

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

**Regular Meeting – January 4, 2012**

**\*\*\*\*Draft Document – Subject to Commission Review\*\*\*\***

**CALL TO ORDER:** Chairman Savaria called the Meeting to order at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

**ESTABLISHMENT OF QUORUM:**

**Present:** Regular Members Ron Savaria (Chairman), Michael Koczera, John Malin, Richard Osborn, Michael Sawka, Robert Slate, and Alternate Member Kathryn Roloff.

**Unable to Attend:** All Regular and Alternate Members were present.

**Guests:** Selectman Baker.

Chairman Savaria noted the establishment of a quorum with 6 Regular and 1 Alternate Member as noted above. All Regular members will sit in on votes this evening. If, for any reason, a Regular Member must step down from service, Alternate Member Roloff will serve in rotation as noted at each Agenda Item.

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

**AGENDA ADDITIONS:**

Wetlands Agent Newton reported an additional item to be heard under **AGENT DECISIONS is the Application of Michael Welti**, a local boy scout, who is requesting permission to install an informational kiosk along the right-of-way for the Town of East Windsor located at the Cemetery Road/Omelia Road intersection.

No motion made.

**APPROVAL OF MINUTES – December 7, 2011:**

**MOTION:** To APPROVE the Minutes of Regular Meeting dated December 7, 2011 as written.

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

**NEW BUSINESS/1. Show Cause Hearing – East Windsor Cemetery Association – Springdale Cemetery, Warehouse Point – Cease and Desist Order for Conducting a**

**Regulated Activity without a Permit:**

LET THE RECORD SHOW Commissioner Osborn stepped down from service on the Board as he is a Director of the East Windsor Cemetery Association. Alternate Member Roloff will serve in his place. Commissioner Osborn left the table and joined members of the audience.

Chairman Savaria indicated he didn't believe the Cemetery Association has filed an Application at this point. He suggested that he understands that the Inland Wetlands Agency/Commission is often perceived to be an obstacle but it is charged with protecting the wetlands. Chairman Savaria suggested he would like to see the Agency to be perceived as a resource to assist residents and agencies work through erosion problems and wetlands issues. He noted the Agency is assisted by Wetlands Agent Newton who has the ability and authority to make emergency or urgent decisions, or, the Commission can also convene a Special Meeting within 24 hours to review options. Chairman Savaria noted people have better results if they come in early during their work process; he suggested people shouldn't think of the Commission as an ogre or as an obstacle to their project.

Attending this Show Cause Hearing were Dan Burnham, President of the East Windsor Cemetery Association, and Jay Ussery, of J. R. Russo and Associates, LLC, engineer for the potential stabilization project.

Mr. Burnham suggested the erosion happened after the storm. (NOTE: The situation is erosion of a terrace escarpment slope at the rear of Springdale Cemetery which is causing slippage of the slope. Three graves close to the slope are being uncovered by the erosion.). Mr. Burnham agreed he had not considered the Commission as a resource; he was not trying to overstep anyone. Mr. Burnham reported they did put some fill in as a temporary fix to keep the vaults from slipping over the slopes. He apologized for overlooking the Commission; he had contacted a number of people but apparently not enough.

Wetlands Agent Newton reported this situation came to her attention the week before Christmas; there is a similar situation further down South Main Street which is the subject of the second Show Cause Hearing. Wetlands Agent Newton reported she issued Cease and Desist Orders to make both parties aware the Commission and its staff have the ability to help in emergency situations. She had contacted Town Engineer Norton to see why she had not been contacted to offer assistance but he had been inundated with debris removal and storm outages. She is meeting with David Askew of the Hartford County Soil and Water Conservation District (HCS&WCD) on this following Friday to review the existing situations and offer options for remediation. Wetlands Agent Newton noted the Town pays \$2,000 a year to the HCS&WCD annually; this situation is one of the things Mr. Askew specializes in. He is a resource the Town should be using; he would have been able to advise the Cemetery Association how to temporarily stabilize the slope until the engineering study approved by the Town is completed.

