

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

Regular Meeting – August 7, 2013

Minutes Heading: MEETING MINUTES

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

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

ESTABLISHMENT OF QUORUM:

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

Unable to Attend: Regular Members Micahel Koczera, and John Malin

Guests: First Selectman Denise Menard; Town Engineer Len Norton; Diane Whitney, Esquire; Selectman: Richard Pippin (Inland/Wetlands Liaison); Alan Baker (left at 8:00 p.m.); Board of Finance: Kathy Pippin; Water Pollution Control Authority: Art Enderle, III, Supervisor; Charles Riggott, WPCA Commission.

Chairman Savaria noted the establishment of a quorum with 3 Regular and two Alternate Members as noted above. All Regular members, and Alternate Member Roloff will sit in on votes this evening. If, for any reason, a Regular Member must step down from service, Alternate Members will serve in rotation as noted at each Agenda Item.

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

Chairman Savaria requested a change in the Agenda order.

MOTION: To GO OUT OF ORDER and take the Executive Session at the beginning of the meeting; Executive Session to include all Commission Members, First Selectman Menard, Town Engineer Norton, and Attorney Whitney. Executive began at 7:00 p.m.

**Roloff moved/Slate seconded/VOTE: In Favor: Unanimous
(No opposition/No abstentions)**

Everyone else present, including the Recording Secretary, left the Meeting Room.

MOTION: To COME OUT OF EXECUTIVE SESSION AT 8:25 p.m.

DISCUSSION: Chairman Savaria noted the Commission went into Executive

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Session to discuss Pending Litigation, and the Commission is taking no action.

**Slate moved/Osborn seconded/VOTE: In Favor: Unanimous
(No opposition/No abstentions)**

LET THE RECORD SHOW First Selectman Menard and Attorney Whitney left the Meeting at 8:25 p.m.

AGENDA ADDITIONS: None.

APPROVAL OF MINUTES/1) July 10, 3013:

**MOTION: To APPROVE the Minutes of Regular Meeting dated July 10, 2013
As written.**

**Osborn moved/Slate seconded/
VOTE: In Favor: Savaria/Osborn/Sawka
Opposed: No one
Abstained: Roloff and Slate**

CONTINUED PUBLIC HEARINGS: None.

NEW APPLICATIONS TO BE RECEIVED: None.

NEW BUSINESS/1) #02-2012 – East Windsor WPCA – MODIFICATION of Sewer Expansion – North Road to Mullen Road, Melrose Road, and Rolocut Road.
Map/Block/Lot not applicable:

Chairman Savaria read the description of this Item of Business. Appearing to discuss the proposed modification were Jay Ussery, of J. R. Russo and Associates, LLC., and Art Enderle, Supervisor of the East Windsor Water Pollution Control Authority. Also available in the audience was Mr. Riggott, who is a member of the WPCA Commission.

Mr. Ussery reiterated his comments from the July Meeting which summarized the situation which has precipitated this plan revision. Mr. Ussery noted the North Road Sewer Expansion includes 3 phases of installation of gravity sewer main from North Road at the Melrose Road intersection through to the new pump station located near the Marsh Motorcycle property. Mr. Ussery indicated they originally came through with an Application for disturbance along North Road and Wells Road; discussion determined the area included properties located along North Road between Wells Road and Melrose Road. About a month ago they were working in North Road installing a sanitary sewer when they got a visit from a DOT District I Supervisor who was in East Windsor to inspect the work being done on the hill at the intersection of Main Street, Broad Brook and North Road. The supervisor was held up in traffic at this location for a short time

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and stopped work on the sewer installation. Mr. Ussery indicated they have come through with a modification to relocate some portion of the sewer on the side of eastbound lane of North Road in the area of an existing DOT drainage swale which has been assumed to be wetlands. The plan modification would begin with properties owned by Mr. LaFleur (who had appeared before this Commission previously regarding activity which occurred within that drainage swale), through property located to the west of the Warehouse Point Congregation of Jehovahs Witnesses Kingdom Hall.¹ The area of the drainage swale has been reviewed by both David Askew of the Hartford County Soil and Conservation District, and John Ianni, Soil Scientist; both experts have agreed the drainage swale is a wetlands associated with a nearby intermittent stream.

Mr. Ussery referenced his plan modification, noting the area highlighted in yellow is an intermittent watercourse, which, by definition, carries water for 48 hours after a storm event, has hydrophytic² vegetation, and evidence of scour or deposits of recent sedimentation. They are proposing to move the installation of the sewer line 6' off the road for 500' along this drainage ditch on the eastbound side of the road. Installation of the sewer line within the drainage swale would allow them to keep the westbound lane of North Road running with continuous traffic, while work could occur periodically within the eastbound lane. Mr. Ussery noted there is also a similar drainage ditch on the westbound side of the road, which is not considered an intermittent watercourse, but installation of the sewer line within that drainage ditch would require moving utility poles at a considerable expense. Mr. Ussery noted that all work will occur within the State right-of-way, but will require a local Inland Wetlands Permit.

Mr. Ussery referenced memo dated 8/7/2013 from Wetlands Agent Newton which calls for 8 items of additional information and plan requirements prior to consideration of approval of this proposal. Wetlands Agent Newton's memo also suggested the Commission must consider if the plan modification is a significant activity, which would call for a Public Hearing allowing public input.

Mr. Ussery continued to explain the revisions necessary for the various property owners, including removal of some mature trees. Discussion also included differing opinions of the proposed activity being a temporary, or permanent disturbance to the intermittent watercourse. Mr. Ussery suggested they are proposing this alternative to appease the DOT; the only other feasible alternative would be to install the sewer in North Road which was the plan originally approved by DOT. He also clarified that moving the sewer out of the road provides a considerable cost savings as they are not ripping out and replacing pavement; that cost savings can be re-allocated to repaving Rolocut and Wells Roads after installation of the sewer line. Wetlands Agent Newton clarified that cost has no bearing on the decision made by this Commission with regard to the plan modification for this portion of the sewer expansion.

¹ Spelling of property owner taken from Assessors Records.

² Spelling taken from DEEP's wetlands fact sheet.

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Wetlands Agent Newton noted the Commission can't act on this application this evening as additional detailed information has not been provided. Discussion turned to the Commission's consideration of the work as being a significant impact which would warrant a Public Hearing. Mr. Ussery suggested the people affected by these revisions think the sewer is being installed within North Road; they have no idea of what the new plan entails or that the sewer is now being proposed to run along the side of the road which will cause disturbance along their property frontage. Wetlands Agent Newton felt it would be a disservice to the people affected by this work; without holding a Public Hearing they have no ability to offer comments regarding the work. The Commission unanimously concurred.

Wetlands Agent Newton reviewed the pending items listed in her memo, noting several of the same items have been echoed in Town Engineer Norton's memo of 8/7/2013 as well. Wetlands Agent Newton also noted she is requesting a written narrative explaining why this modification is occurring when another plan was previously approved.

Commissioner Slate noted he is aware of one homeowner who is currently running a sump pump into the drainage swale; he suggested Mr. Ussery should contact that individual to determine his needs. Mr. Ussery agreed.

Discussion continued regarding the ability to complete the work before the colder weather.

Chairman Savaria recalled that Mr. Ussery had discussed at the previous Meeting another potential plan. Mr. Ussery suggested they had considered leaving the sewer where it was and running trucks down the road on a temporary haul road but they have subsequently determined the machinery is so large that it will still extend out into traffic when it swings around. The contractor was not comfortable with that proposal; the use of the haul road was ultimately abandoned.

MOTION: To HOLD A PUBLIC HEARING on the Application #02-2012 for the East Windsor Water Pollution Control Authority for a MODIFICATION of the Sewer Expansion – North Road to Mullen Road, Melrose Road, and Rolocut Road. Map/Block/Lot not applicable. Public Hearing to be scheduled for the Commission's Regularly Scheduled Meeting to be held on September 4, 2012, at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

**Osborn moved/Slate seconded/VOTE: In Favor: Unanimous
(No opposition/No abstentions)**

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OLD BUSINESS: None.

MISCELLANEOUS/1) Wetlands Fee Ordinance:

Wetlands Agent Newton summarized the changes she presented at the previous Meeting as follows:

- **Schedule of Fines** - bases fines on a sliding scale based on the activity and disturbance involved.
- **Policy for Enforcement/Citation** – adds language to allow the Wetlands Agent to take action prior to Commission review; agent's actions are appealable.
- **Ordinance** – added language which requires the agent to be present at violation hearings.

The Commission discussed the process for creation of the Violation, Citation & Procedures Ordinance, and the process by which a violation is reviewed by the Commission. Commissioner Slate requested clarification that the fine can be negotiated, or the violation appealed; Wetlands Agent Newton concurred, noting the violation can be appealed or renegotiated via an appearance with the Zoning Violations Citation Hearing Officer. Wetlands Agent Newton noted that the Fines Schedule and the Wetlands Violation Enforcement and Citation Policy are internal documents the Commission works with to seek resolution; they are not part of the Ordinance so they can be revised by the Commission whenever they find it appropriate. The Ordinance is being referred to the Board of Selectmen for passage as an official ordinance; change in that document would require another hearing and a re-vote of the Board of Selectmen.

MOTION: To SEND THE WETLANDS VIOLATION CITATIONS & PROCEDURES ORDINANCE to the Board of Selectmen for approval.

**Roloff moved/Osborn seconded/VOTE: In Favor: Unanimous
(No opposition/No abstentions)**

AGENT DECISIONS: None.

STATUS REPORTS: None.

VIOLATIONS: None.

CONFERENCES/SEMINARS/TRAINING:

CORRESPONDENCE: None.

GENERAL BOARD DISCUSSION:

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Commissioner Roloff :

- Referenced the Minutes of the previous Commission Meeting regarding damage to a fence on the Merlot property. She clarified that the fence is not owned by the Roloffs but is property of the owner of Merlot. Commissioner Roloff suggested damage occurred when they (the property owner) removed material from the parking lot and the bulldozer came through and tore the fence out. Commissioner Roloff suggested she has tried to close the opening in the fence. Commissioner Roloff suggested the vandalism wasn't something that was done on purpose. Wetlands Agent Newton indicated the owner of Merlot has said he would be fixing the damage.
- A friend of Commissioner Roloff's caught an unusual fish in the pool behind Broad Books and Stuff; she questioned if the friend could tag and then release it? Wetlands Agent Newton referred Commissioner to the DEEP for guidance regarding the fish.
- Commissioner Roloff has noticed a big drop in the number of striped turtles at the Broad Brook Pond. Commissioner Osborn noted the same condition is occurring all along the Scantic River. Wetlands Agent Newton noted she has rescued a few trying to cross the road and returned them to the pond as well.

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

No one requested to speak.

EXECUTIVE SESSION: See earlier motions.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 9:05 p.m.

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

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(1966)