

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

Regular Meeting – December 5, 2012

MEETING MINUTES

*******Draft Document Subject to Commission Review/Approval*******

CALL TO ORDER: Chairman Savaria called the Meeting to order at 7:03 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 members were in attendance

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

Chairman Savaria noted the establishment of a quorum with 6 Regular and one 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 the recused member's place.

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

AGENDA ADDITIONS:

Chairman Savaria noted receipt of the following Agenda Item to be added under **NEW APPLICATIONS TO BE RECEIVED:**

- **15-2012: Gerald Wilcox: 50 Newberry Road.** Request for permit to fill 3,125 square feet of wetlands for additional storage space. Assessor's Map 92, Block 19, Lot 004.

No Motion made; Application automatically accepted.

APPROVAL OF MINUTES – October 3, 2012:

MOTION: To APPROVE the Minutes of Regular Meeting dated October 3, 2012 with the following amendments:
Page 3, Line #41 and 42: Commissioner Osborn suggested checking with the Department of Agricultural AGRICULTURE.

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

CONTINUED PUBLIC HEARINGS: None.

NEW APPLICATIONS TO BE RECEIVED:

- **15-2012: Gerald Wilcox: 50 Newberry Road.** Request for permit to fill 3,125 square feet of wetlands for additional storage space. Assessor's Map 92, Block 19, Lot 004.

No Motion made; Application automatically accepted.

NEW BUSINESS: 10-2012A: East Windsor Cemetery Association – Request for reconsideration of decision for 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:

Chairman Savaria read the description of this Item of Business. Appearing to discuss this Application was Jay Ussery, of J. R. Russo & Associates, representing the Applicant – the East Windsor Cemetery Association (EWCA). Also present was Dan Burnham, President of the Cemetery Association.

LET THE RECORD SHOW Commissioner Osborn stepped down from service, as he is a member of the Board of Directors for the East Windsor Cemetery Association. Commissioner Roloff joined the Board with regard to discussion and vote on this Application.

Commissioner Roloff questioned that the signature of the Applicant and Owner are the same on the Application. It was noted that the Application was signed appropriately, as Mr. Burnham is an officer (President) of the EWCA.

Wetlands Agent Newton recalled that the EWCA appeared before the Board previously on a similar application. The Commission voted on that application, which was perceived to be approved. Upon review of the vote it was determined the approval required another affirmative vote. The EWCA has returned to the Commission seeking reconsideration of that approval this evening.

Mr. Ussery opened discussion by noting the Application is to modify the existing permit granted some years ago for an access/utility road to the cemetery property. The road was originally proposed to be 18' wide; they are now reducing that width to 12' to lessen disturbance to the wetlands. This Application revising this driveway is dovetailed with (an Application for) the cemetery drive to the west. At the time of the original application the EWCA couldn't widen the existing cemetery drive because of the

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proximity to graves. Since that time the EWCA has worked out a property purchase with the neighbors – the Tylers – to widen the cemetery drive to the west; the EWCA would still like to build this access/utility road. At a width of 18' the amount of wetlands disturbance would be 4500 square feet; reducing the width of the road to 12' would reduce the amount of wetlands disturbance to 4,050 square feet – a reduction of 450 square feet.

Mr. Ussery submitted photos of the brook at the location of the proposed crossing. He noted the depth of the brook is approximately 2'; they are proposing to install a 24" pipe to accomplish the crossing, and install riprap – which is a standard treatment. Mr. Ussery indicated he took a look at the upstream drainage area which contributes to the brook. The area isn't that wide; the upstream drainage comes from the properties of the Tylers and the (East Windsor Historical Society) Academy. Mr. Ussery suggested there is not a lot of flow coming through; perhaps the 24" pipe may be oversized. He suggested perhaps they could eliminate the riprap, and add wetlands plantings instead.

Mr. Ussery suggested this is the only cemetery in East Windsor which doesn't have multiple access drives. He compared width standards for Town roads, and passages in parking lots which allow two-way traffic. Mr. Ussery described the topography of the cemetery driveway on the west, noting the crossing is up a steep graded bank to the brook on the right and graves are on the bank on the left. The EWCA is looking for an alternate manner of ingress/egress for maintenance. If they have vault trucks coming in during a funeral they would be coming in on the maintenance road. Mr. Ussery concurred this is a small cemetery; there are not a lot of graves. Mr. Burnham suggested the other cemeteries are filling up and closing. Discussion followed regarding the capacity status within the existing Town cemeteries.

