

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

Regular Meeting – November 1, 2017

MEETING MINUTES

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

CALL TO ORDER: Chairman Baker 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 Alan Baker (Chairman), Richard Osborn, and Rebecca Talamini, and Alternate Member Michael Sawka.

Unable to Attend: All Members present.

Guests: Deputy Selectman Richard P. Pippin, Jr., Inland/Wetlands Liaison; Selectman Jason Bowsza; Kathy Pippin, and Sarah Muska, Board of Finance; Public: Steve Dearborn, Guy Hesketh, P.E.; David Chicoine; Tom Talamini; Gerald Wilcox;

Press: Anthony Branciforte, Journal Inquirer.

ESTABLISHMENT OF QUORUM:

Chairman Baker noted the establishment of a quorum with 3 Regular and 1 Alternate Members as noted above. All Regular members will sit in on votes this evening. .

Also in attendance were Wetlands Enforcement Official/Wetlands Agent Laurie Whitten, and Wetlands Agent Matt Tyksinski.

PLEDGE OF ALLEGIANCE:

Everyone stood to recite the Pledge of Allegiance.

AGENDA ADDITIONS:

MOTION: To ADD to the Agenda under **AGENT DECISIONS:** 55 Rice Road, installation of shed.

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

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Chairman Baker indicated he would also like to discuss an update on the Melrose Bridge project under Status Reports.

APPROVAL OF MINUTES /September 6, 2017:

MOTION: To ACCEPT the Minutes of Regular Meeting dated September 6, 2017 as presented.

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

LET THE RECORD SHOW the October 4, 2017 Regular Meeting of the Inland Wetlands and Watercourse Agency was cancelled; no minutes taken.

PUBLIC HEARINGS: None.

CONTINUED PUBLIC HEARINGS: None.

NEW APPLICATIONS TO BE RECEIVED: None.

NEW BUSINESS: None.

OLD BUSINESS: None.

MISCELLANEOUS: None.

MOTION: To MOVE AGENT DECISIONS and STATUS REPORTS after VIOLATIONS.

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

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.;

Chairman Baker asked if either of the Browns were present to represent themselves; neither of the Browns were in attendance at this Hearing.

Wetlands Agent (WA) Tyksinski reported there have been issues with dumping on terrace escarpment slopes adjacent to Town property as well as grading onto the Town property. He met with Stuart Brown 2 weeks ago; Mr. Brown agreed to make changes, including removal of material dumped on the terrace escarpment slope, and to discontinue grading onto the Town property. WA Tyksinski indicated he inspected the property this morning; it now looks much better than when he and Chairman Baker

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visited the property previously. Nearly all of the debris has been removed from the slope; Mr. Brown had planted small trees on the terrace escarpment as well. WA Tyksinski reported that when he visited the property this morning a tree had fallen over since the previous visit.

Chairman Baker indicated Mr. Brown must be informed in writing by certified mail within the next 10 days that he will need to file a Wetlands Application to clean up the debris from the wetlands. The Application must be submitted prior to the next Wetlands Meeting. Wetlands Enforcement Official/Wetlands Agent (WEO/WA) Whitten felt Mr. Brown has done much of the remediation work already. Commissioner Osborn questioned if Mr. Brown has seeded the area; WA Tyksinski replied negatively.

VIOLATIONS/2) Show Cause Hearing – Steve Dearborn – Cease and Correct – Violation of Sec. 6.1 and 6.2 of East Windsor Inland Wetlands and Watercourse Agency – 68 Newberry Road. M-1 Zone; Map 093, Block 19, Lot 006.

WA Tyksinski reported the office received a call that Mr. Dearborn was stumping in the upland review area. He and WEO/WA Whitten visited the property and found that the stumping was being done. He and WEO/WA Whitten have met with Mr. Dearborn; he has submitted an Application to allow the stumping.

Mr. Dearborn was present; Chairman Baker welcomed Mr. Dearborn to the table. Mr. Dearborn gave his name and address – 144 East Road - for the record; he reported he is the owner of 68 Newberry Road and the rear lot at Craftsman Road. Mr. Dearborn's engineer, Guy Hesketh, of East Granby, was available in the audience. Mr. Dearborn submitted an aerial map of the property; he also had several photos of existing conditions at the property.

