussing with the attorney. Derek, do you have a current on this?

MR. BOSSEN: No. We inspected it in November and at the time we inspected it, it was not staked, so we had no knowledge of what was being proposed at that time. So we had just tabled it and we had never gotten back to inspect it because it didn't come up on our list.

TRUSTEE BREDEMEYER: Okay, thank you. I have your notes here now confirming that. Thank you. Jim, I know the attorney was involved because this had outstanding violations.

TRUSTEE KING: They have not been resolved.

TRUSTEE BREDEMEYER: They have not?

TRUSTEE KING: No.

MS. HULSE: The way we left, as far as I could tell, there was a representation made they were going to submit a revegetation plan for your consideration.

TRUSTEE GHOSIO: Is that in the file?

TRUSTEE BREDEMEYER: I saw only a dock plan here. I started pulling copies for everyone.

TRUSTEE KING: We talked about having the septic system inspected to make sure it was okay to use.

MS. HULSE: That's right.

TRUSTEE BREDEMEYER: At this point I guess I can open the hearing for comments. Is there anyone here who wishes to speak to this application?

MR. TREZZA: Anthony Trezza for KPC Planning on behalf of the applicant. What you say is correct. Gail Wickham just informed me yesterday of what you just said about the revegetation plan, which we are going to prepare and submit to you guys. My understanding, and I had not been privy to the conversations that had been going on between the attorneys, that we might be able to provide some type of, and this I think would coincide

with one of Mark's concerns in the LWRP, is some type of revegetated, non-disturbance, non-fertilization buffer landward of the bulkhead. But again, it just came to my attention yesterday. So we don't have a re-veg plan. But we'll prepare one and submit it.

With respect to the septic system, it's my understanding that it will be inspected, and we'll submit to you the results of this inspection. Um, and my understanding is the next court date is in April. And there was a court date, I think on the 13th, and something happened that, you know, it was pushed off to April. So at this point that's hopefully when it will be resolved. Certainly we'll submit to the Board what was asked.

If I may just, you know, while I'm here, because, and I understand you guys are not going to take an action on this application. That's understood. That being said, I do want to at least address the Board on some of these other concerns that way it's on record and when we do get this resolved we are not taking it steps back and we can move forward with getting this project complete.

So with respect to LWRP as relates to the buffer and in the critical environmental area, what we are going to do is propose one and we'll come up with a planting plan. So we'll address that. With respect to the length of the vessel, I had put on record last time it's 36-foot in length and we will amend the plan to show it on there. But if you do recall, at the last meeting, I gave you guys substantial information, aerial photographs, evidence, showing the requirements and specifications permitted for dock construction under the town's regulations, we overlaid what our proposal was, and even with the vessel part moored there, clearly we are not anywhere near exceeding those requirements and quite frankly are not coming anywhere near navigable waters, which we put on record with the aeriels.

We also put on record an aerial overlay of the adjacent dock because there had been some discussion about possibly redesigning the dock. And frankly, doing so would be a problem for the adjacent dock. It would make it only 54 feet from the dock, if I recall, that that in fact the dock we are proposing coming straight out makes much more sense from a navigation standpoint. And doesn't come out nearly as far as the adjacent dock, I believe, to the west. I have to look at that again. But I would urge you to look at those aerial photographs because I think with respect to Mark's concern, I think that on record addresses that issue. If the Trustees find that a silt boom is necessary, we'll, you know, you can condition the approval on that. We don't have a problem with that.

TRUSTEE BREDEMEYER: I guess a question may come up in the future, too, from those who are more familiar with the dock construction that myself, this is a critical environmental area, should this be a site addressing concerns for the critical environmental area, the poles be driven as opposed to jetted in,

I don't know if that's --

TRUSTEE KING: I'm a little, I think the size of the poles are excessive. 12-inch piles and two pile dolphins is really excessive. I think eight or ten inch, one single eight or ten-inch pile will be more than sufficient. That's my feeling. We seem over the years to be getting away from a lot of the two-pile structures.

TRUSTEE BREDEMEYER: Two piles structures in the creek, sure.

In other words, the method of installation not being material. Going smaller would reduce some of the impacts

MR. TREZZA: Mr. King, if you could repeat in terms of what you said you would like to see. You would want to see smaller size --

TRUSTEE KING: Smaller size piles, eight or ten inch. Single piles.

MR. TREZZA: As opposed to the two.

TRUSTEE KING: Yes.

MR. TREZZA: With respect to the water depth, I don't really think there is a issue. We meet the minimum standard and we actually already have a DEC permit in place for this.

TRUSTEE BREDEMEYER: And you gave us a --

MR. TREZZA: I did give you a copy of that. Oddly the Army Corps and Department of State is taking longer these days. And we got the DEC in three weeks.

TRUSTEE BREDEMEYER: We have soundings on another --

MR. TREZZA: You do have soundings. But, you know, I do want to reiterate the point that, one of Mark's concerns seems to be this impeding navigable waters and I think clearly that we've shown on the survey that's absolutely not the case. We are less than what you are requiring, or specifications are in the code, and we are not coming anywhere near the channel there. So I want to just reiterate that for the record.

TRUSTEE BREDEMEYER: Do you have the site currently staked, at this point?

MR. TREZZA: It was when you guys went out there. I don't know.

TRUSTEE BREDEMEYER: I'm wondering if the Conservation Advisory Council wants to revisit it. Would the Conservation Advisory Council want to go back and revisit this?

MR. BOSSEN: I can't speak for them. But I'm sure we would love to revisit it.

TRUSTEE BREDEMEYER: Since it's going to be a while for the next court date, since the Conservation Advisory Council didn't have an opportunity to see it last time.

MR. TREZZA: I think -- and I understand the Board's position you can't take an action on this. From my perspective, I'm not an attorney, I'm not getting involved in the legal matters, I'll leave that to Gail Wickham, but I think from my perspective, and I heard some of the comments from the Board, changing some of these, you know, design specs, that we are moving in a direction that I could at least get some feedback so I know where we are going. And I think one of the issues is they are trying to remedy a violation in the middle of doing a permit, and they don't always coincide simultaneously. So I think the applicant

would like, you know, to get some feedback from the Board as it relates to the dock permit application itself and certainly we'll go back to the client and recommend, discuss these changes.

TRUSTEE KING: I think taking care of the violation in a timely fashion will move this along a little faster.

MR. TREZZA: I understand. And I don't know why when the 13th came around it was not resolved. But it wasn't. Be that as it may, we'll get it resolved. And I wanted to know if there is any questions.

TRUSTEE BERGEN: I do have a recommendation with the re-vegetation plan. It sounds to me like you were limiting the revegetation to a buffer area. We are going to be interested in a re-vegetation plan for everything within our jurisdiction.

Because it was clearance of lots of trees all within our jurisdiction. So I just want to make sure, again, I'm trying to save you time, if you come in with a revegetation plan that's just a non-turf buffer up front, that's not going to resolve the issue.