Chairman Savaria indicated he felt the Commission is familiar with the plan. The question has been brought forward if this crossing is really necessary now because the conditions under which the EWCA asked for this access is now eliminated by the ability for the widening of the other drive. Commissioner Savaria indicated he didn't a problem personally with this driveway proposal but he felt the Commission gave approval based on the assumption that the other driveway couldn't be widened. Chairman Savaria questioned Wetlands Agent Newton regarding the status of the application.

Wetlands Agent Newton reported the first approval is in effect until the Commission accepts/approves this proposal, or until you rescind the first approval based on the conditions changing, which they have. The Commission has to decide on the purpose of the road, which the applicant is suggesting is for maintenance. She recalled Mr. Burnham had said he had to wait until funerals were completed to gain access to the rear of the cemetery. The Commission must decide if there is a prudent and feasible alternative to this proposal.

Commissioner Roloff suggested this wasn't a high volume cemetery; she questioned how

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many times in the past year had Mr. Burhnam had to wait? She didn't see that much of a need. If the other driveway can be widened she didn't feel there was a need for this work. Commissioner Roloff suggested if the cemetery was used more often she would consider the proposal. She noted that originally this proposal was because they couldn't widen the other driveway.

Commissioner Koczera questioned why people have exits in buildings? The EWCA may not use this exit all the time but if cars break down they will have another access.

Commissioner Sawka felt it was a good upgrade. It's going to happen, and in the future the cost will be higher.

Commissioner Malin felt they should have it for emergencies.

Chairman Savaria suggested he wasn't opposed to having a second entrance for maintenance.

Commissioner Roloff questioned if the first entrance is owned by the Town? Mr. Ussery and Mr. Burnham replied affirmatively; they noted there are 2 separate properties involved in this discussion. This application is for the East Windsor Cemetery Association. Mr. Ussery suggested if you looked at it technically and legally it could be considered 2 properties, but in reality it's not. Commissioner Roloff questioned if there was an easement for the EWCA to use the driveway; Mr. Ussery replied he doubted you would find a deed in the Town Clerk's Office.

Commissioner Osborn requested to speak from the audience. Chairman Savaria noted he had stepped down from service on the Board. Wetlands Agent Newton noted Commissioner Osborn is a member of the Board of Directors of the EWCA, and could therefore speak regarding this Application.

Mr. Osborn asked Commissioner Roloff if she understands the workings of the EWCA? He explained that all the cemeteries, except St. Catherine, are owned by the Town. Back in 1917 the cemeteries were so run down they formed the EWCA. The cemeteries are owned by the Town, but run by the EWCA. When this property came up the Town couldn't come up with the money to purchase it so it was left to the EWCA to be used for a cemetery and nothing else. Commissioner Roloff indicated her question revolves around dealing with two separate entities. Discussion continued regarding property ownership, use, and access.

Chairman Savaria encouraged the Commission to return to the consideration of a prudent and feasible alternative, and denial or approval of this Application. He noted that at the time the EWCA came in previously the Commission allowed filling of the wetlands because the Town didn't have the ability to widen the existing cemetery access.

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Commissioner Roloff agreed the question returns to a prudent and feasible alternative. She agreed it would be nice to have the additional access, and economically it would be more costly in the future, but for her it comes back to the prudent and feasible alternative. Mr. Ussery suggested if the EWCA believes they need 2 accesses to run the cemetery properly and be safe, as every other cemetery in Town has, then the only alternative is to cross the wetlands, and they felt they are proposing to cross at the narrowest area of the brook and are causing the least disturbance.

Commissioner Slate suggested the Commission approved the proposal the last time because the EWCA couldn't widen the other driveway. He noted this proposal is changing the wetlands disturbance by 450 square feet. He suggested leaving the driveway at the originally proposed width to allow 2 cars to pass. Chairman Savaria suggested the Commission must act on the proposal/application before them – which is a modification to reduce the width.

Chairman Savaria called for a motion.

MOTION: To APPROVE, with standard conditions, the Application of the East Windsor Cemetery Association for a Request to modify existing Permit #10-2012A 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.

Koczera moved/Sawka

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

Wetlands Agent Newton noted the proposal now was approved with 4 affirmative votes. The original Permit is no longer valid; this modification takes the place of it.

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

NEW BUSINESS: 13-2012: Emilio and Adeline Parente – 286 South Main Street. Request for permit to regrade slope, loam, and seed. Assessor's Map 002, Block 05, Lot 097C. (65 day application period ends November 9, 2012: application verbally extended to December 5, 2012):

Chairman Savaria read the description of this Item of Business. Appearing to discuss this Application was Jay Ussery, of J. R. Russo and Associates, LLC, who was representing Mr. Parente.

Mr. Ussery noted this property involves a 1:1 slope at the rear of a single family home

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located on Route 5 across from Harkens Market. The home was originally located across the road, and was subsequently moved to this location. The slope is adjacent to a drainage outlet which runs through the meadow and eventually discharges into the Connecticut River. This slope slipped about a year ago, which caused substantial erosion. The owner deposited fill on the slope in an effort to stabilize it, and seeded the area.

The owner was issued a Cease and Desist Order regarding the placement of the fill on the slope. Mr. Ussery hired Clarence Welti to review the situation. Mr. Welti has recommended to cut the top of the bank back and reduce the slope to a 2:1 grade; they would then loam and reseed the area. Mr. Ussery indicated the work would encroach into the stream slightly at the corner of the property but most of the work would occur within the regulated area. Mr. Ussery indicated his recommendation would be to delay the work until next Spring.

Commissioner Osborn questioned the status of the new vegetation in the area? Mr. Ussery indicated it looked pretty good this Summer but when he visited the site today he noticed a couple of spots which are starting to erode again. Wetlands Agent Newton indicated they used sandy soil for their fill; Commissioner Osborn suggested the existing soil was sandy. The area was filled before Mr. Parente moved the house to that location. Mr. Ussery reported he wished they could leave it alone but he felt the area will slip again.

Chairman Savaria questioned Wetlands Agent Newton regarding Staff comments?

- Wetlands Agent Newton questioned Mr. Ussery on his earlier comment that fill would be removed? Mr. Ussery indicated they will be taking material out and replacing it with top soil, and then reseeding the area.
- Wetlands Agent Newton noted this area is part of a Conservation Easement; she would like conservation posts installed on the front lawn to avoid future mishaps. Mr. Ussery agreed.
- Wetlands Agent Newton agreed with Mr. Ussery's comment to delay work until the Spring. She suggested adding a condition that work not commence until after May 15, 2013. Mr. Ussery agreed.

MOTION: To APPROVE the Application of Emilio and Adeline Parente – 286 South Main Street. Request for permit to regrade slope, loam, and seed. Assessor's Map 002, Block 05, Lot 097C. Motion is approved with ~~13~~ 16 standard conditions, and the following:

Additional Condition:

14. 17. Work is to commence after May 15, 2013.

Osborn moved/Koczera seconded/

VOTE: In Favor: Unanimous

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**Opposed: No one
Abstained: No one**

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

Updated information remains pending. Wetlands Agent Newton noted Mr. Ussery has indicated he is having difficulty getting in touch with his contact at DOT; she will try to assist. Mr. Ussery reported he visited the site today; it hasn't changed much and hasn't moved again. The site has a fair amount of vegetation at present. Wetlands Agent Newton indicated he will get updated photos for the Commission.

MISCELLANEOUS/(1) Election of Officers:

MOTION: To NOMINATE Ronald Savaria as Chairman.

Koczera moved/Sawka seconded/

DISCUSSION: Commissioners Koczera and Osborn suggested Chairman Savaria does a fine job as Chairman.

**VOTE: In Favor: Unanimous
Opposed: No one
Abstained: No one**

MOTION: To NOMINATE Richard Osborn as Vice Chairman.

Savaria moved/Slate seconded

DISCUSSION: None.

**VOTE: In Favor: Unanimous
Opposed: No one
Abstained: No one**

MOTION: To NOMINATE Michael Koczera as Secretary.

Osborn moved/Slate seconded

DISCUSSION: None.

**VOTE: In Favor: Unanimous
Opposed: No one**

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Abstained: No one

Chairman Savaria reported Commissioner's attendance at Meetings is up from last year. No one missed 4 meetings, or 3 in a row. He noted that the Commission must reduce its Regular Members by one, but the Commission is allowed to have two Alternates. Chairman Savaria noted two members are up for re-appointment; he would rather not see the Board of Selectmen not renew the Commissioner's service. He questioned if either Commissioner Koczera or Commissioner Sawka would consider stepping down to service as an Alternate Member? Commissioner Sawka agreed to assume the Alternate position.

MISCELLANEOUS/(2) Review of Bylaws:

The Commission reviewed the current Bylaws, and considered the following revisions to the current Bylaws:

Section 4 – Membership: See above discussion.

Section 4.5 – Standards for retaining position as Commissioner; no changes.

Section 5.2 – Officers and Their Duties. Chairman Savaria questioned the Chairman's ability to authorize expenditures of up to \$100 without prior approval of Agency. Wetlands Agent Newton clarified that the only person who has authority to issue expenditures is the Town Planner; the Chairman would have to seek her approval/permission first.

Section 6.1 – Staff and Their Duties: Wetlands Agent Newton clarified she gets her direction for duties from the Connecticut General Statutes; she suggested revising wording to mimic Section 22a-40 regarding wetlands.

Section 8.1 – Quorum: Discussion of what number constitutes a quorum.

Section 8.6 – Alternate members: Discussion of service during a meeting.

Section 8.7 - Meeting Adjournment: Discussion of what constitutes a unanimous vote to continue meetings past 10:30 p.m. deadline; discussion of sitting members vs. all members.

Section 8.8 – Field Meetings: Discussion of what constitutes a public meeting vs. field inspections, and what constitutes **ex parte communication (Section 12)**.

Section 9.3 – Application submission: Discussion of time of receipt relative to presentation at upcoming meeting vs. receipt of application.

Section 10.3 – Preparation for Public Hearings: Legal Notices of Public Hearing as part of meeting record, vs. Notice of Decisions.

Section 16 – Training: No change; Chairman Savaria reminded Commissioners of the need to participate in State or Federal training sessions.

Commissioner Slate questioned the Commission's ability to limit the time a speaker makes a presentation, or comments; expert testimony is often lengthy. Wetlands Agent Newton suggested time limits don't generally apply to those experts making a presentation on behalf of the applicant. She suggested asking a representative to move on

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if the information being presented is repetitive. Wetlands Agent Newton will research this topic.

MISCELLANEOUS/3) Approval of 2013 Meeting Dates:

The Commission discussed the following:

- Changing the date of the meeting scheduled for July 3rd; no change made
- Change of start time to 6:30 p.m.; no change made.

MOTION: To APPROVE the 2013 Meeting Schedule for the Inland Wetlands Commission as proposed.

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

AGENT DECISION/1) #14-2012: John and Dawn Galinski – 229 South Main Street – Request to construct 2 metal buildings and place processed stone over existing gravel/dirt areas. Property is located nearby intersection of South Main Street and Abbe Road. Assessor's Map 012, Block 12, Lot 001-02. (65 day application period ends 2/8/2013):

Wetlands Agent Newton reported this property is being proposed to be used for a contractor's storage yard. The property has been in disrepair for some time; Mr. Galinski has removed an old tobacco shed. He plans to install 2 metal buildings, one near the location of the tobacco shed which has been removed, and the other will be located on the other side of the ravine. Nothing proposed is encroaching on areas not already disturbed. Erosion controls, including silt fence, are being proposed along the perimeter. Areas are already graded and gravel added.

Wetlands Agent Newton reported she has no problem with the proposal, but she has added the following additional conditions to the standard 16 conditions:

- Addition of floor drains would require the Applicant to return to this Commission
- No storage of material behind the large building.
- Storage of stockpiled material requires the Applicant to return to this Commission or the Wetlands Agent.

Wetlands Agent Newton reported there is no wetlands impact associated with this proposal; she has approved the work as an Agent Decision.

STATUS REPORTS:

68 Newberry Road:

Wetlands Agent Newton reported a Stipulation was signed in Court in August; the work required under that agreement has not been complied with.

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CONFERENCES/SEMINARS/TRAINING:

Chairman Savaria reported he attended Session III of the DEEP training; it was an excellent presentation regarding vernal pools. He will be receiving a Certificate as he has completed all three sessions. Chairman Savaria encouraged his fellow Commissioners to take advantage of the available training.

CORRESPONDENCE:

- Violation Letter sent to Brian Carpenter regarding filling on 33 Mahoney Road.
- Copy of “The Habitat”

GENERAL BOARD DISCUSSION: None.

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

No one requested to speak.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:45 p.m.

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

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(3338)