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Chairman Savaria and Commissioner Sawka indicated they had each visited the site separately. Mr. Burnham felt the trees going over the slopes might have started the erosion.

Chairman Savaria noted the Commissioner should have received in their packets a fax of the potential materials to be used in the slope stabilization.

With regard to timing of restoration Mr. Ussery indicated they have contacted a soil scientist, Mr. Welti, to do borings at the site. Mr. Ussery felt they can then prepare a restoration plan for submission to the Commission along with an application. Mr. Ussery felt the recommendation may be for the installation of a wedge of riprap – narrow at the bottom of the slope and wider at the top. When the recommendation has been proposed it can be sent out to contractors for bid. Mr. Ussery felt the work may be done in February or March, although there are some graves which are close to the slope so there is some urgency for the repair to be completed.

Mr. Ussery noted there is a low point as the roadway comes around the corner; he felt water going over the slope made it slip.

Commissioner Roloff questioned Wetlands Agent Newton if she had understood that this area has been filled? Wetlands Agent Newton replied affirmatively, noting that some type of stone or gravel has been placed on the slopes, which is not a good fix for terrace escarpment slopes. She noted that grass clippings and other material has been placed on the slope on the other side of the cemetery; that slope is already starting to slip. Mr. Burnham noted the cost associated with trucking the material off site. Wetlands Agent Newton suggested perhaps the Commission can come up with another dump site on Town owned property.

Commissioner Roloff questioned if there is a plan for the asphalt to be removed? Chairman Savaria suggested that would be part of the plan they will be developing. Wetlands Agent Newton suggested that if Mr. Ussery can prepare a plan by the middle of the month the Commission could hold a Special Meeting for plan/application acceptance; they could then act on the application at the regular February Meeting, - OR – receive the application at the regular February Meeting and hold a Special Meeting to act on the application. Commissioner Malin questioned if approval could occur as an Agent Decision via Wetlands Agent Newton? Chairman Savaria felt the application would exceed the authority the Commission has given Wetlands Agent Newton.

Wetlands Agent Newton reiterated that she will be meeting with Mr. Askew on Friday to review this site and the South Main Street site as well; he will then offer feedback regarding remediation and assist with plan/application review. Mr. Burnham and Mr. Ussery suggested they would like to attend the meeting as well. (See later discussion under Parente Show Cause Hearing indicated Chairman Savaria would like to attend the meeting with Mr. Askew also.) Wetlands Agent Newton reported there is a watercourse adjacent to the eroded slope, and the area is also on the BLOB Natural Diversity

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Database Map which requires submission of an additional form to the State. The area may be a nesting area for eagles which would restrict the work timeframe. Mr. Ussery noted the cemetery is close to I-91; any work they would be doing wouldn't be as loud as the highway noise.

Commissioner Roloff questioned what was proposed in 2006? Wetlands Agent Newton reported a letter was issued from a past Zoning Enforcement Officer to the Cemetery Association regarding dumping of grass clippings and trees on the slopes. Mr. Ussery suggested that perhaps as part of this application they should include a long term maintenance plan; Wetlands Agent Newton and Mr. Askew could assist with recommendations. Wetlands Agent Newton suggested the work crew should stay back 25' from the edge of the slope to avoid erosion.

An application will be submitted after review of the site by staff, Mr. Askew and Mr. Welti.

Chairman Savaria thanked Selectman Baker for bringing this issue to the Commission's attention.

**NEW BUSINESS/2. Show Cause Hearing – Emilio and Adeline Parente – 284 South Main Street, East Windsor, CT. – Cease and Desist Order for conducting a Regulated Activity without a Permit:**

LET THE RECORD SHOW Commissioner Osborn returned to service on the Board.

