

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY**

Regular Meeting – March 2, 2011

*******Draft Document subject to Commission Approval*******

CALL TO ORDER: Chairman Ceppetelli called the Meeting to order at 7:02 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

Present: Regular Members Michael Ceppetelli (Chairman), Michael Koczera, John Malin, Ronald Savaria, Michael Sawka, Robert Slate, and Alternate Members Alan Baker, and Kathryn Roloff.

Unable to Attend: Regular Member Richard Osborn, and Alternate Member Ronald Hocutt,

Guests: Selectman Richard (Inland/Wetlands Liaison), and Selectman Burnham; Kathy Pippin, Board of Finance.

Chairman Ceppetelli noted the establishment of a quorum with eight members – 6 Regular and two Alternate Members as noted above. All Regular members will sit in on votes this evening. Alternate Members will serve in rotation as noted at each Agenda Item.

Also in attendance was Wetlands Agent/Zoning Enforcement Officer Robin Newton.

AGENDA ADDITIONS:

MOTION: To ADD the following Agenda Additions under **NEW APPLICATIONS TO BE RECEIVED:** #02-2011 – Town of East Windsor & KROS East Windsor, LLC – Mitigation Measures Project – Reservoir ~~Road~~ Avenue (Kogut Farm). This property is located on the south side of Reservoir ~~Road~~ Avenue, nearest intersection being Windsorville Road. Assessor's Map #078, Block #57, Lot #001. Total Parcel is 152 acres. (65 day application period ends May 4, 2001), AND, #03-2011 – ~~Kros~~ KROS East Windsor, LLC/Prospect Hill Management, LLC – Construction of Commercial/Retail Facility with associated parking and utility infrastructure located at 44 & 54 Prospect Hill Road. This property is located on the east side of Prospect Hill Road nearest intersection being Newberry Road. (65-day application period ends May 4, 2011).

Slate moved/Savaria seconded/VOTE: In Favor: Unanimous

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APPROVAL OF MINUTES – January 5, 2011

(Please note: The time the Meeting was called to Order (7:13 p.m.) is correct as a presentation by David Aschew, Executive Director of the North Central Conservation District preceded the meeting)

MOTION: To APPROVE the Minutes of Regular Meeting dated January 5, 2011 with the following amendments:

Page 7, NEW BUSINESS/1. Town of East Windsor – 28 Abbe Road, Line #285:

“Mr. Steel referenced the skating pond plan, noting ~~details~~ DETAILS of the.....”

Page 8, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #332: “~~has~~ HAVE submitted a Letter of Transmittal.....”

Page 8, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #346: “Attorney Brooks indicated she is just “~~emeing~~” EMCEEING the discussion.”

Page 9, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #391: “the ~~tops~~ TOP soil.....”

Page 10, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #408: “....She indicated the ACOE and EPA were at the ~~at~~ site visit on ~~11/19th~~ NOVEMBER 19TH.”

Page 10, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #418: “Brooks reported that because removing material and regrading it ~~did~~ WOULD cause the pond to be”

Page 10, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #435: “Wetlands Agent Newton reminded EVERYONE this issue is in litigation.....”

Page 10, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #450: “....Commission isn’t to consider them? Rachel Dearborn suggested they would like THE.....”

Page 11, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #480: “.....over 18” THAT went back in.....”

Page 12, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #502: “.....reported the 120’ of road was REMOVED....”

Page 12, MISCELLANEOUS/1. Information received from Newberry Road Enterprises, LLC, Line #528: “Dearborn questioned if they can ~~we~~.....”

Page 13, AGENT DECISIONS/1. 01-2011 – Windsor Show Stables, 33 Abbe Road, Line 562: “.....for an agent decision to connect to the sanitary sewer located in the 150’ upland review AREA.”

Savaria moved/Baker seconded/VOTE: In Favor: Unanimous

NEW BUSINESS/1. Town of East Windsor – 28 Abbe Road – Application for construction of an ice skating pond and hiking trails in a regulated area. This property is located on the south side of Abbe Road nearest intersection being South

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Main Street. Assessor's Map #39, Block #23, Lot #8. Total parcel is 37 acres:

LET THE RECORD SHOW Alternate Commissioner Roloff joined the Regular Members regarding action on this Application.

Appearing to discuss this Application was Jay Ussery, of J. R. Russo & Associates, LLC, representing the Applicant. Also available in the audience was Selectman Burnham.