MR. TREZZA: Well, two things it will be more than a non-turf buffer because we are going to do a planting in there. We'll plant upland species. And that's fine. With respect to the other clearing matters, I can't speak to that right now only because there is a pending litigation and you don't know what the outcome of that will be. From my understanding and from everything I read, and having discussions with everybody, there seems to be debate among everybody involved about exactly what was cleared, how much was cleared and what the nature of the clearing is. And unfortunately I can't stand here before you and testify to any of that because there is no consensus among anybody exactly what was done. So assuming we get to some resolution for that, we'll address it adequately based on whatever is determined.

TRUSTEE BERGEN: I understand your answer, but we were out there in the field and there was a lot of clearing within our jurisdiction. A whole lot of trees, shrubbery, came down there. So it's something, again, since it has to come back to us, the re-vegetation plan, I'm just suggesting that be included. That's all.

MR. TREZZA: Okay.

TRUSTEE BREDEMEYER: Any additional comments?

(No response).

I guess I have a question. Point of information. Obviously I'll enter a motion to table this application. Do we have to have a re-hearing of this where there is still a substantial number of items that should have to come before the Board?

Question for our attorney. We have a number of items that have to come back here; a revegetation plan, final plan. Should this be re-advertised for another --

MS. HULSE: You can actually close the hearing and reserve decision, if you prefer to do it that way, contingent upon receiving those items as you indicated. Or you can keep it open. Either way.

TRUSTEE GHOSIO: What about -- there is so many changes involved. What I was going to suggest is rescinding this application and re-applying. Because you'll be changing the description, number one. And we'll just waive the fee. Plus you'll submit a planting plan, that will be part of this. I don't know, does

that make sense?

MS. HULSE: If that's what you choose to do, that's fine, too. If the applicant wants to do that.

MR. TREZZA: I can't agree to that one way or the other right now because I want to speak to the other people involved. Because, again, there is this ongoing, as you know, legal matter, and I have to speak to the client. I understand what you are saying.

TRUSTEE BREDEMEYER: We'll close the hearing and reserve decision on the matter.

TRUSTEE BERGEN: For me I would rather just table it because I think we'll need more discussion in a public hearing.

MR. TREZZA: Well, the nature of the application is not changing.

TRUSTEE KING: I think we should just table it.

MR. TREZZA: Because the nature of the application is not changing. There will be modification, as you know, but it's all part of the same application review process. So I don't know that I need to submit a new application. The other side of this, and this has been discussed also, chances are this property will come in for redevelopment at some point. You have been to the property, you know what is out there, it's a tiny, little cottage, and there may be other opportunities to get some of the other matters --

TRUSTEE KING: I would just table this. I think this is a second application that is involved.

TRUSTEE BREDEMEYER: I'll make a motion to table this application.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Thank you, for your candor. Thank you, for the positive discussion. This is helpful. Obviously settling the violation by the president will help move it along. That's what we like to do. Thank you.

TRUSTEE GHOSIO: Number eight, Land Use Ecological Services, Inc., on behalf of **LAWRENCE NIEBLING** requests a Wetland Permit to construct a 4'X 70' timber walkway over an existing deteriorating concrete walkway leading to a proposed 6'X 10' open grate platform with 4'X 15' stairs proposed for beach access; existing stairs with the portion of the concrete walkway to be removed; install 100+/- linear feet of 18-24" stone (500-1000 lb.) on filter fabric along the eroded scarp at the toe of the existing bluff; 50+/- cubic yards of clean sand from an upland source is proposed to cover the stones and restore the bluff slope and planted with beach grass on 12" centers; and all bare areas on the bluff face to be planted with Beach Grass on 12" centers. Located: 10020 Nassau Point Rd., Cutchogue.

The Trustees were out there. We have seen this. The only -- there was only two comments we were curious about: Whether the cedars were going to be left alone; and reducing the size of the platform to meet code. The Conservation Advisory Council was out there and resolved to support the application as it was applied for. And the LWRP coordinator finds it to be consistent with the

LWRP. However the construction of the 6x10 open-grate platform is not consistent with LWRP. It does not find it permissible under 275-11. Is there anybody here who would like to address this application?

MR. HALL: Good evening. Dan Hall, Land Use Ecological Services. Mr. Lawrence Niebling is here with me tonight, and we were aware of these questions the Board had from the previous application reviewed tonight, and we discussed. He agreed to reduce the size of the platform to 4x8, 32-square feet to conform to the Town Code and we would shift it further, a little further to the north to not impact any of the existing cedar trees. We would like them to remain on the bluff to help stabilize it and protect it. I could answer any other questions the Board may have on this application.

TRUSTEE GHOSIO: I think that pretty much covers it. Any other comment from the Board?

(No response).

Any comments from the audience?

(No response).

I'll make a motion to close the hearing.

TRUSTEE DOMINO: I'll second that.

TRUSTEE GHOSIO: All in favor?

(ALL AYES).

MS. HULSE: Reduced platform, is that made part of the resolution

TRUSTEE GHOSIO: I didn't make one yet. I would like to make a motion to approve the application with the change that the platform instead of being 6x10 is being reduced to 4x8 to meet code, which will then bring it into consistency with LWRP. And to move it to the north as much as possible to make it so that it does not damage the vegetation; reduces damage to the vegetation. And provide a revised plan to show the new details.

TRUSTEE BERGEN: I'll second that.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: Number nine, Patricia C. Moore, Esq., on behalf of **JOHN & DANIELLA VENETIS** requests a Wetland Permit to construct a second-story addition to the existing dwelling; construct a trellis over rear deck; construct alterations to the existing dwelling; change windows and siding; remove part of deck in front; and repair/replace sanitary system in front yard, if required. Located: 2600 Takaposha Rd., Southold.

This was found to be consistent with the LWRP. The only note he has was the sanitary system to be replaced is not shown. It was recommended a location be provided on the plan and the location access.

MS. MOORE: May I speak?

TRUSTEE KING: Conservation Advisory Council did not make an inspection. Probably couldn't get down that road.

TRUSTEE BERGEN: No, he got stuck.

MR. BOSSEN: I was going to ask, if we could make a recommendation they fix the road. Actually it was another one of

the members did get stuck and had to get pulled out by one of the police sergeants.

MS. MOORE: I almost got stuck, so I know what you are saying. But it's not my client. Unfortunately, somebody else is under construction and I did actually talk to them and said, hey, you might want to put some dirt in some of those holes, because we'll all have some trouble accessing.

MR. BOSSEN: There was discussion at the Conservation Advisory Council meeting about who owns the road and the condition of the road. I think it's a Town road but because it only provides access to private residences that the residences themselves should get together and improve the road to provide more consistent access for emergency vehicles and other services that the Town provides.

TRUSTEE GHOSIO: Out of curiosity, who was it that got stuck?

MR. BOSSEN: Jack McGreevey.

