

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

Regular Meeting – September 5, 2012

*******Draft Document – Subject to Commission Approval*******

CALL TO ORDER: Chairman Savaria called the Meeting to order at 7:01 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

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

Unable to Attend: Regular Members Michael Koczera.

Guests: Selectman Richard Pippin (Inland/Wetlands Liaison); Selectman Alan Baker, Selectman Dale Nelson; Kathy Pippin, Board of Finance.

Chairman Savaria noted the establishment of a quorum with five Regular and one Alternate Member as noted above. All Regular members will sit in on votes this evening; Alternate Member Roloff will also participate in discussion and votes if any of the members need to excuse themselves from a discussion item.

Also in attendance was Wetlands Agent/Zoning Enforcement Officer Robin Newton; Town Planner Laurie Whitten; and Town Engineer Norton.

AGENDA ADDITIONS:

Chairman Savaria noted the following Agenda addition:

- Under **NEW APPLICATION TO BE RECEIVED: 13-2012: EMILIO & ADELINE PARENTE: 286 South Main Street**, Request for permit to regrade slope, loam, & seed. Assessor's Map 002, Block 05, Lot 097C. (65 day application period ends November 9, 2012).

APPROVAL OF MINUTES – August 16, 2012:

MOTION: To **APPROVE** the Minutes of Special Meeting dated August 16, 2012 Inland Wetlands Training Workshop as written.

Osborn moved/Slate seconded/

VOTE: **In Favor:** Osborn, Sawka, Slate, Roloff
 Opposed: No one
 Abstained: Malin/Savaria

APPROVAL OF MINUTES – August 1, 2012:

MOTION: To APPROVE the Minutes of Regular Meeting dated August 1, 2012 as written.

Slate moved/Roloff seconded/

VOTE: In Favor: Unanimous

CONTINUED PUBLIC HEARING/1) Gardner Chapman: Request to conduct regulated activities associated with the construction of a 480 luxury apartment complex. This property, which is owned by Helen Maciolek, Titus Realty, and Estate of Pauline Putriment, is located at 111 and 115 South Main Street, and 49 Phelps Road, East Windsor. Assessor's Map 052, Block 20, Lot 61 and 65 (111 and 115 South Main Street), and Map 053, Block 20, Lot 52, (49 Phelps Road). (35 day Public Hearing ends July 6, 2012; extended through August 1, 2012; extended through September 5, 2012).

Chairman Savaria read the Hearing description. Appearing to discuss this Application was Attorney Dory Famiglietti, of the firm of Karan, Kerensky, and Capossela. Attorney Famiglietti introduced the members of the Application team as follows: Jay Ussery and Tim Coon of J. R. Russo & Associates, LLC (engineering consultants); John Ianni of Highland Soils, LLC (soil scientist); George Logan of Rema Ecological Services, LLC, (wetlands scientist/wildlife biologist); Marc Casslar of GeoQuest, Inc. (president). Attorney Famiglietti also introduced the Applicants: Gardner Chapman, and his son, Cliff Chapman.

Attorney Famiglietti recalled that when the Applicant's presentation was heard at the June Meeting additional information was requested. That information was not available at the July or August Meeting; the additional information was submitted at least 6 days prior to this meeting.

Attorney Famiglietti also noted that the Application team had presented a 3 page narrative of prudent and feasible alternatives at the June Meeting. Wetlands Agent Newton had noted for the Application that Inland Wetland Regulations require submission of a diagram form of the prudent and feasible alternatives. The diagrams have now been presented to the Commission.

Attorney Famiglietti felt the Application team has answered all the Commission's questions. She felt the biggest change is removal of Buildings #34, #35, #36, and #38 from the wetlands; revised plans have been submitted to reflect that change.

Attorney Famiglietti introduced Jay Ussery and Tim Coon, of J. R. Russo & Associates, to discuss the **site layout and drainage issues**.

Mr. Ussery and Mr. Coon worked in tandem; each presented a **site plan** of the proposed

project. Mr. Coon's site plan was the original proposal; to the left Mr. Ussery discussed the revised site plan which was provided for the Commission late in August. Mr. Ussery indicated that Mr. Coon's plan – the ORIGINAL site plan – represented some buildings and driveways located in the wetlands. Those buildings and driveways were of concern to the Commission, Wetlands Agent Newton, and David Askew (North Central Conservation District, Inc.). Mr. Ussery indicated the plan to the left is the REVISED plan which shows the alternative to the driveway and the buildings. Returning to the ORIGINAL plan, Mr. Ussery noted this site plan reflects a finger of wetlands which encroaches into the field; buildings 34, 35, 36, and 38, and the driveway and parking area were located within that wetlands areas. In the redesigned/REVISED plan the driveway has been relocated; it no longer connects through the wetlands. Mr. Ussery indicated the wetlands disturbance has been eliminated; the wetlands area will be reseeded with a wetlands seed mix. Mr. Ussery indicated this would be done in Phase III. Mr. Ussery indicated the other area of concern was the buildings adjacent to the wooded wetlands in the center of the project in Phase 2. The revised plan reflects that the buildings have been removed from the wetlands.

Mr. Ussery suggested the Application team feels they have alleviated the concerns of Staff, and others.

Mr. Ussery indicated another issue of concern was the **drainage**; there were 3 areas of drainage and one road crossing which had been discussed. Mr. Ussery indicated Town Engineer Norton has reviewed the REVISED plans; he felt Town Engineer Norton was ok with the revisions and had submitted a memo to the Commission indicating his satisfaction. Mr. Coon indicated he had reviewed the drainage functions during the Commission's first Meeting; Mr. Ussery questioned if a review was necessary tonight? The Commission did not request any further review. Mr. Ussery felt everyone is comfortable with the design revisions.

Attorney Famiglietti felt the Application team has satisfied Town Engineer Norton and Wetlands Agent Newton's request for the alternative's analysis.

Attorney Famiglietti referenced other outstanding items from the June Meeting:

- **Comments from Town Engineer Norton** – comments have been received, including a final sign-off memo.
- **Comments from David Askew (NCCD)** – an alternative to the location of buildings proposed in the finger of wetlands was requested; recommendation was made for erosion and sedimentation controls; recommendation was made regarding restoration of the area of wetlands; Mr. Askew is understood to be ok with the proposed revisions.

Attorney Famiglietti introduced John Ianni to discuss the **vernal pool report**.

Mr. Ianni introduced himself as a soil scientist, and listed his credentials for the Commission. Mr. Ianni indicated there are two areas located in the open fields on the

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eastern portion of the site, and a third area located in a wooded wetlands complex located in the central portion of the site. Investigation of the site occurred in March. Mr. Ianni suggested the two areas located within the open fields/grazing pastures had suitable hydrology but had no suitable upland habitat within several hundred feet. There was no evidence of breeding amphibians within this area; they are not considered to be vernal pools.

Mr. Ianni indicated that based on the hydrology the area within the central wooded area was considered to be a vernal pool, which is a breeding area for the Wood Frog. Mr. Ianni suggested there were 2 breeding cycles, but breeding didn't occur due to the low precipitation this year. Mr. Ianni suggested this area is a viable vernal pool, just not this year. He suggested that removing the buildings gives a better buffer for the vernal pool. Attorney Famiglietti questioned Mr. Ianni if he could tell if the proposed activities of the development have an adverse impact on the wetlands? Mr. Ianni suggested the functions and values of the wetlands will not be adversely impacted by this project.

Attorney Famiglietti suggested that the next issue of concern was a **species study** within the site. The Town hired an independent consultant, Ed Pawalek, while George Logan prepared a similar inventory for the Applicant.

Mr. Logan introduced himself, noting he is a wetlands scientist and wildlife biologist. Mr. Logan reviewed his credentials for the Commission. Mr. Logan indicated he was hired to investigate the area for the existence of 2 species, the Leopard Frog, and Horace's Duskywing (butterfly). Mr. Logan suggested he and Mr. Pawalek had a passive agreement to share what information was discovered. Neither he, nor Mr. Pawalek, found either the Leopard Frog or Horace's Duskywing, but they did find come up with 3 Species of Special Concern in Connecticut - the Brown Thrasher, the Savannah Sparrow, and the Bobalink. Mr. Logan indicated all 3 species were found by Mr. Pawalek; Mr. Logan also sighted the Brown Thrasher and the Savannah Sparrow, and felt he heard the Bobalink in the distance. Mr. Logan suggested all species were found in several locations; all are grassland species which need larger areas to breed. Mr. Logan suggested the Bobalink would not breed in the pasture because the grass is short.

Mr. Logan suggested 63 bird species, and 3 additional Species of Special Concern, were found on the subject site. Due to the finding of the Species of Special Concern Mr. Logan was asked to put together a Management Plan for the area proposed to be left in a Conservation Easement. To develop the plan he considered 2 scenarios, one which included the continued use of the area by the cows and one donkey, and one in which the cows, and one donkey, would be excluded. Because the cows have been exerting pressure on the wetlands resources they are proposing a Management Plan based on exclusion of the agricultural use. They are proposing installation of fences to keep the cows out of the wetlands, and away from the banks of the stream corridor. Additionally, there should not be more than 60 head of cattle grazing within the area; there are currently approximately 100 head in pasture. Grazing should be excluded from the bank areas to allow the grasses to grow from April 15th to August 1st; after that time the area

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could be opened to allow the cows to use the pasture. Mr. Logan indicated the Management Plan provides for rotating which fields will be mowed at specified times of the years, and which fields will be allowed to grow during a rotating cycle.

Mr. Logan concluded that he can say the activity being proposed will not have an adverse impact on the species found in the wetlands, and no impact on the wetlands because they will be left intact.

Mr. Logan suggested he also looked at the same spots as Mr. Ianni, although he didn't look at the vernal pool. He did not see any salamanders, but he did see amphibians and frogs.

Chairman Savaria noted Mr. Logan and Mr. Pawalek performed independent studies, but they are proposing similar plans. Mr. Logan suggested they had a meeting of the minds; they met with Town Staff and the consultant.

Attorney Famiglietti indicated another bit of information requested at the June Meeting was based on 80+ years of agricultural use of the site; the Commission cited concern regarding the condition of the soil. Attorney Famiglietti suggested that on June 6th when she stood before the Commission the Applicant had done no testing. After that Meeting it came to their attention an unrelated party who was interested in purchasing the site did testing but none of that information was public record. Attorney Famiglietti indicated she wanted to clarify the situation as it might have been insinuated that the Application team was withholding information, but, she wished to tell the Commission that that work was done for someone else. Attorney Famiglietti then introduced Marc Casslar, of GeoQuest, to present information regarding the condition of the soil.

Marc Casslar, of GeoQuest, introduced himself, and summarized his credentials for the Commission. Mr. Casslar reported the majority of the work was done in March, 2011, for an unrelated party. He reported his firm was recently contacted by this Applicant; he was able to use this information because the original client was no longer interested in the property.

(NOTE: The following is a summarization of Mr. Casslar's lengthy, technical report. More detailed information regarding the 2011 investigation, and the 2012 updates, are available in the Planning Office.)

Mr. Casslar reported that in 2011 they did a Phase I Site Assessment, as they would with most agricultural properties. There were 2 primary known concerns: 1) use of agricultural chemicals, and 2) farmers usually discard miscellaneous farm materials on site. Mr. Casslar reported they did find areas – which they identify as a “farm dump” were farmers discarded miscellaneous materials, including maybe a dozen tires, or parts of old tractors, or miscellaneous debris.

Regarding the agricultural fields, Mr. Casslar reported that perhaps 2/3 of the site is farm

fields. Mr. Casslar indicated he chose the 48 sampling sites; 1 sampling site was chosen for every 2 ½ acres of farmland. Mr. Casslar indicated this choice of sampling sites is within the mid-range of recommended sampling sites. Samples were collected from 6” and 18” below grade. Mr. Casslar suggested most of the tilling is done in shallow upper soils, which are the most organically rich and will grow the most crops. Most of the highest concentrations of materials will be in the upper reaches; most of what they find below will be mitigated over time.

Mr. Casslar suggested testing was done for **Organochloride pesticide (DTD, Chlordane)**, which was commonly used in the 1950s through 1970s when it was banded from further use. Pesticides were found to be present in shallow soil in the central and northwestern portions of the site. Mr. Casslar reported that 8 of the sampling locations found pesticide levels present which are in excess of standards recommended by the Connecticut Remediation Standards Regulations under Section 22.133.k. However, Mr. Casslar indicated these standards do NOT apply under agricultural properties, which are not in regulatory programs. He reiterated that the chemicals were applied in the 1950s through 1970s and are no longer applied; these samplings are residue. Mr. Casslar suggested the standards effectively become guidelines. During the time this pesticide was being used there was much information being evaluated.

During the 2012 investigation Mr. Casslar reported that 8 samples were taken at the same sample locations which were used in the 2011 study. In total, 16 samples were taken – 8 samples were taken at 6” and 8 samples were taken at 18”. The samples were taken to a lab to be analyzed; the samples taken at 6” were analyzed specifically for the existence of EDBs. The samples taken at 18” were “held” pending the results of the samples taken at 6”. Mr. Casslar reported that only 2 areas – identified as samples S10 and S11 – were above standards, so you have less than 18” of pesticides at 6 locations, and above recommended levels at 2 contiguous locations.

Mr. Casslar then referenced a second map board, which indicated sampling site areas being investigated as farm dumps. Mr. Casslar indicated that 2 areas were found in the farmland areas, 2 dumping areas were found in wetlands, and 2 other areas were noted which they did not investigate. Mr. Casslar suggested they took soil samples from location TP2, which is where most of the material was located. The samples were analyzed for petroleum hydrocarbons and volatile organic compounds from oil and grease. Mr. Casslar suggested these were materials used on farms related to maintenance of equipment and trucks. Mr. Casslar indicated 1 or 2 of the samples were also tested for CVOCs, metals, and PCBs. No contaminants were found, except in the northwest corner where they found trace metals, including arsenic, lead and chromium. Mr. Casslar suggested they also collected a sediment sample in a wet area “down here”; no contaminants were found.

Mr. Casslar reported that, based on discussions with the current Applicant, they did additional samplings for **EDB**. Concerns had been raised regarding the presence of EDB, which was used in the late 1980s and early 1990s. Mr. Casslar reported there was NO

EDB found in the 8 sampling areas.

Mr. Casslar indicated they then did additional samples in the wetlands area and surface and groundwater areas. Referencing the presentation board Mr. Casslar indicated they found contamination in “this” wetlands sample, which included some **chlordanes and EDB**.

Mr. Casslar queried: what do we have? We have a farm in Connecticut for which portions have been proposed for residential development. Mr. Casslar suggested this is a very common situation; he has been on both sides looking at this question. Mr. Casslar reported that these concentrations are relatively low, although he realized they were above the standards in some locations. Mr. Casslar suggested the Applicant has not created this situation, but is willing to manage it. With regard to the organochloride pesticides DEEP guidelines are to: 1) remix it, or 2) relocate it to areas where the residential risk would be low to none.

With regard to the farm dump, Mr. Casslar suggested the area should be cleaned up; “this” area should be secured but not remediated as there is an extremely steep slope with wetlands and a watercourse. Mr. Casslar felt more damage would be done to the environment to remediate the areas. He suggested the area has been there for decades, and there doesn’t appear to be damage to the area below the dump. Mr. Casslar felt they would have to cut more trees and create more erosion to clean the area up. Mr. Casslar suggested it’s an isolated spot, although the levels are above the recommended standards he felt it was not hazardous to humans or wildlife.

Mr. Casslar then referenced another location on the map board, noting that in “this area over here” his recommendation would be to do nothing as the contamination is below the direct exposure standards. Mr. Casslar felt that more damage would be done by excavating the area. He suggested there is no question the contamination has probably migrated, but they probably were much higher decades ago. Mr. Casslar indicated his recommendation would be that more damage would be done to remediate “this” spot.

With regard to **EDB** in the groundwater, Mr. Casslar felt that, too, was another relic of the application of the compounds in the 40s, 50s, and 60s. He suggested the contamination level was just at the standard recommendation, and in time it will degrade.

Mr. Casslar addressed the questions which been raised previously as follows:

- **What will be the impact of addressing this soil?** Mr. Casslar didn’t feel that remixing, or relocating, the soil will be a problem; the contamination will dissipate. Mr. Casslar suggested he didn’t see any long term problem.
- **Questions raised regarding holding time for lower samples:** Mr. Casslar suggested the lower samples were held for 5 days longer than the recommended holding time of 14 days while they awaited the results of the shallower samples. Mr. Casslar suggested he didn’t see a problem with the holding time; the materials were taken in glass laboratory containers.

- **Issue raised regarding quality controls:** Mr. Casslar suggested the samples were collected and analyzed using State of Connecticut protocols; Connecticut has very high standards for data collection. Mr. Casslar suggested that every report raises questions about quality assessment and quality controls.

In conclusion Mr. Casslar suggested they have reviewed all the quality assurance/quality control reports for this data and he is comfortable, in his professional opinion, this data is valid, useable, and specific to this site. The site is a typical agricultural site in Connecticut. There are organochloride pesticides present, and they can be dealt with. The management of these soils wouldn't have an impact on the environment and this development could move forward without a deleterious effect.

Chairman Savaria noted receipt of considerable information for the Commission's review. He noted Commissioner Roloff had several questions for Mr. Casslar.

Wetlands Agent Newton requested to offer a comment. She suggested that as the Commission's Agent she must mention that the recommendations made in Mr. Casslar's report – whether remixing, relocating, or to do nothing in the way of remediation – can't be assessed without the submission of a Management Plan. Mr. Casslar suggested he can't propose a plan at this point. The different areas within the development will be dealt with differently; he hasn't seen the cut and fill grades. Mr. Casslar felt whether the soils are remixed or relocated, he felt neither should have an impact on the environment. The contamination has been around a very long time; the area has been tilled frequently and probably has been exposed more than it will under development. Wetlands Agent Newton noted Mr. Casslar hasn't looked at the specifics of the plan. Mr. Casslar concurred, but noted that in his experience he hasn't seen any impact. Mr. Casslar suggested that in Suffield they were required to put in a dust monitor around a field, and saw no impact. Wetlands Agent Newton reported she worked for Suffield, and the Suffield Wetlands Commission would have a plan before them for review prior to approval of the development.

Commissioner Roloff indicated she had questions she would like to discuss with Mr. Casslar. Commissioner Roloff indicated she has a Bachelor's Degree in Environmental Chemistry with minor in geochemistry; she noted she had worked as chemical lab technician for 10 years. A summarization of her questions follows:

- **Question on testing standards:** In response Mr. Casslar suggested the standards were developed in the 50s, 60s, and 70s. A lot of the standards were developed by looking at the individual compounds and using the knowledge base at that time. Mr. Casslar suggested they were saying under the Connecticut DEEP guidelines it says the recommendation standards don't technically apply to agricultural fields; the chemicals were legally applied. Commissioner Roloff suggested it wasn't a question of legality; her concern is about when construction starts and the stuff will be getting into the air.

Attorney Famiglietti interjected that we must remember this is a Wetlands Commission. They/the Applicant also cares about the residents. The information you need to evaluate is what is in this area. They must identify and the Commission must decide if there is a risk to the wetlands. If not, then the wetlands will be status quo, and if it is in a developed area it can be managed. Commissioner Roloff suggested she felt there were significant areas of wetlands where soil samples were not taken; she suggested she found the testing incredibly sparse. Mr. Casslar suggested he didn't look at the dump area personally; he felt they only needed to collect 2 samples in that area. Mr. Casslar didn't feel the sampling was incredibly sparse. He did not feel the data was not reflective of the conditions out there at the site.

- **Groundwater samples:** Commissioner Roloff suggested all groundwater samples were from the south end of the property, and the groundwater migrates to the north. Mr. Casslar suggested they took the samples in wells that were easy to access. They took those samples as an accommodation. Mr. Casslar suggested if contamination was found in the wetlands area as an “absolutely screaming hot, through the roof sample” they would have addressed it. Mr. Casslar suggested they felt there would be more damage collecting more samples. Commissioner Roloff suggested Mr. Casslar was talking of a development which will put roads and structures in which will disturb the soils and put contaminants in the wetlands. Mr. Casslar suggested that is why they are proposing a Management Plan, to minimize risk to the tenants, although he appreciated (the Commission's concern) that the plan hasn't been submitted.
- **Samples around tobacco barns:** Commissioner Roloff questioned that no samples were taken under the tobacco barns? Mr. Casslar suggested they don't typically take samples in those areas.
- **Quality control:** Commissioner Roloff questioned the quality control standards. Mr. Cassler disagreed. He suggested that even though most of these samples don't have the quality controls that are recommended by the State of Connecticut he believed that on a site like this, which is not a superfund site, the sampling was sufficient.
- **Metals testing:** Commissioner Roloff questioned if testing was done for other metals? Mr. Casslar replied negatively; he suggested he is quite comfortable, as a professional, saying that this data is valid and useable.

Chairman Savaria suggested that without a Management Plan the Commission could consider they don't know how the wetlands will be dealt with. Attorney Famiglietti interjected, suggesting Mr. Casslar reviewed the remediation options. Mr. Casslar indicated the remixing, or movement, of the soils would include sedimentation and erosion controls to minimize runoff from migrating. They will take precautions to minimize dust and this would be done in a very controlled

fashion. He reiterated he can appreciate that no Management Plan has been proposed at this point. Chairman Savaria reiterated the Commission's dilemma. Mr. Cassler reiterated he understood

Wetlands Agent Newton questioned if the soils were relocated, would it be onsite or elsewhere? Mr. Casslar suggested it would depend on the cut and fill grades, and if there are appropriate relocation sites. John Ianni stepped forward to add to the discussion. Mr. Ianni noted he did his Master's thesis on the movement of heavy metals. Mr. Ianni suggested the site has sandy soil in the fields and top soil elsewhere. The question is: what are the pathways for contamination? They would be either through erosion or dust. Mr. Ianni noted the Applicant would be required to provide an Erosion and Sedimentation Control Plan. Mr. Ianni suggested they wouldn't be building on top soil; the top soil will be stripped off and stockpiled somewhere. If it's a small stockpile it will vegetate itself, or they would ring it with silt fence. Chairman Savaria questioned if leaching would occur? Mr. Ianni suggested as the contaminants get into the sandy soil below they dissipate. He suggested most of the concerns in the agricultural fields is caused by humans. He felt the soils must be transported into the wetlands to contaminate the wetlands. Commissioner Roloff questioned if the contamination can't go into the sandy underlayment how does it dissipate? Mr. Ianni suggested the contaminants would accumulate in the top soil. Commissioner Roloff questioned that once that material is broken and it's friable? Mr. Cassler interjected that there is the possibility there will be some contamination into the groundwater; that's occurring now. Mr. Cassler suggested that if they could actually release every part/billion in this soil and instantly get it into the groundwater it would mix; it would dilute and would migrate. Commissioner Roloff suggested it would go into the wetlands. Attorney Famiglietti questioned, and if it dissipates? Attorney Famiglietti suggested this site is an active agricultural site without controls. Mr. Casslar is telling the Commission it's premature to develop a plan because they don't know what the development will be; there is much work to do as they go through the Planning and Zoning Commission. Attorney Famiglietti suggested it's important to establish that the Commission is satisfied that there are options – the remixing or the relocation – and it won't impact the wetlands. Chairman Savaria reiterated the Commission just doesn't know; they have heard comments that they need to do more testing. Mr. Cassler addressed the amount of testing, noting that it's less expensive; They acknowledge that they will need to address larger areas. Chairman Savaria suggested he believed Mr. Cassler was being truthful but that without a plan the Commission has no way of assessing the risk.

Attorney Famiglietti advised the Commission that the nature of the process is the Applicant puts together a plan and presents it with experts. She understood the Commission had no way to say that the presentation is accurate; if you feel it's an issue of credibility..... Chairman Savaria suggested that was an issue Attorney Famiglietti should not bring up. Attorney Famiglietti suggested they bring in their

experts and if there are significant doubts then you, as a Commission, must weigh the information, but, they are bringing an expert to you/the Commission and the expert is giving you his opinion. Mr. Casslar continued, he would put forth this idea that in fact significant improvement can be achieved by dealing with the contamination rather than keeping the status quo. Chairman Savaria reiterated he understood.

Wetlands Agent Newton indicated the issue is you're an expert and if you had this information 2 months ago we may have been able to hire our own expert. Wetlands Agent Newton indicated she had always seen a plan in Suffield during Wetlands presentations. She noted the soils are highly erodible; much information is truly missing. You're basically asking them to make a decision without a plan you haven't developed; there is nothing here for this Board to look at and make an opinion on the record that there is no impact on the wetlands. Mr. Casslar indicated he can only say these plans do work. Commissioner Roloff reiterated the Commission can't make a decision until they have a plan to consider.

Commissioner Slate referenced Mr. Casslar's comment about the toxic metals that were above the recommended limits. Mr. Casslar indicated that was sample TP32 on the northwest corner of the property; it contained levels of chromium, lead, and arsenic which exceeded the regulatory recommendation. Chairman Savaria questioned that those compounds wouldn't normally be found in an agricultural field; he noted the Commission had heard some testimony previously that there may have been a machine shop in the area. He asked Mr. Casslar where the lead would come from? Commissioner Roloff suggested arsenic would be present in rat poison, which might have been used in the barns.

Commissioner Slate cited concern for the units and parking lot being constructed near the slope, which is a 26' drop to the brook; he cited testimony that was made indicating the slopes wouldn't erode. Mr. Ussery reported the water from those units and the parking lot goes into the storm drainage system; he indicated that run off after development will be less water going over the slope than now. Mr. Ussery noted you have plowing and harrowing going on twice a year now, with no erosion control; he felt there is more impact going on now from the farming than from the proposed development. He suggested the Commission needs to think about that. Commissioner Roloff suggested there will be a whole lot of impervious area. Mr. Ussery suggested the impervious area will catch everything that is there; he felt there is less of a chance of damage to the wetlands after development than what's happening now. Mr. Casslar and Mr. Ussery noted an Erosion and Sedimentation Control Plan has been developed which has been reviewed by David Askew. Mr. Ussery felt Mr. Askew agreed the plan/controls are sufficient.

The Recording Secretary requested a recess.

MOTION: To RECESS the Meeting at 8:55 p.m.

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

MOTION: To COME OUT OF RECESS at 9:05 p.m.

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

Attorney Famiglietti reported she has spoken with her client and the Town Planner regarding an option for submission of a Soils Report. The Soils Report, which would include a Remediation Plan, will be a requirement during the Planning and Zoning Application. The plan will be reviewed by Town Planner Whitten and Wetlands Agent Newton. Wetlands Agent Newton can report back to this Commission, and, if Staff feels a peer review is necessary the plan can be brought back to the Inland Wetlands Commission.

Attorney Famiglietti reviewed various additional information submitted, including:

- WPCA Capacity Letter
- Clarence Welti- Geotechnical Study
- recreational vehicle parking area has been moved – Commissioner Malin questioned how the number of RV spaces was determined? Mr. Coon suggested that's a Zoning requirement; the determination has been based on other experiences.

Chairman Savaria suggested that the Commission received a lot of information over the past months in a piecemeal fashion. He suggested the process works a lot better if the information comes in together. Chairman Savaria noted the model that has worked for the Commission before was for the Applicant to come in for an informal meeting to discuss possible options.

Chairman Savaria raised the following questions:

- it looked like a large part of the water in Phase I is being redirected to discharge into Stoughton Brook; he questioned how that will affect **the de-watering of the wetlands?** Mr. Ianni referenced the plan board, noting "this" would be the section where erosion would occur; he also noted other areas which would utilize infiltration.
- requested an explanation of the **water quality treatment structure proposed at Route 5.** Mr. Coon indicated they are proposing a water quality unit at the project entrance because of the elevation. Mr. Coon suggested it's just treating water from the 2 basins; the units take out sediments before discharging by removing the total suspended solids. Chairman Savaria questioned Town Engineer Norton if the water quality units work? Town Engineer Norton responded positively. Wetlands Agent Newton noted the submission of Town Engineer Norton's latest memo indicating all his concerns have been adequately addressed.
- questioned the **detention basins in Phase I and Phase II.** Mr. Coon indicated they have been designed in accordance with the DEEP Guidelines Manual. Chairman Savaria questioned Town Engineer Norton how he verifies the design? Town Engineer Norton indicated he has some of the same software that J. R. Russo uses, and has the DEEP Manual as well. He suggested it's really one basin dumping into another.
- **The materials storage area:** Mr. Coon suggested it's proposed for storage of leaves,

bark, mulch, etc. Chairman Savaria questioned that it wouldn't be used only during construction? He noted it's totally surrounded by wetlands. Mr. Ussery suggested there will be a grassed area all around the storage area. Chairman Savaria questioned if there was language in the plan as to what could be stored there? Mr. Ussery suggested it will be landscaping materials. Wetlands Agent Newton suggested the allowable items can be spelled out on the plan. Chairman Savaria questioned if fertilizer will be stored there? Mr. Ussery suggested that would be stored in a maintenance building.

Chairman Savaria requested comments/questions from the Commissioners.

Commissioner Roloff raised the following questions:

- **Requested a nicer grade of riprap:** Mr. Ussery was familiar with the material Commissioner Roloff had suggested.
- **Lack of Landscape Plan:** Mr. Ussery indicated there will be a full Landscape Plan during the Planning and Zoning (PZC) presentation.
- **Topsoil storage, will topsoil come from this site:** Mr. Ussery concurred top soil would be stored at the site during construction; whether it comes from this site depends on what Mr. Casslar tells them.
- **Concerns that materials from the storage site will enter the wetlands/concern for erosion:** Mr. Ianni suggested the materials will be bark, mulch, etc. The stockpiles will not move; top soil will not erode.

Chairman Savaria raised additional items:

- **Wetlands Agent Newton had requested the use of silt sock rather than haybales:** Mr. Ussery reported that has been replaced on the plan.
- **Concern of neighbor for flooding onto their property (later identified as 76 and 78 Phelps Road):** Mr. Ussery indicated recalled the neighbors lived on the southside of Phelps Road, to the east of the development. He indicated the plan shows details of the elevations of detention basins #3 and #4, and shows an outlet into an intermittent watercourse to the north. Mr. Ussery reviewed the elevations of the basins, which are below the elevation of Phelps Road. Commissioner Slate suggested the water flows in a northerly direction.
- **Proximity of some buildings to wetlands/concern for disturbance to wetlands during construction:** Mr. Ussery indicated they are putting in a wetlands seed mix, but could also put in some buffer plantings; he reiterated that a Landscape Plan would be submitted to the PZC. Mr. Ussery suggested if Chairman Savaria was concerned with residents walking through that area he didn't see it as a big concern; it would be ringed with silt sock during construction and they could also install orange silt fence as well.
- **Report of Clarence Welti referenced borings relative mostly to structures:** Mr. Coon suggested the report was done for multiple reasons. They also asked for measurement of groundwater levels relative to the shallow wells nearby.
- **Welti report made recommendations for slopes of detention basins:** Mr. Coon indicated Mr. Welti concurred with their design of a 3:1 vegetated slope.
- **Erosion Control recommendations:** Wetlands Agent Newton suggested if the plans and construction sequence are followed and the controls are used on a site that's well controlled it's not usually a problem. She indicated she suggested the use of silt sock from experience with other sites; with the erodible soils in East Windsor silt fence doesn't hold back the soils coming off a site.

- **Wetlands crossing, will it allow migration of species?** Mr. Ussery suggested the DEEP has guidelines for sizing the pipes to allow critter migration but it's really geared for fish. This is a crossing of an intermittent stream so salamanders, even raccoons, should be able to get through the proposed pipe.

Chairman Savaria indicated his preference for the non-agricultural option for the Conservation Easement, although he understood some farmers may disagree.

Chairman Savaria queried the audience for comments:

Debbie Barlow, 76 Phelps Road: Ms. Barlow used a Powerpoint presentation to show various features of the area close to her home which were of concern to her. Photos included pictures of water surrounded by vegetation on both sides of Phelps Road. Ms. Barlow indicated she has never seen the water going through the culvert that high. In response to Chairman Savaria's question she indicated the water was backing up onto her property. Her concern is if the pipe becomes clogged, causing the water to back up.

Town Engineer Norton noted that Route 191 (Phelps Road) is a State Road. Mr. Ussery indicated the area of water is a farm pond; the continuation of the pipe may be somewhat compromised. Mr. Ussery indicated the elevation of the outlets on either proposed detention basin should handle the problem; the water would have to come up over Phelps Road to back up onto Ms. Barlow's property. Ms. Barlow indicated she's lived at the property for 56 ½ years and has never seen the water that high. She questioned where the water was coming from? Chairman Savaria agreed that something has changed but from what the Applicant's expert is telling the Commission it doesn't appear that anything on the north side of Phelps Road will affect her property. Ms. Barlow reported she has called the State numerous times; there's supposed to be a drainage ditch nearby and it's silted up. Chairman Savaria suggested the Planning Office can try to direct Ms. Barlow to a contact at the DOT. Ms. Barlow indicated someone has already come out and told her it's not their problem.

Ms. Barlow questioned the effect of the Conservation Easement on her? Chairman Savaria indicated the Conservation Easement is supposed to be left in a natural state.

Ms. Barlow questioned if the parking lot will affect her property? Town Engineer Norton and Wetlands Agent Newton indicated they will look into the situation. Town Planner Whitten noted that the Application will be going to the PZC for review, which will give Ms. Barlow another opportunity for the issue to be addressed.

Commissioner Slate noted that this morning he passed the site and there was no difference in the amount of water going through that pipe; the water was going through there with equal volume.

Donna Pitney, 8 Winton Road: questioned if the soil is contaminated wouldn't the Town want that cleaned up before development? Chairman Savaria and Wetlands Agent

Newton suggested the area will be dealt with. Ms. Pitney suggested there was an area “up there” the Commission didn’t want touched. Chairman Savaria indicated a portion of the property will become a Conservation Easement. Ms. Pitney questioned the levels of contamination; she is concerned the area will be an attractive nuisance, especially for children. Mr. Casslar suggested the numbers he referenced were twice the standards for the 3 compounds from the 1 sample from the dump area. Mr. Casslar reiterated he understands the concerns near the steep slopes, but if it’s cleaned up or not it will still be a steep slope. He understands the issue of the area being an attractive nuisance for small children; perhaps a fence could be installed. Mr. Casslar suggested there is also some vegetation on the slopes. Mr. Casslar indicated the sample taken at the brook is clean. Ms. Pitney cited concern for people walking the area, or walking their dogs. Mr. Casslar suggested people wouldn’t walk in the area as it’s a 70 to 80 degree slope. Ms. Pitney suggested there are slopes behind her on Winton Road, and the brook runs down there. She indicated she used to play in that area all the time. It would make her nervous. She agreed the slope is there now. Ms. Pitney also noted it was said some of the run off will go north to Mason/Stoughton’s Brook. Chairman Savaria indicated somewhere down the line a Remediation Report will be developed.

Chairman Savaria noted the area is terrace escarpment slopes; he would like to see a fence go in there to keep people off the slope. There will be another issue like what’s currently happening at the cemetery.

Chairman Savaria queried the audience for additional comments; no one else requested to speak.

Chairman Savaria queried the Commission regarding their intent to close the Public Hearing.

MOTION: To CLOSE the Public Hearing on the Application of Gardner Chapman for a Request to conduct regulated activities associated with the construction of a 480 luxury apartment complex. This property, which is owned by Helen Maciolek, Titus Realty, and Estate of Pauline Putriment, is located at 111 and 115 South Main Street, and 49 Phelps Road, East Windsor. Assessor’s Map 052, Block 20, Lot 61 and 65 (111 and 115 South Main Street), and Map 053, Block 20, Lot 52, (49 Phelps Road).

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

Chairman Savaria reviewed action options for this Application. He noted additional time extensions are NOT an option. The Commission could deny the Application without prejudice, which would start the clock again. Another option is to allow the PZC to review the Remediation Plan because they must review water quality as part of their responsibilities. The Applicant would also have the opportunity to modify the plan if necessary.

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Commissioner Slate indicated he would like to see the project move forward; if the Wetlands Agent is comfortable with the suggestion for the Remediation Plan, and, if necessary, it can come back to the Commission for review. Wetlands Agent Newton reported the PZC will consider a larger realm of issues, including water quality. She has spoken with Town Planner Whitten and agreed that the Applicant will be required to submit the Remediation Plan at the PZC Hearing; that Plan will be reviewed by herself and Town Planner Whitten. If necessary, the Plan could be brought back to this Commission for further review/comment.

Commissioner Slate also requested additional testing to be done for heavy metals, such as arsenic, lead, chromium, and EDB after a rainfall of 1” during construction.

Commissioner Roloff didn't feel the Commission has enough information to make a decision. She didn't feel there was nearly enough testing done; she would like to see a groundwater sample taken near the brook, especially to the north. Commissioner Roloff noted the Remediation Plan was not submitted; she objected to the contingency of PZC approval; she indicated she would like to see that plan. Commissioner Roloff would also like to see a Landscaping Plan. Discussion followed noting the ramifications of PZC approval or denial.

Commissioner Malin indicated he would like to see the project go forward, but he would like to see the Conservation Easement go into a non-agricultural use.

Commissioner Sawka suggested the Applicant did a bang up job putting the plan together; he read it 3 times.

Chairman Savaria offered several reasons for approval vs. denial; see approval motion for specifics.

Commissioner Osborn indicated he would like to see the project move forward. He noted the Town has worked with this Applicant before on the project which was built on the North Road.

Chairman Savaria called for a motion.

MOTION TO APPROVE: Application **6-2012: Gardner Chapman:** Request to conduct regulated activities associated with the construction 480 unit luxury apartment complex. This property, which is owned by Helen Maciolek, Titus Realty, and Estate of Pauline Putriment, is located at 111 and 115 South Main Street, and 49 Phelps Road, East Windsor. Assessor's Map 052, Block 20, Lot 61 and 65

This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions) and the following conditions:

REFERENCED PLANS:

- Lawrence Farms, 480 Unit Luxury Apartment Complex, South Main Street & Phelps Road, East Windsor, CT, Prepared by J.R. Russo & Associates, LLC for Gardener Chapman, 115 West Road, Ellington, CT 06029. Sheets 1-20, Dated 5/1/12 with a latest revision date of 8/14/12.
- Sheets 1, 13 & 20 have a revision date of 8/29/12 and should be incorporated into the full set of plans.

Standard Conditions

1. The Commission or its designated agent must be notified in writing no later than 48 hours prior to the commencement of permitted activities, and upon completion of said activities.
2. The applicant/contractor shall schedule a pre-constructing meeting with the Inland Wetland Agent to be held no sooner than two weeks before the wetland activities are to begin. The applicant shall, at that time, review with the Inland Wetland Agent the procedures to be taken to protect the wetland areas prior to and during construction.
3. If applicable, prior to the start of work, the applicant shall submit an electronic copy of the existing conditions plan that shows the wetland boundary. The coordinate system associated with the plan should be Connecticut State Plane NAD 1983 in units of feet or another system approved by the Town staff.
4. This Permit is valid for a period of Five (5) years from the date of issuance. Any regulated activity approved by the Agency shall be completed within one year from the time such activity is commenced, provided the Agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the Agency may extend: (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.
5. Extensions of time may be granted if a request is made prior to the expiration of the regulated activity and/or permit.
6. The burden to extend the approved timeframe for the regulated activity (and the time period for the original permit) is on the permittee; the Town of East Windsor is not required to give notice of the permit's expiration.
7. This permit shall not be assigned or transferred without the approval of the Agency.
8. This document shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
9. During the construction phase, the applicant shall be responsible for maintaining a copy of this permit at the site.
10. The Permittee shall permit the Chairman of the Inland Wetland Agency, or its authorized representative(s) or designee(s) to make periodic inspections at any time deemed

necessary in order to assure that the activity being performed under authority of this Permit is in accordance with the terms and conditions prescribed herein.

11. Prior to the start of construction, adequate erosion and sedimentation control measures shall be implemented, and shall be maintained throughout the entire construction phase in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control until the site has become stabilized with permanent vegetative cover. The construction site shall be left in a stable condition at the close of each day. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, haybales, stone-riprap filter dikes or any other devices planned for use during construction. **Additional erosion control measures are to be installed as directed by the Town Staff if field conditions necessitate.**
12. These permit conditions apply only to the work approved by this permit. Any other work to be done within the area of regulatory interest shall require the filing of a new or modified Inland Wetlands Application for consideration by the Commission.
13. If any alteration of the wetland/resource area does occur, the Commission shall impose such measures as it finds necessary to protect and restore those areas.
14. All temporary barriers, including erosion and sedimentation controls are to be removed (in suitable weather conditions) upon completion of the project.
15. A copy of the As-Built plan shall be submitted to this Commission upon completion of the project. The as-built will be reviewed by the wetland agent and verified in the field.
16. No work may commence on this application until such time as the application receives a Planning and Zoning Special Use permits as required by C.G.S. Section 22a-42a (d) (1) which states that any permits which require a zoning, subdivision, special permit, special exception or variance, the applicant must first obtain said permits before starting any work approved as part of the wetland permit.
17. Final approved plans with any updates due to conditions the Commission sets shall be reviewed by Town Staff for completeness and then a copy of the plans shall be filed along with the approval in the Town Clerk's Office on the land records.

ADDITIONAL CONDITIONS:

18. **Testing in Stoughton Brook shall be performed after every 1" rainfall event for arsenic, chromium, lead, and PCB's. Testing will end upon completion of project.**
19. **A Remediation Plan shall be submitted to the Planning and Zoning Commission and the Wetlands Agent shall review and comment to the Planning and Zoning Commission**

DISCUSSION: Commissioner Malin questioned if mention of the Commission's preferred use of the Conservation Commission should be included in this Motion? Wetlands Agent Newton suggested this Commission will make a recommendation to the Planning and Zoning Commission regarding use of the Conservation Easement. A poll of the Commissioners indicated all members preferred that the Conservation

Easement be used for non-agricultural purposes incorporating the recommendations included in the reports submitted by Ed Pawlek and REMA Ecological Services.

REASONS FOR APPROVAL:

Commissioner Slate indicated he would like to see the project move forward; he is ok with the Commission's Agent review of the Remediation Plan, he trusts Staff and the Planning and Zoning Commission. Commissioner Slate would also like to request testing of the property (see additional Condition #18 above for identification of specific materials)

Commissioner Roloff felt the Commission didn't have nearly enough information with regard to testing to make a decision, she would like to see more groundwater sampling closer to the brook, there is no Remediation Plan available for review, she would like to see a Landscaping Plan to see if they plan to use pesticides or herbicides on the grass to determine if we are adding to the existing problem.

Commissioner Malin would like to see the project go forward, and he would like to see the Conservation Easement be specified for a non-agricultural use.

Commissioner Sawka suggested the Applicant did a bang-up job putting the presentation together; he read the material 3 times.

Commissioner Osborn would like to see the project move forward. He noted the Town has worked with the Applicant before on the North Road project. He would also like to see the non-agricultural Conservation Easement.

Chairman Savaria offered the following reasons for approval:

- 1) the Applicant presented a well thought-out plan, particularly after making revisions
- 2) use of best alternatives:
 - a) piping and discharge to Stoughton Brook was the least destructive and intrusive
 - b) discharge to wetlands from storm retention basins was the best option to minimize erosion and impact
 - c) the Applicant proposed the best site for the road crossing
- 3) establishment of a large and valuable Conservation Easement
- 4) plans comply with Wetlands Regulations
- 5) soil contamination issue reviewed and mitigation might better be handled by Planning and Zoning Commission

Slate moved/Osborn seconded/

VOTE: In Favor: Malin/Osborn/Roloff/Savaria/Sawka/Slate
No one opposed/no one abstained

MOTION: To RECESS at 10:10 p.m.

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

MOTION: To COME OUT OF RECESS at 10:20 p.m.

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

NEW APPLICATIONS TO BE RECEIVED:

Chairman Savaria noted receipt of the following Agenda addition:

- **13-2012: EMILIO & ADELINE PARENTE: 286 South Main Street,**
Request for permit to regrade slope, loam, & seed. Assessor's Map 002, Block 05, Lot 097C. (65 day application period ends November 9, 2012).

(No motion, automatic acceptance).

NEW BUSINESS/04-2011A: Newberry Road Enterprises, LLC – Request for modification of Site Plan for wetlands restoration. This property is located at 68 Newberry Road, nearest intersection being Craftsman Road. Assessor's Map 093, Block 19, Lot 006. (65 day application period ends 11/9/2012):

Chairman Savaria read the description of this Item of Business.

Wetlands Agent Newton reported the Commission has received a Verified Pleading of Intervenor from Gerry Wilcox. Mr. Wilcox is suggesting the topography of the proposed work will cause untreated water to flow onto his adjacent property. The Commission needs to vote on the Intervenor status and verify that the Pleading is a wetlands issue.

MOTION: To ACCEPT THE VERIFIED PLEADING OF INTERVENOR for the Application of Newberry Road Enterprises, LLC – Request for modification of Site Plan for wetlands restoration. This property is located at 68 Newberry Road, nearest intersection being Craftsman Road. Assessor's Map 093, Block 19, Lot 006.

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

Wetlands Agent Newton reported that Mr. Dearborn's engineer, Guy Hesketh, is out of State; Attorney Flynn is present to represent Mr. Dearborn. Mr. Dearborn is also present in the audience.

Wetlands Agent Newton reported that the Town went to Court last Monday; the parties came to a Stipulated Agreement that certain things would occur, and also agreed to this Application, which includes the following changes:

- Water quality basin redesigned and relocated directly to the north of the existing pond; the basin is designed with a vegetated swale that discharges into the water quality basin. The basin has been designed to treat runoff before overflowing into the existing pond, which is being expanded to twice the previously approved size.

- Farm road as previously proposed is being removed and relocated to a position 12' off the property line. The area will be graded so runoff from adjacent property will not be blocked, and will eventually flow into the proposed pond.
- Wetland remediation is being proposed; boulders to be placed around remediation area.
- Berm added to the north of the proposed water quality basin to ensure no overland flow of drainage into the basin during construction.
- Silt fence to be located adjacent to the farm road to ensure no soil erosion onto abutting property during removal of the existing farm road and construction of new farm road. Silt fence to be placed to ensure drainage that currently flows from abutting property be allowed to free flow, and not be blocked by the placement of the silt fence.

Wetlands Agent Newton reported she has added 3 conditions to the potential approval motion based on discussion with Town Engineer Norton and the abutting property owner.

Wetlands Agent Newton reported that Town Engineer Norton received a pdf file of the proposed plan, which he was unable to open. He has seen a copy of the plan and has signed off on the proposed changes.

Attorney Flynn introduced himself as being an attorney with Brown, Paindiris, and Scott; he is representing Mr. Dearborn. Attorney Flynn suggested he felt there has been a lot of progress on a contentious matter. The next step is to appear before this Board. Attorney Flynn described the changes as follows:

- Enlarged pond will make it twice as big, which was the size approved by the Inland Wetland Commission; pond to include a device similar to a catch basin with a grate to prevent water level from rising to flood the pond.
- Reconfiguration of water retention basin will occur.
- Existing farm road to be removed and replaced with new farm road 12' from the westerly boundary line.
- Approved fill to be used to construct new farm road.
- A swale will be constructed on the east/west boundary line. Silt fence to be installed at request of Wetlands Agent Newton to prevent anything from going east to west, which Attorney Flynn felt was highly unlikely because the grade goes the other way.
- Drainage from current swale to be carried off road by two pipes which will flow into the sedimentation pond/water quality basin.
- Staff has added wetlands remediation A. Wetlands Agent Newton noted there is not a lot of grading in area A; there was a concern that because of mulch piles, the water might flow over to the adjacent property. Attorney Flynn suggested that if the water was to come off the mulch pile because of the grading it would be directed into the sedimentation pond, so they will be making the pond bigger.
- Silt fence is now in place on a lot of the property.

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In accordance with Commission Bylaws, the Board paused to consider continuation, or adjournment, of the Meeting.

MOTION: To CONTINUE the Inland Wetlands Meeting.

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

Attorney Flynn indicated they have tried to come up with a plan, which has been difficult because Mr. Hesketh has been out of state. The intention is to get the work done before this Winter.

Chairman Savaria referenced proposed Condition 3 – temporary berm to be added to north of the water quality basin shall remain as a permanent erosion/water quality measure. Wetlands Agent Newton suggested it's a wood chip berm. Mr. Dearborn, speaking from the audience, suggested the water quality basin started at the edge of where the water did come off from the mulch, and goes down a 1:3 slope into the water quality basin. Town Engineer Norton's comment was to put a wood chip berm there to keep the water from rushing down in there until the slopes are vegetated. It was only a temporary "fix" when the vegetated slope will be removed. Chairman Savaria noted Wetlands Agent Newton is proposing that the wood chip berm become permanent. Town Engineer Norton clarified that they were not thinking of a tall berm. Mr. Dearborn suggested the water will go through it once it grows grass; Town Engineer Norton suggested they thought it should remain.

Mr. Dearborn referenced the outlet for the water; the way it's designed, it's calculated to hold water as if there were no mulch on site. There is very little water running off the property now; it goes into the water quality basin which has a catch basin much like what's in the street. There will be a 6" hole going in and an 18" pipe going out which will go underground and directly into the pond. The end of the pipe will be in the pond. It may take 3 to 6 hours to empty the pond to make the water go out slowly. If it gets too high it will go through the grate. It was designed so the water will be released slowly. Some of the water will be going into the ground to the hydrology what it is now. Most of the restoration will be at the east end of the pond. Everything is tighter and together; the other way it goes out into the field and makes no sense. If they had it out in the field that corner is a farmable piece of land; everything is tucked into a corner nice and neat. The first plan was just done; this is a more thought out plan.

Commissioner Roloff indicated it looked good to her.

Commissioner Slate questioned that this is what the Court agreed to? Wetlands Agent Newton indicated the Court agreed that the Commission would consider a modified plan; the Stipulation says he has until November 21st to finish this work.

Commissioner Roloff questioned Wetlands Agent Newton for comments. Wetlands Agent Newton suggested from a wetlands standpoint this is a much better plan. We had

all kinds of conditions on the other plan. There is basically no impact on the wetlands from a long term aspect.

Chairman Savaria indicated he liked this configuration better. He always liked Wetlands Agent Newton's idea of a total comprehensive plan. He suggested Staff has reviewed the proposal; he would like to see these wetlands put back the way they should be.

As Intervenor, Mr. Wilcox requested to speak. He advised the Commission he has his attorney, Justin Clark, with him. Mr. Wilcox reported he spoke with Wetlands Agent Newton and Town Engineer Norton this afternoon and they addressed many of the issues. Mr. Wilcox raised the following concerns:

- **Condition 1 regarding the farm road:** he questions the language “the road shall not block drainage from free flowing from abutting property.” Mr. Wilcox cited concern for the pitch of the sides of the road. Wetlands Agent Newton suggested it's noted on the plan that it's going to be graded in the area of the road to drain into the pond; it doesn't say it has to go over the road; no where in there does it say the road will be smooth. She suggested the language doesn't say the water will free-flow over the road. Wetlands Agent Newton read the note from the plan. Mr. Wilcox questioned the grade; he felt it could be a problem; he didn't see a detail of how the road will be built. Chairman Savaria noted the detail is on the Detail Page of the plan, the cross-section is on Sheet 2 of 4.

Wetlands Agent Newton asked what's the question as it relates to wetlands? Mr. Wilcox indicated the road has wetlands on both sides; there is no detail on the material going into the road. Mr. Wilcox suggested the grades tell him it's almost 2'; if it rains the road will blow out into the wetlands. Discussion followed regarding the use of recycled amesite. Wetlands Agent Newton reported her proposed condition says they will use clean fill and gravel and they have agreed to that. Mr. Dearborn offered a copy of a letter from Jim Hyde of the US Department of Agriculture, Natural Resource Division; the letter suggests he would rather see gravel rather than millings – even though DEEP says if you have a road or parking area – you can't use millings as fill. Wetlands Agent Newton noted she has spoken with Mr. Hyde by phone; she is aware of his recommendations. Mr. Dearborn indicated clean fill does not include demolition material.

- **Mr. Wilcox felt the plans were not signed by a civil engineer.** Wetlands Agent Newton clarified that the plans have been signed off by a civil engineer.
- **Mr. Wilcox returned discussion to proposed grades.** Chairman Savaria suggested Mr. Wilcox's concerns were duly noted.
- **Mr. Wilcox referenced the 100' setback but reconsidered discussion as that would be a zoning issue.**

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Mr. Wilcox concluded his comments. Chairman Savaria felt those issues can be, or will be addressed; perhaps Mr. Wilcox didn't have updated plans.

Attorney Flynn requested clarification regarding Condition #3, is the berm to be permanent or temporary? Town Engineer Norton suggested they felt it could be left there. Chairman Savaria suggested perhaps removal could be considered in the future.

Chairman Savaria questioned the Commission regarding action on the proposal.

MOTION TO APPROVE: Application 04-2011A – Modification to NEWBERRY ROAD ENTERPRISES, LLC: Wetlands Restoration Plan. This property is located at 68 Newberry Road, nearest intersection being Craftsman Road. Assessor's Map 093, Block 19, Lot 006.

This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions) and the following conditions:

REFERENCED PLANS:

- Improvement Location Survey, Prepared For Newberry Road Enterprises, LLC, 68 Newberry Road, East Windsor, CT, Landmark Surveys, LLC, 62 Lower Butcher Road, Ellington, CT, 860-875-8204, Scale 1"=60', Dated 5/24/11, Revisions Through 08/30/12, 4 Sheets Total.

Conditions: All conditions from the originally approved plan will remain in place.

Additional conditions as stated below:

1. The new proposed farm road shall be constructed with approved fill. Clean fill and gravel may be used. Asphalt millings are not to be used as fill in the wetlands and therefore cannot be used for the purpose of the farm road construction. Permittee shall maintain grades as noted on the plan, "regrade to restore a positive flow of drainage into existing pond." The Road shall not block drainage from free flowing from abutting property.
2. The area called out on Staff's review plan as Area "A", shall be revised to include the following comment, "This area to be graded to ensure drainage from the northerly and easterly wood mulch piles shall be properly directed towards the water quality basin". A revised site showing the modification of the grades and adding this notation will be submitted and approved by both the Wetland Agent and the Town Engineer.
3. The berm added to the north of the water quality basin as a temporary measure shall remain as a permanent erosion/water quality measure.
4. Road detail to be added to plan.

DISCUSSION: **None.**

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Osborn moved/Slate seconded/

**VOTE: In Favor: Malin/Osborn/Roloff/Savaria/Sawka/Slate
No one opposed/no one abstained**

NEW BUSINESS/10-2012A: East Windsor Cemetery Association – Request to modify existing Permit #10-2012 to reduce proposed driveway width from 18' to 12'. Property, which is owned by the East Windsor Cemetery Association, is located 1600 feet from the intersection of Scantic Road. Assessor's Map 055, Block 32, Lot 19. (65 day application period ends September 14, 2012).

See motion for Adjournment; Item of Business to be heard at October Meeting

NEW BUSINESS/11-2012: Annette Fortune – 121 North Road – Request for permit to build an overpass through swamps to reach higher ground to be used as walkway and tractor way for continued maintenance. Assessor's Map 124, Block 16, Lot 26A. (65 day application period ends October 5, 2012).

See motion for Adjournment; Item of Business to be heard at October Meeting

OLD BUSINESS/1) East Windsor Cemetery Association – Springdale Cemetery, Warehouse Point – Cease and Desist Order for Conducting a Regulated Activity without a Permit:

See motion for Adjournment; this Item of Business not taken up at this Meeting.

OLD BUSINESS/2) Emilio and Adeline Parente – 284 South Main Street, East Windsor, CT. – Cease and Desist Order for Conducting a Regulated Activity without a Permit:

See motion for Adjournment; Item of Business to be heard at October Meeting.

MISCELLANEOUS:

See motion for Adjournment; this Item of Business not taken up at this Meeting.

AGENT DECISIONS/1) 12-2012: Michael A. Mascaro – 211 Wells Road, East Windsor – Conduct regulated activity to build an inground pool with fence. Assessor's Map 075, Map 31, Block 010-06.

See motion for Adjournment; Item of Business to be heard at October Meeting.

STATUS REPORTS:

See motion for Adjournment; this Item of Business not taken up at this Meeting.

CONFERENCES/SEMINARS/TRAINING:

See motion for Adjournment; this Item of Business not taken up at this Meeting.

CORRESPONDENCE:

See motion for Adjournment; this Item of Business not taken up at this Meeting.

GENERAL BOARD DISCUSSION:

See motion for Adjournment; this Item of Business not taken up at this Meeting.

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

See motion for Adjournment; this Item of Business not taken up at this Meeting.

ADJOURNMENT:

MOTION: To SKIP THE REMAINING AGENDA ITEMS and ADJOURN this Meeting at 11:10 p.m.

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

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(11,340)