Mr. Ussery indicated there have been changes made to the control structure so it will match the existing drainage ditch which is being crossed. He felt the Commission's question as to how much water will flow through the control structure had been answered by Dana Steel at the previous Meeting.

Chairman Ceppetelli suggested the Commission was also looking for a schedule as to when the damming mechanism will be added to, and removed from, the control structure. He indicated the dates suggested from the previous Minutes were November 1st for installation, and April 15th for removal. Mr. Ussery indicated he can add the dates to the plan. With regard to the removal date he noted the first day of fishing is the third Saturday in April, and several fishing derbies are held. He noted there has been some discussion that this pond could be used for fishing; he suggested the removal date be moved to after the first day of fishing. Commissioner Malin noted the Broad Brook Angling Club holds an annual fishing derby for kids in Broad Brook. Mr. Ussery then suggested they would retain the April 15th removal date.

Chairman Ceppetelli recalled there was some talk that the material which is being removed from digging out the pond would be placed along the spillway; he questioned if that is still the intent? Mr. Ussery felt there was a suggestion to place some fill adjacent to either side of the control structure but he didn't feel that was necessary; some of the material may be used along the walking trails. Chairman Ceppetelli suggested the people working along those trails need to be advised where the wetlands are located. Mr. Ussery indicated the wetlands have been flagged, and marked with medallions, by Mike Granolati; the wetlands are permanently marked. Wetlands Agent Newton noted she will do a pre-construction meeting with whomever will be working on the project.

MOTION: To APPROVE the Application of Town of East Windsor – 28 Abbe Road for construction of an ice skating pond and hiking trails in a regulated area. This property is located on the south side of Abbe Road nearest intersection being South Main Street. Assessor's Map #39, Block #23, Lot #8. Total parcel is 37 acres.

Savaria moved/Slate seconded/

VOTE: In Favor: Ceppetelli/Koczera/Malin/Savaria/Sawka/Slate/Roloff

NEW APPLICATIONS TO BE RECEIVED/1. #02-2011 – Town of East Windsor & KROS East Windsor, LLC – Mitigation Measures Project – Reservoir Road

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Avenue (Kogut Farm). This property is located on the south side of Reservoir Road Avenue, nearest intersection being Windsorville Road. Assessor's Map #078, Block #57, Lot #001. Total Parcel is 152 acres. (65 day application period ends May 4, 2001), AND, 2. #03-2011 – ~~Kros~~ KROS East Windsor, LLC/Prospect Hill Management, LLC – Construction of Commercial/Retail Facility with associated parking and utility infrastructure located at 44 & 54 Prospect Hill Road. This property is located on the east side of Prospect Hill Road nearest intersection being Newberry Road. (65-day application period ends May 4, 2011).

LET THE RECORD SHOW Alternate Commissioner Baker joined the Regular Commissioners on the Receipt of New Applications.

Wetlands Agent Newton suggested many of the Commissioners may be familiar with Eric Spungin and his partners – KROS East Windsor, LLC – who have been working for a couple of years to do a mitigation project for wetlands they propose to fill on a parcel at Prospect Hill Road. The Applications are now before the Commission for receipt; the Commission needs to decide if they would like to hold a Public Hearing on one, or both, of the Applications. The reasons for considering a Public Hearing are as follows: 1) significant activity, 2) the filing of a petition containing 25 signatures, and 3) that the applications are of significant public interest. Wetlands Agent Newton noted the Applicants are filling 2.5 acres of wetlands on the Prospect Hill Road property, and mitigating another 2.5 acres on the Kogut property.

The Commissioners expressed the following opinions: Commissioner Savaria indicated he wanted a Public Hearing, especially because we are trading the ability to fill on the Applicant's property for mitigation on a Town property. Commissioner Savaria did feel this is a good project. Commissioner Baker concurred with Commissioner Savaria; he felt people should have the opportunity to know where the Commission is coming from. Commissioner Baker also felt it was a good project. Commissioner Koczera felt the proposal is a great idea; he also favored a Public Hearing. Commissioner Roloff agreed but wanted a Public Hearing, especially because the mitigation deals with the East Windsor Park.

Wetlands Agent Newton recommended the Commission schedule a Public Hearing for the next Meeting. She noted the Applications have been submitted separately to keep separate timeframes for each project. As an example, they might be able to start the mitigation project on the Town property right away, but the Applicant might want to start the development project later in the Fall.

MOTION: To ACKNOWLEDGE RECEIPT of, and HOLD A PUBLIC HEARING ON, the following Applications: 1. #02-2011 – Town of East Windsor & KROS East Windsor, LLC – Mitigation Measures Project – Reservoir Road Avenue (Kogut Farm). This property is located on the south side of Reservoir Road Avenue, nearest intersection being Windsorville Road. Assessor's Map #078, Block

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#57, Lot #001. Total Parcel is 152 acres. (65 day application period ends May 4, 2001), AND, 2. #03-2011 – ~~Kros~~ KROS East Windsor, LLC/Prospect Hill Management, LLC – Construction of Commercial/Retail Facility with associated parking and utility infrastructure located at 44 & 54 Prospect Hill Road. This property is located on the east side of Prospect Hill Road nearest intersection being Newberry Road. (65-day application period ends May 4, 2011). *PUBLIC HEARING TO BE HELD ON THE COMMISSION’S REGULARLY SCHEDULED MEETING ON APRIL 6, 2011 AT 7:00 P.M. IN THE TOWN HALL MEETING ROOM, 11 RYE STREET, BROAD BROOK, CT.*

Savaria moved/Slate seconded/

VOTE: In Favor: Ceppetelli/Koczera/Malin/Savaria/Sawka/Slate/Baker

MISCELLANEOUS/1. Fee Schedule-Discussion of possible changes to fee structure:

Wetlands Agent Newton advised the Commission Connecticut General Statutes (CGS) allow the Commission to charge a fee to cover the reasonable cost of reviewing an application. She has reviewed the current fee schedule and found it to be fine in most areas but one section is astronomically out of whack with fees charged in surrounding towns. Under Schedule A the charge is \$40/1000 square feet of disturbance in an upland review area; other towns address those fees differently.

Wetlands Agent Newton referenced a comparison prepared for the Commission; the assessment compares the fees charged in East Windsor with charges which would have been charged in several towns comparable to, and in close proximity to, East Windsor. Wetlands Agent Newton referenced “Application D” – a commercial application - which included 313,000 square feet of disturbance in the Upland Review Area (URA). Under the current fee schedule a wetlands fee of \$12,000+ was charged for disturbance in the URA. She noted the total fee comparison to the fee which would have been charged in the 5 comparable towns; the fee charged in East Windsor was significantly higher. Wetlands Agent Newton noted the fee schedule does allow a waiver provision which allows money to be returned to an applicant, but it’s never been used. She suggested it would be more reasonable to make the fees more reasonable/competitive up front.

Wetlands Agent Newton then gave examples of application review time, noting she is currently reviewing a large scale project for which she has spent 2 hours to date. She suggested there is nothing unique in the application, even though it’s for a large scale project. The fee being charged for that project is excessive as well.

Chairman Ceppetelli then referenced the time being spent on the Newberry Road project; Wetlands Agent Newton noted that review process involves issues other than an application review. Chairman Ceppetelli felt if every project is unique, and the commercial projects are larger they should require more review. He felt it was somewhat

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the cost of doing business in East Windsor. He suggested that perhaps in the case of the current project the Commission has the ability to reduce some of the fees but he didn't feel the Commission had the ability to go back to fees charged in the past.

Commissioner Baker suggested he applied the mill rate for each of the towns in the comparison and then compared the fees. Tolland has the highest mill rate and the lowest fees. Commissioner Baker felt it was a question of who do you want to pay the fee – do you want it to be the people of East Windsor or the developer? He felt if some of the fees are out of line then perhaps those should be reviewed. Wetlands Agent Newton clarified that the towns chosen for the comparison are towns considered comparable/similar to East Windsor based on CRCOG's comparable town report. She reiterated that there is one section out of the entire current fee schedule which is out of line.

Chairman Ceppetelli suggested it affects specific applicants – commercial applicants; it doesn't affect you if you're not impacting large amounts of impervious coverage.

Commissioner Koczera felt the comparison of time used for review couldn't be used; Wetlands Agent Newton is on salary and receives no overtime if she works longer. He felt the Commission should encourage business to come to East Windsor; he realized the town does have a lot of wetlands but we should still be business friendly.

Commissioner Baker felt the town was putting out the welcome mat to businesses by expanding the sewer but those revenues pay for those business. Tolland and Ellington's Grand Lists haven't been reduced; he suggested Tolland has no more business than East Windsor.

Chairman Ceppetelli suggested that rather than taxes the revenue pays for Wetlands Agent Newton's time. He questioned if the applicants were complaining; why not have the applicant pay for this? Commissioner Koczera questioned why we should put an excessive burden on these people? Commissioner Roloff referenced the comparison sheet; she pointed that the \$15,000 total fee (for "Application D", actual fee \$17,000+) was above the nearest town. She felt it was extraordinarily high compared to the other towns. Chairman Ceppetelli suggested we've had complicated applications; Wetlands Agent Newton noted the fee schedule includes a Complex Application Fee which can be charged for excessive review time. She again referenced "Application D" – noting she wasn't employed when that fee was charged – but noted that based on the CGS this is one area that could be adjusted. Other towns have a pro-rated schedule – rate "A" is charged for less than 1000 square feet of disturbance, rate "B" is charged for 1000 square feet to 5000 square feet of disturbance, rate "C" is charged for over 5000 square feet of disturbance. Wetlands Agent Newton felt that schedule was a little more fair; she requested the Commission think about that.

Chairman Ceppetelli suggested the \$17000 fee for "Application D" was \$17,000 out of a multi-million development. Wetlands Agent Newton reported that neither applicant

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complained but these are application fees, not profit-making ventures. The new applicant coming through will generate an annual tax fee on a 200,000 square foot building; their fee seems to be excessive based on the plans she has before her. Wetlands Agent Newton suggested that application should be considered for a reduction. Chairman Ceppetelli again sited another wetlands issue involving considerable review time; Wetlands Agent Newton clarified that work involves a violation issue.

Chairman Ceppetelli stated he did like the pro-rated fee schedule.

Commissioner Slate noted the URA being considered is 150' in East Windsor; he questioned what that distance was in other towns? Wetlands Agent Newton suggested Suffield is 75'; she wasn't sure of the distance in Windsor Locks. Commissioner Slate suggested a compromise. He suggested not changing the 150' URA but to apply the fee to 75' or an average of the areas in the other towns.

Commissioner Savaria felt when we have a Public Hearing we are allowing them to eliminate the URA, "then it should be something different." Wetlands Agent Newton suggested that's where you're not looking at that application from a wetlands impact because the wetlands are filled; you should be looking at it from a mitigation standpoint.

Wetlands Agent Newton noted the money charged from the wetlands fees doesn't go into the Wetlands budget; it goes into the General Fund. She suggested she liked Commissioner Slate's suggestion; she'll work up a fee section based on a sliding scale and return to the Commission with the results.

AGENT DECISIONS: None.

STATUS REPORTS: None.

CONFERENCES/SEMINARS/TRAINING:

- Wetlands Agent Certification 3-part program begins in March; no money is available via the town. Commissioners Baker, Roloff, Savaria, and Slate expressed interest in attending.

CORRESPONDENCE/1. Correspondence dated February 1, 2011 from Newberry Road Enterprises, LLC:

The Commission acknowledged receipt of letter dated February 1, 2011 from Newberry Road Enterprises, LLC.

GENERAL BOARD DISCUSSION/1. Conservation Easements:

Wetlands Agent Newton reviewed the last round of revisions with the Commissioners. A final draft will be offered to the Commission for further review.

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Commissioner Koczera questioned if a Conservation Easement can be removed? If, in 50 years, there is no more land left and someone wants to build can the easements be changed? Wetlands Agent Newton suggested they can be removed if the land is taken by eminent domain.

EXECUTIVE SESSION/1. Pending Litigation:

MOTION: TO GO INTO EXECUTIVE SESSION AT 7:55 P.M. Attending were Chairman Ceppetelli, Commissioners Koczera, Malin, Savaria, Sawka, Slate, Baker and Roloff; Wetlands Agent Newton, and Recording Secretary Hoffman.

Savaria moved/Slate seconded/VOTE: In Favor: Unanimous

MOTION: To COME OUT OF EXECUTIVE SESSION AT 8:15 P.M.

Savaria moved/Slate seconded/VOTE: In Favor: Unanimous

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:15 p.m.

Sawka moved/Savaria seconded/VOTE: In Favor: Unanimous

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(2974)