Mr. Dearborn reported he cleared this land 6 to 7 years ago; he is stumping this area for planting next Spring. Mr. Dearborn had a large aerial of the property to review during this presentation; smaller copies had been provided for the Commissioners. Mr. Dearborn reviewed his photos, noting the following conditions:

1. the blue outlined area is where he is putting the stumps and roots to create a berm; the stumps and roots have been screened to remove the dirt. He has created the berm to prevent material from getting into the beginning of Namerick Brook. Mr. Dearborn clarified that the brook is not located on his property. He noted that WEO/WA Whitten and WA Tyksinski have visited the site and they thought it was good that he didn't disturb this sensitive area.
2. this is a closer picture of the stumps/berm; the land goes down. You can see where the water went into the berm.
3. picture of the opposite side of the berm; it's a shot of the water coming out of the berm. It circles around to the stream, which is 50 to 60 feet. Mr. Dearborn noted not one shovel of dirt got into the stream during the recent 8 inch rain storm.

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4. this is a photo of the back side of the berm; nothing got through the berm. The water came behind it and went through the berm. No dirt got into the street. Mr. Dearborn referenced a tree in the photo which he used as an identifying marker,
5. this is a photo up the hill with the stumps and roots in place where “this” leg come around. The berm has no wash outs with the 8 inches of recent rain.
6. this photo looks across the field to the corner of the property; no wash outs with the 8 inches of rain.
7. this is a panoramic photo taken by Mr. Hesketh, his engineer. Mr. Dearborn identified a 6 inch wash out coming down towards the berm; it stops at the berm.
8. another shot of the wash out; no wash outs near the berm.
9. this is a shot further towards the tree line looking up towards the building; no wash outs with the 8 inches of rain. Mr. Dearborn suggested the berm stopped everything; nothing went through it or into the stream. Chairman Baker questioned where the water went? Mr. Dearborn suggested it filtered through the berm; it worked perfectly.

Mr. Dearborn then referenced the map, which shows the 150 foot of influence.

Mr. Dearborn suggested that throughout this whole process he doesn't understand; he's a farmer; this isn't being addressed as a farming issue. Mr. Dearborn noted he's attended the Wetlands classes; everything returns to Section 22a-40 (Agricultural Exemptions, Farming, and the Wetlands and Watercourse Act/permitted operations and uses). He purchased the property from the Nobles who farmed it before him; originally it was a dairy farm and then a horse farm. Mr. Dearborn suggested he has photos of this land with no trees on it. Mr. Dearborn suggested you can farm in any zone in East Windsor; he has 3 parcels in this area which goes out to Craftsman Road. He wants to get a permit to harvest the trees, which is an as-of-right activity under forestry; then he wants a permit to do the stumping.

Chairman Baker noted the new application wasn't on the agenda; we need to limit discussion to this violation. Chairman Baker suggested that a few years ago when Mr. Dearborn cleared that property Chairman Baker and Commissioner Ron Savaria visited this property. Mr. Dearborn didn't want to get into that discussion. Chairman Baker clarified that his comment involved this property and was germane to this issue. Mr. Dearborn indicated he invited Chairman Baker and Ron Savaria to the property, and when you got back before this board you told them stuff that wasn't true; you said that he threatened them. Chairman Baker disagreed; Mr. Dearborn said Chairman Baker said that in a court room. Chairman Baker clarified that he hadn't been in court. Mr. Dearborn felt it had been a nice meeting; they didn't have any issues when they left.

Commissioner Talamini questioned what the next step was regarding this violation? Chairman Baker indicated Mr. Dearborn must stop all activity in the regulated area, stabilize the site, and apply for a permit. The Cease & Correct Order will remain in effect until Mr. Dearborn submits the application; Mr. Dearborn needs to stabilize the

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area to correct the Cease and Correct Order. Mr. Dearborn indicated he has submitted an application and paid the application fee. The stumping is done; the berm is done; he invited the Commissioners out to inspect the site. Discussion followed regarding scheduling the site visit; it was decided Chairman Baker and Commissioners Talamini and Osborn would meet with Mr. Dearborn on Monday, November 6th, at 4:30 p.m. at the Craftsman Road side of the property. As required, the site visit will be posted as a Special Wetlands Meeting.

Mr. Hesketh questioned if the Commission would be accepting Mr. Dearborn's application this evening? Chairman Baker replied negatively; he explained the application receipt and Hearing process. Mr. Hesketh lobbied Chairman Baker and the Commission for an earlier application receipt as the requirement for the application was part of lifting this violation. Chairman Baker reiterated the application receipt process. WEO/WA Whitten noted Mr. Dearborn needs to also submit a site plan identifying the 150 foot uplands area; Mr. Hesketh questioned if the site plan needs to be an A-2 Survey? Discussion continued; after review of the map referenced earlier by Mr. Dearborn, which shows the upland review area identified by the orange line, WEO/WA Whitten felt that was acceptable. She noted that material had been received earlier today; she hadn't had time to review it prior to this meeting.

Chairman Baker questioned if Mr. Hesketh would also attend the Monday site visit? Mr. Dearborn indicated that would be his preference.

With the site visit pending for Monday this Show Cause Hearing will continue to the next Commission Meeting.

VIOLATIONS/3) Show Cause Hearing – David Chicoine and Valencia J. Chicoine – Cease and Correct – Violation of Sec. 6.1 and 6.2 of the East Windsor Inland Wetlands and Watercourse Agency – 24 Holcomb Terrace, R-1 Zone, Map 101 Block 12, Lot 044.

WA Tyksinski reported he inspected this property on October 13th and found Mr. Chicoine had been removing material within the 150 foot upland review area and on the terrace escarpment slope. Mr. Chicoine was ordered to cease the activities and to stabilize the area. WA Tyksinski reported the office has not yet received an application from Mr. Chicoine to complete the work.

Chairman Baker questioned if WA Tyksinski had photos for the Commission to review? WA Tyksinski reported he had not taken any.

Chairman Baker advised the Commission and the public that he knows Mr. Chicoine ; their properties share the Blue Ditch. Chairman Baker indicated he didn't feel he needed to recuse himself from this Hearing; no one raised any opposition.

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Mr. Chicoine indicated he didn't realize he needed to acquire a permit for this work; he had gotten permits for previous work on the dam. Mr. Chicoine reported there used to be a retaining wall in the front lawn; now that he's removed material the front lawn is flat. He has hydro-seeded the area; the grass came through well. Mr. Chicoine reported he has not applied for a permit because WEO/WA Whitten and WA Tyksinski had told him he needed to hire an engineer to assist with the application.

Chairman Baker questioned if the Commission could visit the site; Mr. Chicoine replied affirmatively. A site visit was set for Tuesday, November 7th, at 4:30 p.m. at Mr. Chicoine's home at 24 Holcome Terrace. As required, the site visit will also be posted as a Special Wetlands Meeting.

Chairman Baker questioned what Mr. Chicoine had done regarding erosion controls? Mr. Chicoine noted he had put down the grass and hydroseeded the area, which is now flat. He suggested the material didn't go into the pond. Mr. Chicoine reported he gets water from the old Walmart site.

Chairman Baker questioned WA Tyksinski if he returned to the property after issuing the Cease & Correct Order; WA Tyksinski replied he had only visited the site once but planned to meet with Mr. Chicoine.

Chairman Baker cautioned Mr. Chicoine to not do any more work; WA Tyksinski will send Mr. Chicoine a letter indicating the Cease & Correct Order will remain in effect until the Wetlands Application is received. Chairman Baker advised Mr. Chicoine to choose his engineer and begin the process to submit the application before the next Commission Meeting.

WEO/WA Whitten requested clarification that this Commission receives applications at one meeting and hears the application at the following meeting? Chairman Baker concurred.

VIOLATIONS/4) Show Cause Hearing – Connecticut Mulch – Release of Cease and Desist Order – Unpermitted activity in Upland Review Area and Wetlands – Violation of Section 6.1. North Road/Route 140, B-3 Zone; Map 115, Block 15, Lot 021.

WEO/WA Whitten reported WA Tyksinski has sent a letter releasing the Cease & Desist Order. Commissioner Talamini suggested violation letters should be sent Certified Mail in the future.

MOTION: To GO BACK INTO THE POSTED AGENDA ORDER.

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

AGENT DECISIONS: 55 Rice Road, installation of shed:

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WEO/WA Whitten advised the Commission a resident would like to put a shed in a regulated upland review area within their property at 55 Rice Road. The shed would be installed on a stone area approximately 23' from a wetlands/swale. WEO/WA Whitten reported she has not yet visited the site. She felt the request would be fine as a jurisdictional ruling, but felt she would run it by the Commission during this Meeting.

The Commissioners were fine with a permit being issued under an Agent Decision; no motion was made.

STATUS REPORTS/Melrose Bridge:

WEO/WA Whitten reported the area on the northeast side of the river is a steep embankment. The volunteers had considered installing riprap but she questioned if a seeded mat might be a better option? Chairman Baker felt the seeded mat will break up and end up in the river. He noted the silt fence wasn't installed firmly; they need more hay bales to hold it down. Commissioner Osborn questioned the installation of a cloth mat? WEO/WA Whitten suggested the embankment isn't stabilized well.