TRUSTEE KING: Is there anyone here to speak on behalf of or against this application?

MS. MOORE: Yes. Patricia Moore on behalf of the applicant. We actually have the location of the sanitary system. We are waiting for the survey with that location. The existing system is located on the southwest corner of the property. And actually part of our application, it is a working, functioning system, but what we are going to do because we have to go through DEC approval as well, we are going to have the system inspected by Joe Fischetti and raise it if it needs to be raised. We assume it will need to be raised to get sufficient distance, two feet, between the bottom of the leaching pool and ground water. So that's in the process of being obtained right now. We don't need to expand the system because we are not adding bedrooms or anything but we are going to mitigate the condition of the existing system by making sure that it meets standards, so. That's why I said, do repair/replace sanitary system in the front yard if required. Because until it's excavated, we won't know for sure. But the house is used right now so we, that's at the end of the process.

TRUSTEE KING: That was one of our notes was the septic and drywells for roof runoff and hay bales during construction. And it's really not much of a change in the footprint.

MS. MOORE: There is actually no change to the footprint and we are actually reducing the lot coverage by cutting back the deck, a portion of the deck in the front. All in accordance with the Zoning Board previous approval, so.

TRUSTEE KING: Any other comments from anybody? Board comments? (No response).

I'll make a motion to close the hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: I would make a motion to approve the application and maybe we can get a new set of plans showing, after the

sanitary system is done or whatever, have that on a set of plans.

MS. MOORE: Sure, I could provide that, just for your file, as soon as it's completed, no problem.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: Number ten, Patricia C. Moore, Esq., on behalf of **SEVEN CATS INVESTMENTS LLC** requests a Wetland Permit to construct a single-family dwelling, driveway and sanitary system. Located: 2870 Henry's Lane, Peconic.

This was reviewed under the LWRP and found to be consistent. He had several recommendations; one is recommending the existing vegetation 50-foot landward of the wetland line be incorporated and preserved as a perpetual non-disturbance buffer. Make sure that it complies with Chapter 236, the house complies with Chapter 236. And the area is not served by public water, the application of synthetic fertilizer and pesticide with the buffer should be prohibited. Those are his recommendations.

The Conservation Advisory Council cannot make a recommendation because the project was not staked as of February 14th.

The Board did go out and looked at this, and initially we had the same issue, but then we were able to find the old stakes. So we were able to see where it had been staked previously. So is there anybody here to speak on behalf of this application?

MS. MOORE: Patricia Moore on behalf of Greg Johnson, which is the LLC. This actually received approval -- well, backing up a little bit. I think that the project is outside the Board's jurisdiction because the wetland, it's a freshwater wetland area, and when it got DEC approval, all activity had to be 100 feet from the edge of the wetland. From the edge of the freshwater wetland area. The original -- this was -- we got an original permit for this project prior to completion of the whole DEC process and the project, so we came in and got approvals just in case for the proposed project. But in the end, all activity is actually landward of the hundred feet. That is not changing. Since we got your approval first, then the DEC came along, and unfortunately the economy is such that nobody either wanted to buy the property or wanted to build on the property, so we are coming back. There is little more activity now in the marketplace and, um, we wanted to have a current permit in place. So we got the extensions we could and we have to come back with a new permit fee. But it's the same project that was previously approved. Again, I think it's outside your jurisdiction, so you could either determine non-jurisdiction or refer to the fact that it's out of your jurisdiction beyond the hundred feet, however any activity within the hundred feet has to be consistent with this plan, which is hay bales. And the DEC has actually asked us to leave it as a natural area, so.

MS. HULSE: Pat, just to clarify, if you want them to consider

this application, you are conceding jurisdiction. If you want to ask for a letter of non-jurisdiction then can you do that and withdraw your application.

MS. MOORE: Well, I had actually, my application, my letter was for a request for a letter of non-jurisdiction, then you took the money and did a permit. So I didn't know where you guys were coming from and, you know, at this point it's pretty straightforward so, you know, if there is any activity, the hay bales, placing the hay bales, might be considered activity, I don't know that it is.

MS. HULSE: If they are going forward with the hearing tonight then you are conceding jurisdiction. They are treating it as if they have jurisdiction. They are not going to make a decision based on anything outside their jurisdiction. They are not going to say, okay, anything that might be within their jurisdiction they'll decide on. If they have a hearing you are conceding they are having jurisdiction.

MS. MOORE: With all due respect, Lori, I have to disagree. You either have jurisdiction or you don't. And the DEC --

MS. HULSE: I agree with you, that's what I just said.

MS. MOORE: No, no, no. What happens with the DEC when you go for a permit, there may be some activity that --

MS. HULSE: But the Trustees are not going to consider that. They won't consider any prospective activity that might take place in the future. They are considering what is before them tonight.

MS. MOORE: What is before them is no activity within 100 feet of their jurisdiction.

MS. HULSE: So the first thing they need to decide right now is whether there is jurisdiction or not. They are not going to have a hearing and determine there is no jurisdiction.

MS. MOORE: Okay.

No, I take it back. The well. That's why. The well that is being dug is in your jurisdiction. Everything else is out.

TRUSTEE BREDEMEYER: Because the well is close to Autumn Lake.

MS. MOORE: Yes. The well has to be 150 feet from the sanitary. That's the reason. I couldn't find anything else that was in your jurisdiction. I apologize. The well.

TRUSTEE KING: All right, on the first go around, Pat, we had had hay bales up in this corner, too. It's not shown on this new survey. We would like them in the north/northwest corner.

MS. MOORE: I have that survey. We must have taken the wrong one. Pardon me. Let me look.

TRUSTEE KING: Other than that, everything else looks like out of it.

MS. MOORE: Here it is. This is the one, I think this is the one we used for DEC anyway.

TRUSTEE KING: Did you ask DEC for a letter of non-jurisdiction?

MS. MOORE: Yes. Let me look. It might be because the well also. Because it's the same plan. Does that look like the same one?

TRUSTEE KING: Yes.

MS. MOORE: We just pulled out the wrong one. I don't disagree with you. I remember. Do you want this one?

TRUSTEE KING: No, we have this one.

TRUSTEE BERGEN: So there is any objection from the applicant to installing that second --

MS. MOORE: No, we are in the jurisdiction.

TRUSTEE BERGEN: Was there any objection from the applicant with regard to the installation of that second set of hay bales that would be similar to what was approved for previously?

MS. MOORE: No, not at all. It was an inadvertent pulled up the wrong survey.

TRUSTEE KING: I was just curious why DEC is involved.

MS. MOORE: I'll take a look.

TRUSTEE BERGEN: While you are looking for that, Pat, also we did receive an E-mail dated February 15, from an adjoining property owner -- I'm sorry, I don't know that he's an adjoining property owner. 3080 Henry's Lane. And I'll stipulate that we'll enter this entire E-mail into the record. But basically what they were looking for is, first off, this other set of, this other hay bale line that we just discussed. They are also concerned about the amount of fill that is going to be brought in to raise the property so the building can be constructed, because of the potential runoff from the, caused by raising that elevation, the runoff that it would create into Autumn Pond, that would have to be addressed, obviously, under Chapter 236. Another issue they wanted, they called into question was protection of the larger diameter trees. And that was, those were the main points of the E-mail. And it's respectively submitted from Rick and Linda Kennenberg. Again, 3080 Henry's Lane. I just wanted to make sure we had that in the record.

So we realize that the majority of the activity here is non-jurisdictional. So, obviously the project will have to conform with Chapter 236.

MS. MOORE: Yup. We agree. You wanted -- I have an answer regarding the DEC. The DEC, George Hammarth had me, he signed a permit and it was based on this plan. It was actually at their request that we create the hundred foot distance with the -- they wanted some kind of vegetative project limiting fence. They wanted that. And the well, obviously, is within their jurisdiction.

TRUSTEE KING: They drew it in, just as well.

MS. MOORE: Well, because it's freshwater, once the property is within a hundred feet, they'll give you a permit, even though the activity may be outside the hundred feet. But it's unique to the freshwater wetland.

TRUSTEE GHOSIO: Did we have any conditions on this the first time around?

TRUSTEE KING: Just the hay bale line.

TRUSTEE GHOSIO: Nothing to do with the trees?

TRUSTEE KING: I think there was some comments anything over eight inches was to remain. Outside the building envelope. Seems to me that strikes a chord here.

TRUSTEE BERGEN: In the permit that was granted February 27, 2008, permit 6826, it was a condition of a line of staked hay

bales along a 13-foot contour line, installation of gutter, leaders, drywells to address Chapter 236, trees greater than eight inches in diameter outside the building envelope are to remain as depicted on the survey.

TRUSTEE GHOSIO: I would like to see what we had before.

MS. MOORE: He had no problem with the original permit.

TRUSTEE KING: It's just a repeat of what was already approved.

MS. MOORE: The permit should be longer than three years is all I have to say. It takes forever to get through this process.

TRUSTEE BERGEN: There is two one-year extensions. So you have four years total.

MS. MOORE: But the DEC at least gives you five years on the original permit, so that's a good thing.

TRUSTEE BERGEN: If there is no other comments from anybody, I'll make a motion to close this public hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: I'll make a motion on to approve the application of Patricia Moore on behalf of Seven Cats Investments with the condition of a line of staked hay bales along the 13 foot contour line, that the project conform with Chapter 236 and trees greater than eight inches in diameter outside the building envelope are to remain, as per the survey dated February 29, 2008.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: Number 12, Fairweather & Brown Management Corp., on behalf of **ROBERT NELSON** requests a Wetland Permit to construct a 12'X 21'-3" wood frame deck with steps onto the seaward side of the existing dwelling. Located: 2955 Bayshore Rd., Greenport.

The LWRP coordinator found this to be consistent. The CAC could not make a determination because the property was not flagged when they inspected. The Trustees visited the property and notes indicate the need for a drywell for roof runoff. Other than that, there are no comments. Is there anyone here to speak to this application?

MS. MARTIN: Good evening, Aimee Martin of Fairweather & Brown, 205 Bay Avenue in Greenport, representing the Nelson family. I believe the flagging was there. It may not have been seen, it's very small flags, but it has been there for the duration of the ZBA process. We just received ZBA approval for this project on January 19. And it's a very small deck. It's basically access for configuration is to allow the senior member of the family access with his walker to a seating area on the waterside of the house. And just as a note to Lauren, we have not received the, one of the cards back from the Fazbach's (sic), which are the neighbors to the north. I believe they are away but they also had written a letter of support for the ZBA application so I don't believe there should be any problems. We'll supply that when it returns. We had on one of our plans we did have a

drywell on the north side of the house for rainwater runoff and we'll submit a plan with that to you. The decking is to be Azek or similar, so there is nothing pressure treated being used. And we did ask the ZBA to leave the determination we had originally shown, a nine-foot turf buffer, but it's a very small front yard and we were wondering if there could be any, as it is totally flat, if there could be any possibility of lessening that to five or six feet as it's the only area the family has to do summer games or whatever in the front. And the property has been in the family for three generations.

TRUSTEE DOMINO: Is there anyone else to speak to this application?

(No response).

Any further comment from the Board?

(No response).

MS. MARTIN: It's the house where their bulkhead is way behind the neighbors. And also their house. What they are asking for is way behind the neighbors, and the ZBA, at least on our site plan you can see the neighbor's bulkhead line indicated. It's a really small cottage between the two larger properties.

TRUSTEE DOMINO: It's pretty straightforward. Being no further comments, I'll make a motion close this hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I'll make a motion to approve this application with the note that there will be new plans indicating the drywell requested.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MS. MARTIN: Thank you.

TRUSTEE BREDEMEYER: Next hearing, Fairweather & Brown Management Corp., on behalf of **PETER & MARY KORNMAN** requests a Wetland Permit to demolish the existing garage to allow for proper footings and foundation to use exact footprint to create additional two-story living space; replace windows throughout existing dwelling; and construct new front entry addition. Located: 1077 Bay Home Rd., Southold.

The Trustees visited the site. There are, we didn't really have a problem with the addition per se. It seemed very straightforward. We had issues with the deck. I'll get to that shortly. The Conservation Advisory Council had no problem with the application. They supported it. They observed a discharge hose at the edge of the bank, so there may be an old water drain there that we would probably, we would want to have removed. And the project is deemed consistent with the LWRP.

Getting back to the Trustees field inspection, I don't know if it shows up on the photographs, the Trustees viewed the application for the plans, for the garage is very straightforward, but came to an issue with the rebuild of this

deck area, which was previously a permitted structure of the Trustees but for which certain stipulations were given in a prior permit, number 4639, in which the 8x12 sitting area. At that time the Board granted an approval but when it was no longer functional, before it was to be rebuilt, it was supposed to be moved ten feet landward. So those conditions had not been met, so it's in violation of the prior permit. And the decking material, I believe, does not conform with the current standard of -- it's treated deck material. So that, I don't mean this to be a shock to you, but the constable is going to be involved in doing enforcement on this structure because of violating the previous terms of the permit. So consequently as a current application we'll have to table it until the matter concerning the deck can be resolved.

MS. MARTIN: Okay, I do have, the decking was, I have an E-mail from the owner. Basically I would like to read into the record. I have attached a photo of the platform that was displaced by a hurricane in August. As you can see it was sitting on the lawn, having been washed up from the rocks on the bay side. This platform has been installed long before we owned the property and appears on a number of prior surveys and documents. Following the hurricane we intended to simply place the platform back where it had been but then realized that the frame and some of the boards had been damaged as it was washed up on to the lawn. We salvaged some of the portions and replaced the damaged portions and returned the platform to the place it had occupied for years. At this time, the New York State DEC had announced it was waiving permits for homeowners to repair storm damage to their property in order to facilitate quick repairs. I proceeded in reliance on this waiver. It appears I overlooked an additional permit requirement of the Town or Trustees of Southold and I appreciate your conveying my sincere apology. My goal was to clean up the damage from the storm as quickly as possible, and not disregard their rules.

So I have just pictures. And it's not really apropos of what you are saying. Obviously they have done it improperly. But I believe it's a new owner since the original. I mean it's a new owner since the original.

TRUSTEE KING: Who was the other permit, the name?

TRUSTEE BREDEMEYER: The name was issued to Irene Mary Warny.

MS. MARTIN: These owners only purchased the property in 2004.

TRUSTEE KING: So the permit was never transferred to the new owners.

MS. MARTIN: No, so they were not knowledgeable of the stipulations. In fact the property card doesn't even show that permit. The only mention that I saw, I mean there were -- obviously it's on old surveys and whatever, but there was a mention in 1992 house inspection, property inspection, by Gary Fische (sic), that there was accessory deck on the property and that was the only mention in any of the files. So there was not any discovery to discover. And we had nothing to do with the

rebuild. They did it, you know, as a knee jerk reaction to the damage of it being up on the lawn. So if there is any way to remediate that without it becoming -- because I don't believe they had any -- they know they shouldn't have done it without, repaired it without approval, but they didn't know the restrictions, I think.

TRUSTEE BREDEMEYER: I don't think we can do anything but table it at this point. There is no other recourse, is there?

MS. MARTIN: Is there any way to separate this out so they can work on the house that you don't have a problem with? That is the timeline problem that we have right now. I know they'll do what you want remediate this. But they are really anxious to get started on the house.

MS. HULSE: You can do that, if you want.

TRUSTEE BREDEMEYER: So you are representing the owner and we have assurances that they will move expeditiously to comply with what is going on with the deck?

MS. MARTIN: I'll go that far to say that.

TRUSTEE BREDEMEYER: Our attorney has no problem with that, then I guess we will move along.

MS. HULSE: Just for clarification, will you accept service of the summons or will it be a problem reaching the owner?

MS. MARTIN: No, the owners are reachable at their winter address.

MS. HULSE: Which is what, the New York City address?

MS. MARTIN: Yes.

MS. HULSE: That's what I'm saying. Will you accept service on their behalf, because the bay constable can't serve in New York City. Otherwise it will take longer to wait for them to come out here.

MS. MARTIN: I guess I will accept service, then.

MS. HULSE: If you want to confer with them and then call me back.

MS. MARTIN: I would prefer to do that.

MS. HULSE: The only way to expedite this is if the process is done in a quick manner, if the service is made.

MS. MARTIN: I should be able to reach her by E-mail. I know she is in court in Albany, at work. So if I could reach her and get back to you, I'll do that tomorrow and accept, if it's okay with her.

MS. HULSE: That's the only way I could see expediting this, is to move that along.

TRUSTEE BREDEMEYER: Okay, any additional comments on this application?

(No response).

Hearing none, I'll make a motion to close this hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I would make a motion to approve this application as submitted with the stipulation that the permit will not be issued by the office until the matter concerning the deck has been fully remedied to the satisfaction of the legal department.

MS. MARTIN: Thank you.

TRUSTEE DOMINO: I'll second that.

TRUSTEE KING: All in favor?

(All ayes).

MS. STANDISH: I have a question. Full satisfaction of what department?

TRUSTEE BERGEN: Satisfaction of the legal department. In other words, that it be handled.

MS. STANDISH: Okay, thank you.

TRUSTEE BERGEN: Question?

MR. BURGER: Eugene Burger. My application got postponed and I was wondering why and is there any possibility that we could address it?

TRUSTEE BERGEN: Did Suffolk Environmental request a postponement?

MS. STANDISH: No, this Board did.

MS. HULSE: Jim, this has to be done off the record. There is no hearing, you can't have this discussion.

MR. BURGER: I'll wait my turn if it's possible to open it up.

TRUSTEE KING: After the meeting, if you want to talk about it.

MR. BURGER: But we can't discuss it? So you, Jim, you postponed it?

MS. HULSE: There can't be any discussion on this. The hearing is not open, it has not been noticed properly. The conversation can take place outside the hearing. It can't be done during a hearing.

MR. BURGER: When you say it hasn't been noticed properly, the application was not noticed?

MS. HULSE: This discussion -- it's postponed. It was not -- any discussion that takes place can't happen.

TRUSTEE GHOSIO: I'll recommend we take a five-minute break.

TRUSTEE KING: We'll take a five-minute recess.

(After a short recess, these proceedings continue as follows).

TRUSTEE GHOSIO: Number 14, Costello Marine Contracting Corp., on behalf of **WILLIAM & JANICE CLAUDIO** requests a Wetland Permit to construct 250' low-profile 1.5 to 2 ton rock revetment; recover 20-22 cubic yards of eroded sand from in shore end of floating dock assembly; place recovered sand as backfill landward of new rock revetment; and provide a 10' wide non-turf buffer landward and re-vegetate with Cape American beach grass. Located: 2006 Gull Pond Lane, Greenport.

The Trustees went out there and have taken a look, and the only notes I see here is a single row of stone, also a 15-foot non-turf buffer. The Conservation Advisory Council resolved to support the application. And the LWRP coordinator finds it to be consistent with the LWRP and just suggests we require intertidal wetland be avoided and preserved during construction, and if vegetation is taken out is to be replanted onsite after the constructions over. Is there anybody here who would like to address this application?

MR. COSTELLO: Yes. My name is John Costello and we are the agents for William and Janice Claudio.

This project has been reduced from the original. We started this as a continuance of the other project.

I've spoken with both Janice and Bill Claudio. We reduced the project. Originally there was 250 feet of property and Bill only wanted to do what is necessary right now. There are additional footage for both sides, and the next storm it will continue. Janice wants to make sure there is a couple of oak trees that don't get damaged, and there is one that is borderline now. So what we did is reduce it from 250 feet to 174, which is 76 feet less than the original application. But we are going to avoid the wetlands area that is on the south side of the property, which the Board had some concerns about that.

TRUSTEE GHOSIO: So change it from 250 to 174, you said?

MR. COSTELLO: Yes.

TRUSTEE GHOSIO: Is there anybody else who wanted to address this?

TRUSTEE KING: What was the non-turf buffer going to be? It says ten here.

MR. COSTELLO: I thought it was ten. Maybe it was 15 in the application.

TRUSTEE KING: The field notes mention 15 but the CAC recommended ten.

MR. COSTELLO: Well, the other thing, this Board had previously asked the Claudio's at one time to plant native plants in one area, adjacent to the wetlands. And they did. And they have a sprinkler system in there and it's partially surviving, but they'll continue it.

TRUSTEE KING: Doesn't matter to me.

TRUSTEE GHOSIO: Ten foot is fine. Any other comments from the Board?

(No response).

I'll make a motion to close this hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE GHOSIO: I'll make a motion to approve the application as submitted, noting there is a change from 250 feet of low profile to 174 feet of low profile. This is, like I said, consistent with the LWRP.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: Number 15, Costello Marine Contracting Corp., on behalf of **PHILIP & JENNIFER STANTON** requests a Wetland Permit to construct two 4'X 10' dock extensions at offshore end of existing fixed dock and install a 32"X 12' seasonal aluminum ramp onto a 6'X 20' floating dock secured by three 8" diameter anchor pilings. Located: 845 Maple Lane, Southold.

This was an application that was tabled from last month. It was found consistent with the LWRP before. I don't see anything from the CAC on this one. They resolve to support it. They supported the original application.

Anyone here to speak to behalf of or against this application?

MR. COSTELLO: Again, my name is John Costello and we are the agents for Philip and Jennifer Stanton on this application. The last meeting this application was tabled. There was a reluctance of Board members to approve a floating dock on this application, and some of the comments were taken into consideration and what we did, we reduced the "T" on the dock to 20 feet in total, at the suggestion of Mr. King, and we eliminated the floating dock. What we did it is we put a slip on the inside of that, without additional floating structure. And I believe there was no drawings to submit.

TRUSTEE KING: I think you have done what we indicated.

MR. COSTELLO: Yes, what you indicated, with interest.

TRUSTEE KING: Downsized it quite a bit.

MR. COSTELLO: I conferred with the owner and he's willing to pursue the reduction.

TRUSTEE KING: Any other comments from the Board?

(No response).

I'll make a motion to close the hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: I'll make a motion to approve the application based on these new plans we received.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: Number 16, Costello Marine Contracting Corp., on behalf of **JOSEPH & ALEXANDRA CIAMPA** requests a Wetland Permit to remove 92' of existing bulkhead and construct 92' of new bulkhead in-place raising new bulkhead height 1'; existing 5' wide non-turf buffer area landward of new bulkhead to be replaced; dredge an area 25'X 60' to a depth of -3' below mean low water removing 15 cy. of spoil; dredge spoil to be placed landward of new bulkhead as backfill; regrade area; construct a 4'X 4' cantilevered platform off bulkhead; install a 3'X 12' seasonal aluminum ramp onto a 5'X 24' seasonal float secured by two 8" dia. anchor pilings. Located: 330 Knoll Circle, East Marion.

This also was an application the Board considered last month. Just to review, it was found consistent under the LWRP. The CAC supported the application with the condition non-native grasses are removed from the jurisdiction of the Board of Trustees and replaced with native grasses.

Last month, to review, we had considered this application and looked to see if the structure could be amended slightly from its proposed location. By structure, I mean the dock. And that brings us forward to tonight. Is there anybody here to speak on behalf of this application?

MR. COSTELLO: Jack Costello on behalf of the application. I've staked it in both spots, as the Trustees had asked me. I spoke to Jim about it. I don't know if you guys made it back there to

take a look at the stakes.

TRUSTEE BERGEN: Yes, we did.

MR. COSTELLO: Where it was originally staked further offshore, the only comment I really have about it, when I spoke to the DEC about it, they didn't even want to look at it. I was driving around looking at jobs with the DEC and I think I said should we go over to the Ciampa property and take a look at this and he said we have no problem with the application where it is there. And it doesn't seem like it's going to interfere with navigation at all in that area in this creek. It widens out, you know, right where the floating dock will be, and I would like to keep it as originally applied for.

TRUSTEE KING: It didn't seem to be that big a difference.

TRUSTEE BERGEN: No, when we went out and looked at it, I agree. We looked at two stakes, the original location and the proposed alternate location. It didn't seem to be that great a difference at all.

Spring pond, to our understanding, Spring Pond is privately-owned bottoms, and what we wanted to obtain was a letter from the property owners association supporting the application to make sure they didn't have an issue with this.

MR. COSTELLO: Good, he's the president of the property owners association.

TRUSTEE BERGEN: Should be easy to obtain.

TRUSTEE GHOSIO: We'll find out how popular he really is.

TRUSTEE BERGEN: We'll find out what his constituents think of him. So what I'll suggest to the Board is that we can approve this and just not release the permit pending the receipt of a letter from the property owners association supporting the application. Is that okay with the Board?

TRUSTEE KING: We've done this in other applications.

TRUSTEE BERGEN: Okay. Is there anybody else who wants to make any comments for or against this application?

(No response).

Any other comment from the Board?

(No response).

Now, just one other issue regarding the Conservation Advisory Council suggested comments, I think that is a recommendation that we could have the applicant think about, but I would not want to make it a requirement of the permit that all the vegetation within our jurisdiction be changed out to be native versus non-native

MR. BOSSEN: That was something that I noticed when I was at the site that some of the vegetation that will be there is or will be on the Suffolk County invasive species list and will soon be illegal to sell in Suffolk County. That's all. Some of those species are invasive are maiden grass, mix campus, is an invasive species that will be listed soon as invasive species. It actually is listed as invasive.

TRUSTEE BERGEN: I think that would be a good idea to take that back to the applicant just to make them aware.

I'll make a motion to close this public hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: I'll make a motion to approve the application of Costello Marine on behalf of Joseph and Alexandra Ciampa at 330 Knoll Circle, as described, with the condition that the permit will not be released until we receive a letter from the property owners association supporting this, since it is a privately owned bottom, since Spring Pond is a privately owned bottom. That's my motion. And sorry, it was found consistent under the LWRP.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: Number 17, Costello Marine Contracting Corp., on behalf of **MADLINE SCHLAEFER** requests a Wetland Permit to remove existing ladder; remove sufficient portion of existing wood walkway to allow removal of 47' of existing bulkhead; construct 47' of new bulkhead in place; re-install existing ladder; and replace removed walkway in-place as needed.

Located: 100 Knoll Circle, East Marion.

The LWRP coordinator found this to be consistent. The CAC resolved to support this application. Field inspection notes indicate that the Board suggested the walkway be non-treated, the walkway that is replaced to be non-treated wood. And those are the steps to the dock. And space the wood slats to allow good drainage.

Is there anyone here to speak to this application?

MR. COSTELLO: Jack Costello, on behalf of the applicant. The matter of the deck is a discrepancy as to who will pay for it. That's why we chose to just replace it. You know, put it back together as it was. The house is being sold. The owner, the previous owner, is responsible for the bulkhead. So the deck was just going to be go back as is because it was not in the contract between them and the new owner. That's why that was a little bit of a weird thing. But beside that it's just a straight take it out and put a new one back in there, same spot.

TRUSTEE DOMINO: Any further comments from the Board?

(No response).

Anyone else here to speak to this application?

(No response).

If not, I make a motion we close this hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I make a motion we approve this application with the conditions noted.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Next application, number 18, Costello Marine Contracting Corp., on behalf of **JAMES LUHRS** requests a Wetland Permit to construct a 3'X 20' ramp up onto a 3'X 70' fixed catwalk with a 3'X 16' seasonal aluminum ramp onto a 6'X 20' seasonal floating dock secured by two 8" diameter anchor pilings. Located: 1455 Bay Ave., Mattituck.

The Trustees visited the site. The CAC has resolved to support the application. The LWRP has recommended that the proposed action is inconsistent. The concerns surrounding the inconsistency are that the dock does not extend seaward and violate the one-third rule or project into navigable waters. Concerns concerning the expected draft of a vessel at the proposed dock. The probability there are valuable shellfish resources in the vicinity of the dock; construction method was not, has not been identified. And concerns surrounding the placement of a private dock on public trust lands.

The Trustees visited the site. They see the remains of a pre-existing dock, I don't see any evidence of a prior permit, that is probably ancient. The Board did look to see that this particular dock doesn't go more than a third of the way out and I don't believe any member of the Board had a problem with the extension. It was staked and there is a seaward extension appeared to be no further seaward than the neighboring structure. So seemingly the review that came out of LWRP was not grounded in truth so that it doesn't seem to comport with what we saw in the field. Is there anyone here who wishes to speak to this application?

MR. COSTELLO: Jack Costello, on behalf of applicant. I put the stake in out there. It's well within the pier line you would like to establish. And as it is applied for it's only three-foot wide, to keep it to a minimum. The applicant wanted to keep things low profile so it doesn't really stick out. Two piles to hold the float; we tried to keep the structure to a minimum right from the beginning. It seems pretty simple.

TRUSTEE BREDEMEYER: Right. I think we were thinking open-grate would probably be appropriate in this location. Over the vegetated wetlands because it's a pretty extensive Spartina. It's a very healthy Spartina fringe. And I guess there was a question, the starting point, as starting the same as the original dock, there is a lot of wetland that is landward of that, at least based on the diagram and where the existing timbers were out in the field. It seems it might be more user friendly for the owner to have more in the way of decking or open decking going landward. It seemed as if the dock would have them traversing through probably flooded at high tide Spartina to get to the decking.

MR. COSTELLO: It seems there was a little bit of berm there, where the stake was, at the beginning of the dock. You know, when we laid it all out, I don't think it would be, I mean, because the stake is way inshore of that. The structure, the dock, is coming inshore. There was a stake there.

TRUSTEE BREDEMEYER: We missed that stake because --

MR. COSTELLO: Well, it was there, and, you know, it was, it had two stakes in the beginning and end. But, yes, we come just above, just past.

TRUSTEE BREDEMEYER: Maybe that stake had been damaged.

TRUSTEE BERGEN: Because we looked and it appeared as though exactly what John just said, that the structure was going to appear well into the high marsh area. So we missed that stake.

MR. COSTELLO: Yes, it comes inshore of that, considerably. It should be on the diagram.

TRUSTEE BREDEMEYER: Yes. The concerns seem to be met as far as narrower width would seem to address some of the inconsistency and certainly open grading would help deal with that. Navigable issues. Do any of the Trustee members have additional guidance or thoughts concerning meeting consistency on this with respect to this application? It's such a standard dock application.

MR. COSTELLO: On detail six of six it shows open-grate decking on the dock.

TRUSTEE BREDEMEYER: Sorry, it does. Okay. Thank you. Now, if we lower the dock, does it make it more difficult for shellfishers to get underneath it? I'm not that familiar with the shellfish resource in the upper reaches of James or even if it's currently open.

TRUSTEE BERGEN: Is there an opportunity, Jack, here to -- I'm looking at the cross-section, to lower the elevation down slightly and combine with the open-grating that would then address the inconsistency of the LWRP.

MR. COSTELLO: That's fine.

TRUSTEE BERGEN: Do you have a suggested elevation there?

MR. COSTELLO: I would like it to be at least 24 inches above high tide. With the top of the dock. And as far as the adjustment on that ramp, I'm not, I'm not sure if that's 100%, you know, accurate. I'm re-shooting it. But I need to be at least, you know, two feet above high water.

TRUSTEE BREDEMEYER: Okay, any additional comments?  
(No response).

Hearing none, I'll make a motion to close the hearing in this matter.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I'll make a motion to approve this application with open-grate decking and as submitted three foot in width with elevation to be two feet above mean high water. That's it. And in so doing we are addressing the LWRP concerns. The dock is in fact well within the one-third and actually less than the neighboring docks as far as impeding navigation or access to the waters.

TRUSTEE KING: And it's narrower.

TRUSTEE BREDEMEYER: And it's narrower than the standard dock there. So moved.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: Number 19, En-Consultants, Inc., on behalf of **HESS LIFETIME QTIP TRUST** requests a Wetland Permit to remove and replace in-kind, in-place and 8" higher approx. 89 linear feet of timber retaining wall; backfill with approx. 15 cubic yards of sandy fill; and replant with native vegetation approx. 15' wide embankment to be maintained as a 15' wide non-turf buffer. Located: 6242 Peconic Bay Blvd., Laurel.

This was found to be exempt from the LWRP. The CAC resolved to support the application.

MR. HERMAN: Rob Herman, En-Consultants, on behalf of the applicant. It's a very routine application to replace the portion of retaining wall behind the primary bulkhead that has not been previously replaced. So it's only a section of it. And the existing vegetation on the bank behind it between the retaining wall and the lawn would be revegetated and continue to be maintained as a vegetated non-turf buffer that is about 15-feet wide across the whole property.

TRUSTEE KING: One other thing from the CAC. Cedar trees at the top of the bluff are to be maintained and non-functional groin is removed. I don't think we'll be addressing anything out in that bulkhead area as far as the groin goes.

MR. HERMAN: No, there is no work out in the water.

TRUSTEE KING: I went out and looked at this. I didn't have any issues with it. I would suggest that they stop mowing so close to the top of the bank. They are mowing down over the top, a little bit over the crest. If they back that mowing up three or four feet, they would help themselves.

MR. HERMAN: That's what we show as the buffer to be established is right up to the top of the bank. So if they do what is on the plan, that will get resolved. I know what you mean, it's right on the lip. I don't know how they mow it.

TRUSTEE KING: It's starting to slough off a little bit.

MR. HERMAN: Yes. It's supposed to be re-vegetated back to the top of the bank, so.

TRUSTEE KING: Right. Other than that it's pretty straightforward. Anybody else? Any comments?

(No response).

Board?

TRUSTEE GHOSIO: I'm just curious what the Q-Tip means.

MR. HERMAN: I don't know. He's a retired dentist, but I don't know that.

TRUSTEE KING: Hearing no other comments, I'll make a motion to close the hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: I'll make a motion to approve the application as submitted.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: What we'll do is open 20 and 21 together, if it's okay with the applicant.

MR. HERMAN: Yes, it's the same project. All part of one project.

TRUSTEE BERGEN: Okay, number 20, En-Consultants on behalf of

**PATRICIA TERRY** requests a Wetland Permit to construct approx. 47 linear feet of vinyl bulkhead in place of existing timber bulkhead and backfill and renourish storm scour with approx. 40 cubic yards of sandy fill to be trucked in from an upland source and planted with native vegetation to restore vegetated slope behind bulkhead. Located: 400 West Lake Dr., Southold.

And number 21, En-Consultants on behalf of **PATRICIA TERRY, ET.AL**, requests a Wetland Permit to construct approx. 50 linear feet of vinyl bulkhead in place of existing timber bulkhead and backfill and renourish storm scour with approx. 40 cubic yards of sandy fill to be trucked in from an upland source and planted with native vegetation to restore vegetated slope behind bulkhead. Located: 500 West Lake Dr., Southold.

We did, the Board did go out and looked at these properties. It was reviewed under the LWRP and found to be consistent. The CAC resolved to support the application with the condition of a ten-foot non-turf buffer and that the storm water runoff ask retained on the property, and the western return is at least ten-feet deep or connected to the adjoining bulkhead.

Now I know, I'm looking at the comments from the Trustees and one comment that we have here, is there an opportunity here to raise this bulkhead up so it's at the same height as the adjoining neighbors' bulkhead. But also, you know, I'm noting on the plans on the western side that this bulkhead appears not to connect to the neighbor's bulkhead but in fact looks like on this survey it's about a foot there of open space. So is there somebody here who would like to speak with regard to this application?

MR. HERMAN: Yes. Rob Herman of En-Consultants, on behalf of the applicants. These are two single and separate properties, which is the reason for the two applications. One is the developed parcel with the house on it and the other is the vacant lot adjacent to it. Yes, there is a little something strange on the west side and that's why I should note that actually the, I think the lengths that are noticed on the agenda are 50 feet for the one and 47 for the other. It should be 50 for both. On the westerly of the two lots, which is the number 400 West Lake, which is the house. We are, sorry, as Dave just described, there is a little return on the Terry bulkhead that seems to fall short of the longer north/south return along the westerly property that is the Carroll property to the west. So what we are proposing is to simply tie in the Terry wall directly into that corner. So I think I heard a CAC comment about a westerly return, but there would not be a westerly return. We would

simply type into the bulkhead and return to the west.

And on the east side it's basically the same situation, there is a more recently replaced bulkhead on that side along the return and we would just tie into that corner. So it would be about 50 feet, 50 linear feet of replacement bulkhead for both parcels, with tie-ins to the adjacent properties on either side of those two pieces.

I think if the Board wanted to allow, is it about a foot, Dave, that is higher, if the Board wanted to allow the wall to be moved up a foot, I'm sure they would not object to that. But you would also have to probably just allow for some amendment to the backfill volume as well. But otherwise, that's fine. And I'll have Dave note that the flagpole is located on the plans.

TRUSTEE BERGEN: But it's not in the description.

MR. HERMAN: No, because we are not doing anything with it. It's actually out of the worksite. That's really it. The ten-foot buffer, you know, it's not, I don't think there is -- it's fairly standard for property for this size.

TRUSTEE BERGEN: So a ten-foot non-turf buffer at the top of slope. What it says in the description is approximately 20-foot wide slope to be restored as a non-turf buffer.

MR. HERMAN: That's correct. It's about, what is it to the top. Is it 20? Yes, that's right. So it's actually, it's really a 20-foot buffer area behind the bulkhead.

TRUSTEE BERGEN: So is the CAC okay with that? Because I'm confused with the CAC's recommendation of a ten-foot non-turf when there is already a 20-foot non-turf buffer here proposed.

MR. BOSSEN: The CAC's concern, like in the previous one, where the homeowner winds up mowing across the crest of the slope. And we are trying to maintain that from happening. So if he wants to reduced to a smaller, instead of having maybe 22 foot, so it prevents the homeowner from mowing across the crest of the slope is really the concern of the CAC.

MR. HERMAN: I think we would do the same thing here that we do with all similar applications is just to say that the slope itself has to remain as a non-turf buffer. There is actually not all that much lawn between the top of the bank and the house here. So we would just want to be consistent with how the Board usually does these things.

TRUSTEE KING: It's 20 feet, too.

MR. HERMAN: Keep in mind, if that bulkhead goes up a foot, there will be less of a slope. But we would still have that, keep that area vegetated naturally.

TRUSTEE BERGEN: Any other comments?

(No response).

MR. HERMAN: Dave, that's in the notes. I think I have in the notes for 20 foot.

TRUSTEE BERGEN: Yes, you do. Hearing no other comments, I'll make a motion to close the public hearings of number 20 and 21, En-Consultants on behalf of Patricia Terry and Patricia Terry et al.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: Taking one at a time, I'll make a motion to approve number 20, En-Consultants on behalf of Patricia Terry at 400 West Lake Drive, with the notation that this will be a replacement of approximately 50 feet of vinyl bulkhead rather than 47 foot in the, what was applied for, description. And with the condition that this bulkhead is going to be raised approximately one foot to match the neighbor's bulkhead. And it will tie in with the neighbor's bulkhead to the west Carroll bulkhead. And that the condition that the amount of sandy fill to be trucked in will be adjusted appropriately to match this one-foot rise in the bulkhead. And that this is, as per the plans dated 1/27/12 that shows a 20-foot non-turf buffer. And this is consistent with the LWRP.

MS. HULSE: Non-turf buffer is a condition of the permit?

TRUSTEE BERGEN: Yes.

MR. HERMAN: Excuse me, Dave, would you, do you want us to -- sorry, you are not done?

TRUSTEE BERGEN: No, have a motion.

MR. HERMAN: Sorry.

TRUSTEE DOMINO: I'll second it.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: Now, I'll make a motion with regard to number 21, En-Consultants on behalf of Patricia Terry et al, at 500 West Lake Drive, as described, with the condition that this bulkhead will be raised approximately one foot to match the bulkhead on the adjoining properties to both the east and west. And that the volume of sand to be trucked in will be adjusted accordingly, as required by this raising the bulkhead, and this will include the 20-foot wide slope to be maintained as a non-turf buffer as per the plans dated 1/27/12. And it has been found consistent under the LWRP.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. HERMAN: I didn't want to mess with the motions. Did you want us to actually give you revised plans or are you just going to write them into the permits --

TRUSTEE BERGEN: Yes, if you could give us revised plans, since we are adjusting the height of the bulkhead, and also we are extending it there on the one side to match the Carroll property.

MR. HERMAN: Okay. Well, that is in the plan, that little extension. That's on the plan already, it was just wrong in the description. So I think you fixed that. So I just have to deal with the height. Thank you, all.

TRUSTEE KING: I'll make a motion to adjourn.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

Respectfully submitted by,

James F. King, President  
Board of Trustees