Wetlands Agent Newton reported she has spoken with Mr. Parente; he is agreeable with doing whatever needs to be done but requested not to attend this meeting as he retires early and rises at 3 o'clock every morning to go to market to purchase produce for his business. Wetlands Agent Newton reported Mr. Parente advised her he had tried to plant seed several times to prevent erosion but that hasn't worked. Wetlands Agent Newton reported Mr. Parente may be unaware he has a Conservation Easement on part of the property which is a terrace escarpment slope that rises up to Route 5. This site is on the Connecticut River side of Route 5 and is adjacent to the trailer park; there is a large farm field behind the home.

Wetlands Agent Newton had submitted a Subdivision Plan from 1989 to the Commission; Commissioner Osborn felt the fill was added at that time. Wetlands Agent Newton indicated the area was well vegetated but trees have come down. Mr. Parente tried to add fill as a temporary fix. Mr. Askew (of the HCS&WCD) will view this site as well on Friday, and offer whatever assistance he can. Wetlands Agent Newton reported Mr. Parente understands he needs to submit a Permit for the work.

Chairman Savaria suggested he wanted to attend the meeting with Mr. Askew. Wetlands Agent Newton reported that would be appropriate if only one Board member requests to attend.

**NEW PUBLIC HEARINGS:** None.

**NEW APPLICATIONS TO BE RECEIVED:** None.

**MISCELLANEOUS/1. Discussion of Regulation Changes:**

Wetlands Agent Newton advised the Commission the local regulations are modeled after the Department of Energy and Environmental Protection Regulations (DEEP); it is the DEEP definitions listed in the regulations. While some specifics of the regulations, such as the distance to the uplands review area, can be changed the intent of the DEEP Regulations must be retained.

The following discussion occurred regarding potential Regulation changes:

- Numbering of Table of Contents to be revised after completion of revisions.
- All references throughout the document to the Connecticut Department of Environmental Protection (CTDEP), and the Department of Environmental Protection (DEP) shall be revised to reflect the recent change to the Connecticut Department of Energy and Environmental Protection (CTDEEP), or Department of Energy and Environmental Protection (DEEP).
- Various typographical errors were noted and will be revised.
- **Page 1:** No changes
- **Page 2:** With regard to clear-cutting and stumping, Commissioner Koczera questioned that if a farmer wants to clear-cut an area to expand his operation he does NOT need a permit, but he can't remove the stumps without acquiring a permit? Wetlands Agent Newton suggested any exempted activity under the General Statutes requires a review by this Board, and the issuance of a ruling of No Jurisdiction. The farmer must come before the Board to acquire the No Jurisdiction ruling. Wetlands Agent Newton suggested there are issues for the Board to consider regarding such activity; the farmer must provide information as to how he will gain access to the wetlands to clear-cut, is he filling to create a wetlands crossing, etc. Commissioner Koczera questioned what if someone has a couple of trees that have come down? Wetlands Agent Newton suggested there's a difference in clear-cutting 25 vs. 2 trees. Discussion continued regarding clear-cutting and stumping.
- **Page 3:** No changes
- **Page 4:** No changes
- **Page 5:** Commissioner Koczera questioned if there is a depression in the soil which is poorly drained would that constitute a vernal pool? Wetlands Agent Newton expanded on the definition listed in the regulations, noting a vernal pool isn't just a depression in the soil but must be a habitat for various species and their eggs during the breeding season.
- **Page 6:** Chairman Savaria questioned when/how amendments are made to the official Town Wetlands Map? Wetlands Agent Newton reported some time ago map revisions were routinely recorded, even if the difference in the location was minor. It was subsequently determined that the official map would be amended

- only if significant changes occurred. She gave as an example that if a number of parcels had been flagged in a specific location – such as several parcels along Route 140 - and the wetlands delineation were determined to be different than the current map then the new delineations probably would be recorded.
- **Page 7: Section 4.2.c** - regarding installation of a dry hydrant – Wetlands Agent Newton noted this is a new section added by recent legislation; installation of dry hydrants is now an exempt activity. She recalled for the Commission the recent installation of a dry hydrant at the Windsorville Pond; it was understood the soil would be temporarily disturbed but the installation caused no problems.
  - **Page 7: Section 4.3** – “grubbing” was added to the current language.
  - **Page 8:** DEP to be revised to DEEP.
  - **Page 9: Section 7.3** – addition of deadline for submission of material/revisions prior to meeting/hearing.
  - **Page 9: Section 7.4** – to be removed, information is not pertinent to this section.
  - **Page 9: Section 7.5.d** – “geographical information” includes submission of a key map, usually reflected on the front page of the plans.
  - **Page 9: Section 7.5.f** – “alternatives” should be provided under the application process as an option to wetlands disturbance, even if the application is not subject to a Public Hearing.
  - **Page 10: Section 7.5.n** – Discussion of sub-bullet 1 requiring a 100’ buffer for a vernal pool. Wetlands Agent Newton reiterated that nothing can occur within the 100’ area unless it can be shown that the pool in question is a low quality vernal pool. She noted that vernal pools are extremely sensitive to the lack of leaf litter which is material that wood frogs feed on. Commissioner Osborn questioned that someone clear-cutting a field couldn’t clear-cut within 100’ of a vernal pool? Wetlands Agent Newton replied affirmatively. She gave examples of vernal pools in current projects and the effect of activity too close on the diminution of the vernal pool.
  - **Page 10: Section 7.5.o** – addition of language “by a licensed land surveyor” added to bullet.
  - **Page 10: Section 7.5.p** – addition of wording “to verify” to bullet.
  - **Page 10: Section 7.6.c** – Wetlands Agent Newton to review language specifying qualifications.
  - **Page 11: Section 7.7**, subsections a through d - Wetlands Agent Newton indicated that as part of the administrative process for submitting an application staff would advise an applicant if they need to notify an adjacent town
  - **Page 11: Section 7.9.e** – clarification of “untimely”. Wetlands Agent Newton suggested “untimely” is at the discretion of the Commission; is it 2 months or 6 months? She gave as an example Newberry Village for which the permit expired in August but the applicant didn’t come in for a renewal until September. Newberry Village is an on-going operation; the Commission would not want to deny renewal of the application to ensure completion of the project.
  - **Page 12: Section 8.2** – regarding notification to adjacent municipalities; see discussion under Page 11, Section 7.7.

- **Page 12: Section 8.3** – regarding representation of the water company or Commissioner of Public Health. Wetlands Agent Newton reported representatives as specified may appear, and be heard, if an application is submitted which falls within a watershed of a public water company.
- **Page 13: Section 9.1** Chairman Savaria suggested it is his intent to let the public know as much as possible about applications; he questioned how people know of pending applications? Wetlands Agent Newton noted the section in question addresses reasons for considering a public hearing which would be of interested to a number of people, not just one homeowner. As an example petitions must contain signatures of 25 people located within a specified distance of the subject site; petitioners must submit the petition within 14 days of receipt of an application. She reviewed the process/requirements for posting legal notices in local newspapers and on the Town website, and what timeframe constitutes the “receipt date” of an application.
- **Page 14:** No changes
- **Page 15:** No changes
- **Page 16:** No changes
- **Page 17: Section 12.2** – regarding publication of Agent decisions. Wetlands Agent Newton explained the process for publication of legal notices of decisions/actions.
- **Page 17: Section 13-3** – discussion for process of establishing the appropriate cost for performance bonds. Commissioner Osborn noted that years ago the size of the proposed detention basin was taken into consideration when determining the cost of bonding. Additional language to be added as subsection d – “any other applicable construction, value to be determined by Town Engineer/Wetlands Agent.”
- **Page 17: Section 14.2** – Chairman Savaria requested to add that the Commission, or its agent, be allowed to access a property. Wetlands Agent Newton noted that requirement is already a Permit condition, but, it’s not always enforceable.
- **Page 18:** No changes
- **Page 19:** No changes
- **Page 20:** No changes
- **Page 21:** No changes
- **Pages 22 – 24:** Language specific to the Connecticut General Statutes; no changes.

Commissioner Osborn questioned if someone is logging a site are they required to notify the Town? Wetlands Agent Newton replied affirmatively; she suggested foresters know that, and know if they check off wetlands and road crossings as part of the application they must expect to appear before the Board.

Discussion followed regarding public awareness of the Wetlands Regulations; Wetlands Agent Newton reported the frequency that residents contact the Planning Office to

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discuss potential activities. Discussion included additional informational options, including press releases in the Reminder, informational material at the library, and a display in the Town Hall bulletin case.

**MISCELLANEOUS/2. Discussion of Bylaws:**

The blank page previously included in the Bylaw document has been deleted, and the Table of Contents revised accordingly. The Commission noted two additional changes to the bylaw revisions:

- **Page 5, Section 4.5** – “.....any member for fails to attend 3 SUCCESSIVE REGULAR MEETINGS, OR 4 MEETINGS IN A CALENDAR YEAR without good cause.....”
- **Page 7, Section 9.2** – “Motions from the floor must be made and passed with 3 favorable votes in order to dispense with any item on the agenda.....”

**MOTION: To ADOPT the Bylaws of the East Windsor Inland Wetlands Commission as amended January 4, 2012.**

**Osborn moved/Slate seconded/VOTE: In Favor: Unanimous**

**MISCELLANEOUS/3. Violation Citation Procedures Ordinance #2012/Wetland Violation Enforcement and Citation Policy:**

The Commission reviewed the proposed Violation/Citation process. Wetlands Agent Newton noted it echoes the same process already in place – and working well – for Zoning Violations.

**MISCELLANEOUS/4. Wetlands Fee Schedule:**

The Commission had considered revising the current Wetlands Fee Schedule to a range of amounts based on a range of impervious coverage/area disturbance. Discussion continues; no action taken.

**AGENT DECISION/1. #17 – 2011: All American Products – 245 South Main Street:**

Wetlands Agent Newton reported the Applicant is proposing to place fill removed from another site (244 South Main Street) at this location. She has worked out a reasonable plan with staff from J. R. Russo & Associates; the material will be spread out in an area to be used for a farm field.

**AGENT DECISION/2. #18 – 2011: Bajumpaa/Defresne – 17 Mullen Road:**

The Applicant is proposing to construct a barn in an upland review area.

**AGENT DECISION/3. #19 – 2011: Lisa Perkins – Wells Road:**

The Applicant is looking to create a potential building lot. The area is impacted by 4 drainage easements; they are proposing construction of a curtain drain to acquire approval from the North Central Health District. Currently there is no frontage access to this lot. Wetlands Agent Newton is continuing to work with the Applicant.

**AGENT DECISION/4. #1 – 2012: Cemetery Road Right-Of-Way – “Kiosk”**

Wetlands Agent Newton reported the Applicant is proposing to construct an informational kiosk for the walking trail in the right-of-way at Omelia and Cemetery Road.

**STATUS REPORTS:**           None.

**CONFERENCES/SEMINARS/TRAINING:**

Wetlands Agent Newton reported Segment 1 of the training classes begins in March, and is available to complete online.

**CORRESPONDENCE:**

Chairman Savaria acknowledged receipt of memo from the First Selectman regarding a general meeting of all Boards and Commissions to be held on Tuesday, February 28<sup>th</sup> at 6:00 p.m. in the Town Hall Meeting Room.

**GENERAL BOARD DISCUSSION:**

Wetlands Agent Newton reported that 170 people attended a New Year’s Day walk along the Scantic, including the Norton property.

**PUBLIC PARTICIPATION (Discussion on non-Agenda items only):**

No one requested to speak.

**ADJOURNMENT:**

**MOTION:    To ADJOURN this Meeting at 8:55 p.m.**

**Slate moved/Osborn seconded/VOTE: In Favor: Unanimous**

Respectfully submitted:

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Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission  
(3500)