Tom Talamini, a volunteer with the American Heritage River Commission, indicated they did put in a cloth mat; they haven't changed the grade. Discussion followed regarding the installation of material; Chairman Baker suggested the embankment wasn't impacted when it was vegetated; Mr. Talamini suggested they put in a foot of material on top of the cloth mat. Chairman Baker reported he spoke with Albert Grant who lives near the bridge. On the left hand side the water is cutting through and scouring the area; he indicated he didn't want to see anything getting into the river from a non-source point. Mr. Talamini suggested none of the water is going over the end of the cul-de-sac; there are catch basins along the road and the water sheet flows into the wetlands from there.

Chairman Baker questioned if there are any plans for buttoning up the area for the Winter? Mr. Talamini suggested they put down the fabric where the berm was taken out; they installed silt fence and hay bales. They have no plans for erosion controls because no water comes down there.

Chairman Baker concurred there won't be any problems once the vegetation takes over, but in the meantime....; he questioned if DPW could do anything so there isn't a problem in the Spring? WEO/WA Whitten suggested she felt that once the berm is gone it's anticipated the area will be used more. Chairman Baker requested a letter from Town Engineer Norton regarding the status of this project. He requested this Agenda item be carried over for further discussion.

STATUS REPORTS/1) Newberry Village – Duration of Environmental/REMA Vernal Pool Monitoring Report :

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It was noted the REMA reports had been requested for a period of 5 years after completion of the project. Discussion followed regarding the chronology of the issuance of the permits throughout the multiple phases.

WEO/WA Whitten reported the Town continues to hold a Wetlands Bond and other bonds on this project.

Chairman Baker suggested they've done a lot with mulch as erosion controls in this project; he noted they can be effective if installed correctly.

CONFERENCES/SEMINARS/TRAINING:

CACIWC Seminars are scheduled for Saturday, November 18th. Chairman Baker requested the department sign him up for at least the afternoon sessions.

CORRESPONDENCE: None.

GENERAL BOARD DISCUSSION:

WEO/WA Whitten queried the Board regarding the following issues:

- **Inland/Wetlands Application Fee Schedule:** She noted it's difficult to understand the present schedule; she and WA Tyksinski would like to review/revise them for a presentation to the Board. Chairman Baker agreed to the review.
- **Proposal for fees associated with a Fines Ordinance:** Chairman Baker agreed, noting tonight is a perfect example of the need to encourage compliance. He noted the Commission is seeing a lot of after-the-fact applications; the damage is already done but there is little the Commission has to seek compliance. Commissioner Osborn felt the Commission needs to do more to advise/educate the public regarding the commitment to protect the wetlands; WEO/WA Whitten suggested people also don't know they have wetlands on their properties. Chairman Baker suggested using the Town's Facebook page to reach out to the public.

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

Jerry Wilcox, owner of the Wilcox Corporation, 50 Newberry Road: Mr. Wilcox indicated he liked the comments he's heard from the Commission regarding improving compliance for wetlands violations. He cited South Windsor has strict guidelines regarding wetlands; he suggested the department research what South Windsor does regarding violations.

Mr. Wilcox also spoke to work Mr. Dearborn has done which affects Mr. Wilcox's property at 50 Newberry Road. He suggested Mr. Dearborn has eliminated a buffer and

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swale, and has dropped the elevation of his property near Mr. Wilcox's property line. Mr. Wilcox is asking for the Commission's help regarding this violation. Chairman Baker requested Mr. Wilcox advise WEO/WA Whitten and WA Tyksinski of the complaint; they'll inspect the property and take it from there. Mr. Wilcox offered to pay for the engineer and apologize in the paper if he's wrong.

Tom Talamini: suggested he understands the intention of the fines ordinance but he suggested if a person files an application and is working with an engineer it could be some time to get the issue resolved; the fines could add up in that situation. Chairman Baker suggested the Commission's intent is to get things done by a hand shake; if that doesn't work the process is a verbal warning, followed by a letter, which is followed by the appearance at a meeting. He suggested the ordinance currently offers a lot discretion; they would not initiate fines as the first step.

Deputy First Selectman Dick Pippin: recalled that people get nervous when the Commission speaks of a fines ordinance; that was the reason it was voted down the last time. He suggested implementation an after-the-fact application fee instead.

Jerry Wilcox: felt the talk around town is that the Town is losing its ability to control the wetlands; he suggested people are doing what they want because the other guy is doing something and getting away with it; that sets a bad example. WEO/WA Whitten suggested she hopes everyone understands that in the past 4 years the Town has had 4 different wetlands officials.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:20 p.m.

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

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission