

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

***Special Meeting – February 14, 2018***

***MEETING MINUTES***

***\*\*\*\*\*Minutes are not official until approved at a subsequent meeting\*\*\*\*\****

**CALL TO ORDER:** Vice Chairman Talamini called the Meeting to order at 6:05 p.m. in the Scout Hall Meeting Room, 28 Abbe Road, East Windsor, CT.

**ESTABLISHMENT OF QUORUM:**

**Present:** Regular Members Rebecca Talamini, Vice Chairman, Richard Osborn, and Richard P. Pippin, Jr., and Alternate Member Michael Sawka. Regular Member, Alan Baker, Chairman, arrived at 6:40 p.m., with apologies

**Unable to Attend:** All members were present.

**Guests:** Deputy Selectman Steve Dearborn, Inland/Wetlands Liaison; First Selectman Robert Maynard, Selectman Charles Szymanski, **Applicants:** Attorney Dory Famiglietti, of Kahan, Kerensky & Capossela, LLP.; Josh Wilson, of Fuss & O'Neill, Soil Scientist; David Cappiello, MMCT; Conor Hurley, PLUSONE STRATEGIES; David Chicoine; Stu Brown; **Public:** Cher Balch, Jim Balch, John Matthews, Kathy Pippin, Tom Talamini; Jim Barton, Warehouse Point Fire District Chief.

**Press:** No one from the Press identified themselves.

Vice Chairman Talamini noted the establishment of a quorum with 3 Regular and 1 Alternate Members as noted above at the Call to Order. All members will sit in on votes this evening. .

Also in attendance was Wetlands Agent Matt Tyksinski.

**PLEDGE OF ALLEGIANCE:**

Everyone stood to recite the Pledge of Allegiance.

**AGENDA ADDITIONS:**

No added Agenda items this evening.

**APPROVAL OF MINUTES – January 3, 2018:**

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**MOTION: To APPROVE the Minutes of Regular Meeting dated January 3, 2018 as presented**

**Osborn moved/Pippin seconded/DISCUSSION: None**

**VOTE: In Favor: Unanimous (Osborn/Pippin/Sawka/Talamini)**

**PUBLIC HEARING/#11-2017 MMCT Venture, LLC. – Wetlands Map Amendment – Wetlands designation only. 105 Prospect Hill Road, East Windsor, CT. Property at intersection of Bridge Street and Route 5, East Windsor, CT. Map 102, Block 14, Parcel 001:**

Vice Chairman Talamini announced the MMCT Public Hearing. Attorney Famiglietti noted her team member had not yet arrived; she suggested the Commission take other applicants first.

**MOTION: To TAKE THE AGENDA ITEMS OUT OF ORDER and hear NEW BUSINESS/#12-2017 David Chicoine – 24 Holcomb Terrace, East Windsor. Request to conduct regulated activities to drop pond level and create rock retaining wall to hold back yard from encroaching on the pond. Nearest intersection is Main Street, Warehouse Point. Map 101, Block 12, Lot 044.**

**Osborn moved/Sawka seconded/DISCUSSION: None**

**VOTE: In Favor: Unanimous (Osborn/Pippin/Sawka/Talamini)**

**CONTINUED PUBLIC HEARINGS: None.**

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

**NEW BUSINESS/#12-2017 David Chicoine – 24 Holcomb Terrace, East Windsor. Request to conduct regulated activities to drop pond level and create rock retaining wall to hold back yard from encroaching on the pond. Nearest intersection is Main Street, Warehouse Point. Map 101, Block 12, Lot 044.**

Vice Chairman Talamini read the description of this Item of Business. David Chicoine, the applicant, joined the Board.

Mr. Chicoine reviewed the photographs which accompanied his application. Mr. Chicoine advised the Commission that his front yard had been sliding into the pond. To prevent that from continuing he dropped his front yard down, lowered the pond, and installed the rock wall shown in the photos; dirt and plantings will settle into the wall which eliminates the need to install mortar. Mr. Chicoine reported he hydroseeded the lawn area and covered it with hay to promote quicker growth. Mr. Chicoine indicated he didn't think he needed a permit for that work.

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Vice Chairman Talamini queried the Commissioners for comments; no one had any questions.

Wetlands Agent Tyksinski suggested he worked with Mr. Chicoine on the application; he's fine with what's been done.

**MOTION: To APPROVE Application #12-2017 David Chicoine – 24 Holcomb Terrace, East Windsor. Request to conduct regulated activities to drop pond level and create rock retaining wall to hold back yard from encroaching on the pond. Nearest intersection is Main Street, Warehouse Point. Map 101, Block 12, Lot 044.**

**Osborn moved/Pippin seconded/DISCUSSION: None  
VOTE: In Favor: Unanimous (Osborn/Pippin/Sawka/Talamini)**

Vice Chairman Talamini continued in the posted Agenda order.

**NEW BUSINESS/#1-2018: Letourneau Builders - Wetlands Map Amendment – Wetlands Designation only. 11 Mahoney Road, Broad Brook, CT. Map 85, Block 30, Lot 079.**

Vice Chairman Talamini read the description of this Item of Business. Gaetan Letourneau of Letourneau Builders, the applicant, joined the Board.

Mr. Letourneau advised the Commission that he purchased the property at 11 Mahoney Road the previous October. Mr. Letourneau reported he planned to put an addition on the east end of the existing home. He received approval from the North Central Health District, and then found that the site contained wetlands to the west of the home. Mr. Letourneau hired a Soil Scientist to stake the wetlands, which were found to be 57+/- feet to the west of the home. The wetlands were found to have no functional value, and provided no habitat for wildlife.

Vice Chairman Talamini queried the Commissioners for comments; no one had any questions.

Wetlands Agent Tyksinski suggested he had no problems with Mr. Letourneau's proposal.

**MOTION: To ACCEPT Application #1-2018: Letourneau Builders - Wetlands Map Amendment – Wetlands Designation only. 11 Mahoney Road, ~~Broad Brook~~ Warehouse Point, CT. Map 85, Block 30, Lot 079.**

**Osborn moved/Sawka seconded/DISCUSSION: Commissioner Osborn noted the property location is Warehouse Point rather than Broad Brook.**

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**VOTE: In Favor: Unanimous (Osborn/Pippin/Sawka/Talamini)**

**OLD BUSINESS:** None.

**MISCELLANEOUS:i. After The Fact Permitting/Email from DEEP:**

Wetlands Agent Tyksinski reported he contacted DEEP regarding the use of After-the-Fact Applications. DEEP didn't recommend using an After-the-Fact Application, unless there is some type of amendment involved. DEEP indicated some towns issue fines; they didn't recommend that either. Their recommendation was using some sort of wetlands "ticket" which would cover the cost of time spent investigating the incidents.

Wetlands Agent Tyksinski suggested he would like to pursue some remedy and return to the Commission with suggestions. He also felt a change of policy would require approval of the Board of Selectmen. He liked the ticket for not coming in for a permit or not abiding by the permit or regulations.

Commissioner Pippin felt that sometimes making someone remove debris in the wetlands causes more damage than the debris. He felt the Commission should continue to use the After-the-Fact Permit until a better resolution is determined.

**MISCELLANEOUS/ii. Fee Schedules:**

Wetlands Agent Tyksinski continues to research fee schedules.

**MISCELLANEOUS/ iii. FAQs:**

Wetlands Agent Tyksinski referenced a Frequently Asked Questions document that he recently prepared. He noted there is often confusion as to what a wetlands is; he felt the addition of this document to the Wetlands Application would be helpful. The Commission concurred.

**MISCELLANEOUS/2) Inland Wetlands Applications/i. Short Form/ii. Long Form**

Wetlands Agent Tyksinski had prepared a new Short Form and a new/separate Long Form Application for the Commission's review. He suggested the Short Form could be used for minor/smaller projects like something around a resident's home, while the Long Form would be used for larger scale projects. Wetlands Agent Tyksinski felt both forms were easier for the applicant to read and understand.

**MISCELLANEOUS/3) Review of Inland Wetlands and Watercourses Agency Bylaws:**

No discussion this evening.

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**AGENT DECISIONS:** None.

**VIOLATIONS/1) Show Cause Hearing – Stuart L. Brown, Jr., and Carol Ann Brown - Cease and Correct - Violation of Section 6.1 and 6.2 East Windsor Inland Wetlands and Watercourse Agency Regulations, 20 Margaret Drive – A-1 Zone, Map 120, Block 77, Lot 000M015.**

Mr. Stu Brown joined the Commission. Mr. Brown gave the Commission a history of the conflict between he and his neighbors which resulted in complaints lodged against Mr. Brown for zoning and wetlands violations. Mr. Brown has appeared at the request of Wetlands Agent Tyksinski, who has advised him he must file a Wetlands Application and pay the associated fee to remove debris on the slope behind his home - debris which Mr. Brown maintains isn't his waste. Mr. Brown felt that nothing on the Wetlands Application applies to his situation; he'll pay for the permit when the Commission tells him where he fits in.

Discussion followed. Mr. Brown was advised that the debris has been dumped by whomever on a terrace escarpment slope; removal of those materials located on Mr. Brown's property will require that Mr. Brown file the Wetlands Application. In response to Mr. Brown's question he was advised the Permit will allow him to remove the debris from the slope. As a compromise the Commission agreed to waive the fee if Mr. Brown will file the application.

**MOTION: To WAIVE THE APPLICATION FEE IF MR. BROWN FILES THE APPLICATION.**

**Pippin moved/Osborn seconded/DISCUSSION:** Nothing further; see discussion above.

**VOTE: In Favor: Unanimous (Osborn/Pippin/Sawka/Talamini)**

Chairman Baker and Josh Wilson, of Fuss & O'Neill arrived at 6:40 p.m.

**MOTION: To GO BACK INTO THE POSTED AGENDA ORDER.**

**Pippin moved/Sawka seconded/DISCUSSION:** None

**VOTE: In Favor: Unanimous (Osborn/Pippin/Sawka/Talamini)**

**PUBLIC HEARING/#11-2017 MMCT Venture, LLC. – Wetlands Map Amendment – Wetlands designation only. 105 Prospect Hill Road, East Windsor,**

**CT. Property at intersection of Bridge Street and Route 5, East Windsor, CT. Map 102, Block 14, Parcel 001:**

**MOTION: To OPEN the Public Hearing on Application #11-2017 MMCT**

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**Venture, LLC. – Wetlands Map Amendment – Wetlands designation only. 105 Prospect Hill Road, East Windsor, CT. Property at intersection of Bridge Street and Route 5, East Windsor, CT. Map 102, Block 14, Parcel 001:**

**Baker moved/Pippin seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Sawka/Talamini)**

Chairman Baker apologized for his delay. He gave a brief summary of the process to conduct the Public Hearing, noting that comments from the public must pertain to wetlands issues – not zoning, not traffic. Chairman Baker clarified that this Application is not for a permit for the construction project; this Application is to present information to support approval of the delineation of wetlands on the property at 105 Prospect Hill Road.

Attorney Famiglietti joined the Commission. She noted this is a Wetlands Application for the site of the cinema and future casino. This is step one – getting the wetlands line correctly acknowledged on the site. Attorney Famiglietti reported that the wetlands line was originally delineated in 1989 for the cinema project. There were a couple of areas of wetlands that were questioned; she referred to Town Engineer Norton's memo dated January 5, 2018, and the response generated by Fuss & O'Neill dated January 24, 2018.

With regard to housekeeping items Attorney Famigliette noted that the map and application must be filed with the Town Clerk; that filing occurred on January 12, 2018. Notices of the Public Hearing were sent to abutters on January 22, 2018; evidence of the notifications was provided to the Planning Department.

Attorney Famigliette then introduced Josh Wilson, Professional Soil Scientist for Fuss & O'Neill. Mr. Wilson advised the Commission he performed the wetlands delineation in September of 2017. During a review of his work he found discrepancies in the area on the south part of the property, and in the central area. Mr. Wilson reported he returned to the site to review his findings, at which time he did test pits and auguring of the soil. As a result of that review he found the soils in the southern area to be moderately well drained upland soils. He noticed that during periods of heavier flow it appeared to be wetlands and may have been delineated as such during the 1989 delineation. Mr. Wilson indicated that he is confident that the wetlands delineation is accurately depicted on the maps before the Commission this evening.

Chairman Baker questioned how the areas function with regard to recharging the area, and do these areas support wildlife habitat? Mr. Wilson suggested that with regard to the groundwater discharge and recharge, at the toe of the slope it will recharge in the Summer; any water that will come in "here" will remove sedimentation coming in from upland. Mr. Wilson suggested this is a limited wildlife habitat area because of the work being done nearby by Eversource; vegetation limits the wetlands function as well.

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Chairman Baker questioned what prompted the review of the wetlands line? Mr. Wilson suggested that often a developer wants to make sure of the accuracy of the delineation. Chairman Baker noted this area was last delineated in 1989; he questioned if there was a change in methodology? What happened to cause the difference? Mr. Wilson indicated he would like to say it was a false positive due to the water levels during different times of the year. Mr. Wilson suggested he couldn't answer how or why it was delineated before. Chairman Baker questioned the condition of the area in September 2017? Mr. Wilson indicated it was bone dry. He suggested that it could be that the area was less accessible in 1989; it was dry in September 2017.

Commissioner Pippin questioned that Mr. Wilson had delineated the wetlands using the standards currently required by the State of Connecticut? Mr. Wilson replied affirmatively.

Vice Chairman Talamini opened discussion to the public.

**Selectman Charles Szymanski, 57 Rockville Road:** Selectman Szymanski questioned that the lines reflected on the maps associated with this application represent parking areas? Mr. Wilson replied affirmatively, noting it's the existing parking conditions. Selectman Szymanski noted the plan/footprint shown at the Planning and Zoning Commission last evening had shown parking in the area to the south of the site; how does that relate to this map? Attorney Famiglietti clarified that this team did a preliminary application review with a footprint of the developed area to the Planning and Zoning Commission (PZC) last evening. The improvements shown on this plan are the existing conditions, which is different than the PZC plan. With the PZC plan this team is assuming the plan before this Commission this evening will be adopted, and as they work through the development they will be working off of this delineation.

**Deputy First Selectman Steve Dearborn, 44 East Road:** Deputy First Selectman Dearborn would like to see this wetlands delineation get approved and to get this project going.

Attorney Famiglietti reported that Mr. Wilson is comfortable with the work he has done under the standards for the State of Connecticut; he did the review twice. Attorney Famigliette clarified that there is no activity proposed yet. They are developing a development plan but need to know the accuracy of this wetlands line; this application was prompted by discussions with Town staff. If we can establish that this is the accurate wetlands line then they can move forward.

**MOTION:** To CLOSE the Public Hearing on Application **/#11-2017 MMCT Venture, LLC.** – Wetlands Map Amendment – Wetlands designation only. 105 Prospect Hill Road, East Windsor, CT. Property at intersection of Bridge Street and Route 5, East Windsor, CT. Map 102, Block 14, Parcel 001:

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**Baker moved/Pippin seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Sawka/Talamini)**

**MOTION: To ACCEPT the Wetlands Map delineation as presented under plan #VT-01 and #VT-02 prepared by Fuss & O'Neill dated 10/11/2017. for Application /#11-2017 MMCT Venture, LLC. – Wetlands Map Amendment – Wetlands designation only. 105 Prospect Hill Road, East Windsor, CT. Property at intersection of Bridge Street and Route 5, East Windsor, CT. Map 102, Block 14, Parcel 001:**

**Osborn moved/Baker seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Sawka/Talamini)**

**MOTION: To GO BACK TO THE POSTED AGENDA ORDER.**

**Sawka moved/Pippin seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Sawka/Talamini)**

**CONFERENCES/SEMINARS/TRAINING: Nothing this evening.**

**CORRESPONDENCE: None.**

**GENERAL BOARD DISCUSSION: None.**

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

No one requested to speak.

**ADJOURNMENT:**

**MOTION: To ADJOURN this Meeting at 7:01 p.m.**

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

Respectfully submitted:

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Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission