

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

**Regular Meeting  
Wednesday – September 2, 2020  
7:00 p.m.  
East Windsor, Connecticut**

**Meeting held via ZOOM Teleconference  
Meeting ID: 332 683 3563  
Town Hall closed to the Public by  
Executive Order of First Selectman Jason E. Bowsza  
Due to Coronavirus pandemic**

**MEETING MINUTES**

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

**CALL TO ORDER:**

Chairman Talamini called the September 2, 2020 Regular Meeting of the Inland Wetlands and Watercourse Agency to order at 7:01 p.m. The Meeting is being held via teleconference due to closure of the Town Hall to the public as the result of the coronavirus epidemic.

**ESTABLISHMENT OF QUORUM:**

**Present:** Regular Members Rebecca Talamini (Chairman), Alan Baker, Kurt Kebschull, Richard Osborn (Secretary)(joined the meeting at 7:04 p.m.), and Alternate Member Jamie Sydoriak.

**Unable to Attend:** Regular Member Richard P. Pippin, Jr., and Alternate Member Michael Sawka.

**Guests:** First Selectman Bowsza hosted the meeting. **Department of Public Works:** Len Norton, Town Engineer; Ann Maria Salmon.

Chairman Talamini noted the establishment of a quorum with 3 Regular and 1 Alternate Members present at the Call to Order; Regular Member Osborn joined the Commission via phone at 7:04 p.m. At the Call to Order Chairman Talamini noted Alternated member Sydoriak will join the Commission as a voting member tonight.

Also, in attendance was Wetlands Agent Ruthanne Calabrese.

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**PLEDGE OF ALLEGIANCE:**

Everyone stood to recite the Pledge of Allegiance.

**AGENDA ADDITIONS:**

Chairman Talamini noted the receipt of a request to add discussion of tree issues under Miscellaneous/2 to the current Agenda.

**MOTION:** To ADD under MISCELLEANOUES/2. Discussion of tree issues at Scantic Glen.

Baker moved/Sydoriak seconded/DISCUSSION: None.

**VOTE:** In Favor: Unanimous (Baker/Kebschull/Sydoriak)  
(No one opposed/No abstentions)

**APPROVAL OF MINUTES/1) July 1, 2020 – Regular Meeting:**

Chairman Talamini requested a motion regarding approval of the Minutes of the Regular Meeting held on July 1, 2020.

**MOTION:** To APPROVE the Minutes of Regular Meeting of the Inland Wetlands and Watercourse Agency dated July 1, 2020 as presented.

Baker moved/Sydoriak seconded/DISCUSSION: None.

**VOTE:** In Favor: Unanimous (Baker/Kebschull/Sydoriak)  
(No one opposed/No abstentions)

**APPROVAL OF MINUTES/2) August 5, 2020:**

Meeting cancelled due to storm.

LET THE RECORD SHOW Regular Member Osborn joined the meeting via phone at 7:04 p.m.

**NEW APPLICATIONS TO BE RECEIVED/1) #11-2020 – Town of East Windsor –**  
South Water Street – Emergency repair including lining of culvert and access road:

Town Engineer Norton opened discussion on this application.

Town Engineer Norton reported that a few years ago the State came through to review the culverts and bridges in Town, and advised Town Engineer Norton that we needed to

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address a few areas. Town Engineer Norton noted he had intended to work on the South Water Street culvert next year and had taken the initiative to have the culvert drawn up and hired a consultant to analyze the entire Blue Ditch watershed. Town Engineer Norton indicated the culvert is under South Water Street just south of the I-91 overpass. It's a 72 inch corrugated metal culvert which at one time was asphalt coated. The asphalt coating has worn away, the metal is deteriorating and rotting horribly - worse than what they thought. Town Engineer Norton indicated he was off on Friday but his associate, Joe Sauerhoefer, walked the culvert with the contractor and found it to be in worse shape than they thought.

Town Engineer Norton reported they found they were having a problem because they found a sinkhole in the southbound lane of South Water Street; they had they had patched it and marked it to be fixed. The area began settling again, when they investigated further they found the joints have let go; someone crawled in there years ago and threw concrete in one of the joints and now there's another one messed up. They've estimated it would cost between \$1 million to \$1½ Million to replace the culvert.

Town Engineer Norton indicated they've decided to go with a slip lining in the culvert that they thought would cost between \$100,000 and \$120,000. After looking at the culvert they'll now have to build new endwalls on both ends, which has increased the cost to just shy of \$260,000 to line it and do the needed repairs. Town Engineer Norton suggested if that let's go, and the road is compromised, there is a 30 inch sewer main on top of it, and a 20 inch water main. Town Engineer Norton suggested we're looking at a \$2 Million plus problem if we don't fix this culvert.

Town Engineer Norton reported he advised Wetlands Agent Calabrese, who has been very helpful. This repair is so critical that Town Engineer Norton has scheduled crews to go in tomorrow, Friday, and Tuesday to cut the trees for the access road. The contractor will then show up on Tuesday to build the access ramp so they can get to the upstream end of the culvert. The contractor will be pulling a 54 inch smooth line Snap-Tite HDPE piping through the 72 inch culvert. Town Engineer Norton indicated his consultant has confirmed that a 54 inch smooth bore will take the same water as the corrugated metal. Town Engineer Norton indicated they'll be pulling the pipe through from the downstream side. He indicated they have to build a cofferdam down below to keep the Connecticut River out while we're working, which will be temporary. Town Engineer Norton noted the river is currently low enough that they can get away with either the large sandbags or maybe some concrete blocks. We have to cut a few trees to get a track vehicle down there to pull the pipe through but the work will be minimally invasive. As they back their way out, when completing the project, they'll restore everything they do on the water side to existing conditions and stabilize it. Town Engineer Norton reported they'll build a new headwall on the riverside and improve the existing plunge pool with a 2 foot deep plunge pool with riprap. On the upriver side

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they'll be putting in a new plunge pool, and build a headwall with huge footings because of the existing soil conditions. Town Engineer Norton indicated they also need to straighten the brook out a bit in the vicinity of the project. Town Engineer Norton reported the money for this project will come from road money, but he can't let this culvert fail.

Town Engineer Norton reported Wetlands Agent Calabrese has tried to contact DEEP for their part of this repair on the downstream side but hasn't gotten any response. Town Engineer Norton reported he has sent emails to DEEP but not received a response either. Town Engineer Norton reported his consultant for this project is the same consultant he used to repair the Broad Brook Dam; he's familiar with the people at DEEP. He has advised Town Engineer Norton the people from DEEP are working from home during the pandemic; we may, or may not hear back from them. Town Engineer Norton reiterated this is an emergency for the Town to fix the pipe but it's not an emergency for the State because nothing has happened. Town Engineer Norton indicated if the pipe let's go it's going to be an emergency for all of us; he reiterated the location of the 30 inch sewer main potentially dumping water into the Connecticut River. The consultant suggested documenting the number of times the Town has attempted to contact DEEP; he and Wetlands Agent Calabrese are keeping records.

Commissioner Sydoriak questioned who Town Engineer Norton and Wetlands Agent Calabrese had been trying to contact at DEEP? She noted she is working in the same unit that would be reviewing this project. Town Engineer Norton indicated his e-mail had been directed to Jennifer Perry; Commissioner Sydoriak clarified Ms. Perry is head of Dams now, the gentleman Town Engineer Norton needs to contact is Bill Sigmund. Wetlands Agent Calabrese indicated she knows Mr. Sigmund well; she's put in 3 calls to him; discussion indicated he had not returned phone calls or forwarded any e-mails.

Commissioner Sydoriak indicated in reviewing the proposal and its connectivity to the Connecticut River she felt Town Engineer Norton would need engineered plans submitted to ACOE for Connecticut General Permit 19 and a State 401. Commissioner Sydoriak suggested Town Engineer Norton may not get a permit in hand for at least 180 days. The plans need the inverts on both sides of the pipe, existing and proposed conditions, area of disturbance, table of impact; the more information you can give them in advance the faster their review will be. Commissioner Sydoriak questioned if any money was being provided by the State (DOT) as that will also trigger the State 401. Town Engineer Norton indicated he was not getting any State funding for this project. Commissioner Sydoriak indicated they'll need to know that as well.

Commissioner Sydoriak suggested there may be an option for an emergency authorization; if you can make the case there may be an expedited process you could go through with Bill Sigmund, and you should reach out to the ACOE for their

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determination because they'll be part of the process. Town Engineer Norton reiterated he has tried to contact DEEP; the work is scheduled to begin tomorrow. Commissioner Sydoriak suggested trying to pursue a State emergency authorization.

Wetlands Agent Calabrese indicated she saw information regarding a Certificate of Permission. She suggested given the age of the culvert and the type of work that'll be going on, she felt the Town might have opportunities there. She also noted there's a Temporary Authorization. Wetlands Agent Calabrese noted the paperwork for the permitting can be submitted within 30 days of the expiration of the Emergency Authorization, so there may be an option for an after-the-fact approval. Wetlands Agent Calabrese reiterated they need to be able to make the contacts with DEEP and get a response to be able to take action.

Commissioner Sydoriak questioned how the slipline will raise the elevation of the piping at the outlet - do fish pass through this culvert? Is it going to be a hinderance or prohibit passage; DEEP or the ACOE won't want to see that raised too much. Commissioner Sydoriak also noted they don't like riprap in the stream channels; she suggested Town Engineer Norton may need to reconsider the placement of the riprap to stabilize the banks up at the inlet. Town Engineer Norton indicated it wasn't his intention to put riprap in the stream channel; it's a consideration to stabilize the bank and may not be necessary.

Town Engineer Norton explained the process for the replacement again, noting they'll be running this pipe along the existing ribs of the 72 inch pipe, so it will raise up maybe a couple of inches. And, we'll make sure the streambed matches it. There will be a hydrobell with flexible coupling on the end of the pipe at the upstream headwall. Town Engineer Norton doubted that currently there's much water going through the pipe; this brook goes dry several times a year. It's a small trickle now with the river being down and there being minimal flow in the Blue Ditch; this is a great time to be doing this repair. Town Engineer Norton clarified that the inverters are on the plan, although it may be difficult for the Commission to see as they're looking at small plan copies. The pipe will be pulled through, it will be laying basically on the inverter flow line of the existing pipe, they'll grout the connection between the two pipes to ensure the outer pipe doesn't want to give in after the fact.

Town Engineer Norton noted the contractors have done this a number of times; he feels the project is in good hands. He and Operations Manager Sauerhoefer will be overseeing the project daily. If the contractors have to make modifications greater than they thought Town Engineer Norton and Operations Manager Sauerhoefer will make sure it's put back the way it was. Town Engineer Norton reiterated the Town can't afford this problem if this culvert goes; once the people walked through last Friday everyone was quite concerned.

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Commissioner Sydoriak indicated she would talk to people at DEEP tomorrow regarding getting the Town an expedited review; she warned it could take some time to get the State and Federal reviews for this project.

Commissioner Baker cited the Warehouse Point Stormwater Study being conducted by Terri Hahn of LADA, Land Planners, which has been going on for over a year. He noted that study indicated that much of the flooding in Warehouse Point is back-flooding from the Connecticut River into the Blue Ditch; the engineers had suggested tilting that back the other way so it fills up a little before it actually flows and blocks some of the water coming from the river. He suggested this might be an opportunity to implement the suggestions of the engineers in that stormwater study if everyone was on the same page. Commissioner Baker suggested that Warehouse Point Stormwater Study is the crux of everything else that's going to be done upstream; it's disappointing to him to have this once in a lifetime opportunity to implement a part of that plan.

Discussion followed regarding the differing opinions of the various engineers and consultants. Town Engineer Norton clarified that Mrs. Hahn isn't an engineer but he's familiar with the consultants involved in that report. Town Engineer Norton suggested the plan proposed in Mrs. Hahn's study is the \$2 Million plan; he reiterated the complications of the involvement of the 30 inch sewer line and the 20 inch water line. Town Engineer Norton reiterated the concerns raised last week by the contractors reviewing the culvert and the need for this repair to be made expeditiously.

Commissioner Baker indicated he understood this culvert needs to be fixed and this is the fix the Town can afford; he just felt he needed to bring that up to discuss if it's a viable solution and if it's a key to that study maybe we should have that consultant talk to the other consultant as it appears we may have a couple of weeks before we can start this project. Town Engineer Norton reiterated the pipe will be slid through the other pipe next week. Town Engineer Norton reiterated they are very concerned about the condition of the metal pipe. Commissioner Sydoriak questioned the permits needed to install the lining? Commissioner Baker questioned if this Commission had jurisdiction over this repair. Town Engineer Norton clarified the Wetlands Commission had jurisdiction as there's a watercourse coming through the area. Wetlands Agent Calabrese suggested that below elevation 15 on the Connecticut River coast is State jurisdiction; Commissioner Sydoriak noted the connectivity to the watercourse as well.

Discussion followed regarding delaying the permit to give Commissioner Sydoriak an opportunity to research options for the project. Town Engineer Norton indicated he wouldn't be responsible if anything happens in the meantime. He's noted his concerns, he's explained the proposal, and the project scheduling. He felt First Selectman Bowsza was on board with this proposal. First Selectman Bowsza cited there is an immediacy to this issue that becomes incredibly costly beyond our means if this culvert fails. First

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Selectman Bowsza acknowledged he isn't an engineer, but he does trust Town Engineer Norton, who has a long-established track record. If he's coming to the Commission saying there is an immediacy to this then he's inclined to support his determination. It may not fail over the weekend or next week, but if it does it's a \$2 Million problem for the Town. Commissioner Baker suggested it was up to the Commission to make their determination; it's the applicant's responsibility to seek whatever permits are necessary. First Selectman Bowsza pointed out that a number of staff people have reached out to the State and haven't even gotten the courtesy of an acknowledgement of the contact. First Selectman Bowsza suggested it's difficult for us in good conscientious regarding something that could be very costly when we don't know when we're going to get acknowledgement that the State even recognizes that we have a problem, let alone that we have a pathway to solve it. Chairman Talamini concurred; if Town staff are documenting that you've reached out and you've done your due diligence that's pretty much all you can do in an emergency situation. Town Engineer Norton reported that his consultant, Karl Acimovic, is very in tune with the Feds and the State and he's the one that's designed the solution; he also permitted the Broad Brook Dam for us; he's all over the state fixing dams; he's well aware of this problem.

Chairman Talamini questioned the Commission regarding action on this application?

**MOTION: To ACCEPT Application #11-2020 – Town of East Windsor – South Water Street – Emergency repair including lining of culvert and access road.**

**Osborn moved/Baker seconded/DISCUSSION:** Commissioner Baker noted that in the past the Commission has accepted applications at one meeting and taken action at a subsequent meeting. Because of the emergency nature of the repair Commissioner Baker anticipated the Commission intends to take action on this application this evening; he questioned if action on the application should be reflected in a separate motion? Chairman Talamini replied affirmatively

**VOTE by rollcall: In Favor: Baker/Kebschull/Sydoriak/Osborn**  
**(No one opposed/No abstentions)**

**MOTION: To APPROVE Application #11-2020 – Town of East Windsor – South Water Street – Emergency repair including lining of culvert and access road, with the standard 14 conditions. Applicant will seek State authorization for activities located within State jurisdiction, and other permits as necessary.**

**Baker moved/Kebschull seconded/DISCUSSION:** Nothing additional  
**VOTE by rollcall: In Favor: Baker/Kebschull/Osborn/Sydoriak**  
**(No one opposed/No abstentions)**

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**PLEASE NOTE:** The following are the conditions of approval, and referenced plans:

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

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**REFERENCED PLANS:**

- **SITE LAYOUT PLAN, TOWN OF EAST WINDSOR, IMPROVEMENTS & REPAIRS TO SOUTH WATER STREET CULVERT, EAST WINDSOR, CONNECTICUT. KARL F. ACIMOVIC, P.E. & L.S., 588 STONEHOUSE ROAD, COVENTRY, CT. 06238. PLAN DATE: 8/25/2020. SHEET 1 OF 1.**

**Standard Conditions**

1. This Permit is valid for a period of Five (5) years from the date of issuance OR will be valid until the companion planning/zoning permit approval expires but shall not exceed 10 years. 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 seasonal restriction 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.
2. 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.
3. 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.
4. This permit shall not be assigned or transferred without the approval of the Agency OR Agent.
5. This document shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
6. During the construction phase, the applicant shall be responsible for maintaining a copy of this permit at the site.



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7. 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.
8. 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.
9. 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.
10. 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.
11. All temporary barriers, including erosion and sedimentation controls are to be removed (in suitable weather conditions) upon completion of the project.
12. A copy of the As-Built plan shall be submitted to this Commission/Wetland Agent upon completion of the project. The as-built will be reviewed by the wetland agent and verified in the field.
13. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of regulatory interest under the Inland Wetlands and Watercourses Regulations.
14. The permit holder will submit a start work notice and contractor's compliance statement to the Wetlands Agent prior to starting any work authorized by this permit. Copies are attached.

**NOTE:**        **This approval granted does not relieve the applicant from his responsibility to apply for any other permit required by local, state, of federal agencies.**

**PUBLIC HEARINGS:**        None.

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**CONTINUED PUBLIC HEARINGS:** None.

**NEW BUSINESS(1) Discussion of Appointment of Wetlands Agent:**

Mrs. Calabrese advised the Commission she started working with the Town last Monday. She's worked for municipalities in Wetlands and Zoning areas early in her career, which she parlayed into the energy industry. She's spent a couple of decades at Northeast Utilities, now Eversource, and has worked for 3 years with TRC Environmental.

Chairman Talamini welcomed Mrs. Calabrese to East Windsor.

First Selectman Bowsza requested the opportunity to share how excited he is to have Mrs. Calabrese come on board. He noted the Planning and Zoning Department was something he heard a lot about during the campaign cycle. First Selectman Bowsza noted that in the course of interviewing for her position it's clear to him that she'll be a true asset to that department and in moving the Town forward. She's already been a part of the team; he looks forward to what's to come.

**MOTION: To APPOINT Ruthanne Calabrese as the East Windsor Wetlands Agent and Enforcement Agent.**

**Baker moved/Kebschull seconded/DISCUSSION:** Chairman Talamini welcomed Wetlands Agent Calabrese to the Board. The Commission concurred.

**VOTE by rollcall: In Favor: Baker/Kebschull/Sydoriak/Talamini  
(No one opposed/No abstentions)**

Commissioner Osborn lost connection to the meeting.

**OLD BUSINESS:** None.

**MISCELLANEOUS(1) Informal Discussion – Wetlands Fee Ordinance:**

Commissioner Baker reported the proposal to pass a Fee Ordinance goes back about 10 years. The Commission tried to pass the ordinance twice; it failed at Town Meeting by 1 or 2 votes. Commissioner Baker felt it was time for the Commission to consider the Fee Ordinance again. He felt the fee schedule was part of the reason the proposal failed the last time; he suggested the Commission begin by reviewing the schedule proposed earlier.

Commissioner Baker indicated he would have liked Commissioner Pippin to be present for this discussion as he had previously expressed some concerns with proposing a Fee Ordinance. He cited Commissioner Pippin's issues accessing the meetings; he suggested

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he'll try to contact Commissioner Pippin to review the commission's discussion with him.

Commissioner Baker began a brief review of the *fee schedule proposed in 2012*. He noted these documents have been vetted by an attorney at that time. The concerns that were brought up the first time have been addressed in the second documents. Commissioner Baker recalled that during the earlier presentation it was thought that the fees proposed were too high.

Commissioner Baker referenced the *2012 proposed ordinance, (See Attachment A)* noting the ordinance indicates that the Wetlands Commission can have a Fines Ordinance based on the Connecticut General Statutes (C.G.S.). The ordinance cites the procedure for initiating a Notice of Violation. If, within 30 days of receiving the notice the VIOLATOR, has various options. They can accept the Notice and pay the fine, or ask for a hearing, at which the violator would present their case to a Hearing Officer with the Wetlands Agent present.

Selectman Baker noted this process is for the protection of the alleged violator from unprofessional attacks from the Town, as well as being a vehicle for the Commission to address wetlands violations. Commissioner Baker suggested the Planning Department and the First Selectman/Board of Selectmen need to review THE POLICY as well. Rather than present the full ordinance he would like to prepare a slide presentation containing bullet points.

Commissioner Baker then reviewed the *Flowchart (See Attachment B)* summarizing three paths of action. Upon receipt of the NOV:

1. The violator has 30 days to take corrective action; fee is paid.
2. This would be a NOV involving small violations – the person didn't get the erosion controls quite right, throwing brush down an escarpment, filling an area in the yard not realizing they're working in a wetlands areas. If the violator doesn't respond within the first 30 days they would receive a second NOV and have an additional 30 days to respond.
3. This is the path to seeing a hearing before the Hearing Officer. If the violator seeks compliance within the first 30 days the fines would not be charged; if the violator makes no effort to comply the fines would commence.

Commissioner Baker indicated he would like this material to be a slide as well.

Commissioner Baker referenced the proposed *Schedule of Fines (See Attachment C(1) and C(2))* presented during the 2012 presentation, noting this is where he felt the ordinance failed. He would propose that the fines cited on the 2012 proposed schedule be reduced by half, as he felt it would be more palatable to the public. The goal is to seek compliance, not collect significant fines.

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The final document reviewed by Commissioner Baker was *the policy document – Wetland Violation Citations & Procedures, Ordinance #2013 (See Attachment D)*– which was not adopted.

The document explains the purpose, cites the Statutory authority under which the ordinance can be created, outlines the schedule of the fines, defines the activities which are violations, and outlines the procedures of the violation process. Commissioner Baker suggested this is the process the Wetlands Agent needs to follow if the violation proceeds to court action.

Commissioner Baker cited that this proposal didn't go through when he served on the Wetlands Commission in the past. Staff put a lot of time into the research and preparation for the ordinance. He noted Commissioner Osborn has been on the Wetlands Commission since 1972 and probably had a lot of input into the proposal; Commissioner Sawka is a long-standing member as well.

Commissioner Sydoriak liked the idea of the slide presentation; she suggested a slide of the flowchart in particular is a good summary as sometimes people like to review a visual presentation. Commissioner Sydoriak felt the range of fines is appropriate for the activities cited; she suggested sometimes accidents happen and the lesser fines can be charge in those instances.

Chairman Talamini indicated she's good with the proposal as its currently phrased. She suggested she could go either way with the fines, especially if the Commission agreed to consider the violations on a case by case basis so higher fines could be assessed for greater violations. She would like to see the presentation of this going forward.

Commissioner Baker cited the Town has a Hearing Officer, who can waive the fines at the end of the process if compliance occurs. Commissioner Baker noted the Wetlands Commission can also adjust the fines down by a vote on the recommendation of staff as the Commission reviews the progress of the violation process. Wetlands Agent Calabrese suggested adding the phrase "fines up to" as a way to enable higher or lesser fines rather than the static language currently listed in the ordinance. The consensus of the Commissioners concurred with Wetlands Agent Calabrese's suggestion.

Discussion followed regarding various scenarios for violations and the appropriate action. Commissioner Baker cited the difference in a violation created by the homeowner who didn't realize their actions was a violation until they got the NOV, vs. the developer who knowingly ignores sensitive wetlands areas. He noted that although it's rare the Commission has had instances in the last 4 or 5 years where a homeowner just ignored the notices and the Commission's only recourse was to take them to court, which should be a last resort. The Commission would not be getting compliance during that process.

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Commissioner Baker also noted past experiences when the Commission was constantly dealing with a long running development in a highly sensitive wetland area where there was constant fighting with the developer to get things done the way they should have been done; he felt if the commission had the ability to initiate a fine they would have gotten compliance a lot quicker.

Commissioner Baker cited the need to put the two different scenarios out to the public during the presentations. It's the public voting on this ordinance; they're looking at it as how does this affect me when it could be a developer working in town wrecking things that are yours.

Wetlands Agent Calabrese felt the fines as discussed were appropriate; Chairman Talamini felt the addition of the language suggested by Wetlands Agent Calabrese would allow the Commission to be flexible. The fines could be \$25 for the homeowner or \$50 for businesses. Commissioner Baker suggested the assumption is that everyone will be treated the same. He questioned the Commission's ability to charge a business more; he felt that part would need to be reviewed from a legal standpoint.

Commissioner Baker suggested the documents should be reviewed further by staff and the First Selectman after the proposed language revisions are made, and perhaps should be reviewed by the Town Attorney again. He reiterated his interest for input from Commissioners Osborn, Pippin, and Sawka; he indicated he would try to reach out to those Commission members for comments.

Commissioner Baker reviewed the process for presentation of a new ordinance. The Wetlands Commission will hold a Public Hearing, and make a presentation to the Board of Selectmen perhaps next month to get their agreement. The Commission considered presentation to the public in December, January, or February, as the election – with several questions being proposed to the public already on the ballot – will occur in November; after January the new budget season begins.

**MOTION: To CONSIDER the following actions regarding the Wetlands Fee Ordinance: refer documents, as amended, back to staff and the First Selectman for review, contact Commissioners not present for feedback, schedule Public Hearing at a Wetlands Meeting, make presentation to the Board of Selectmen in November, schedule presentation to public.**

**Sydoriak moved/Kebschull seconded/DISCUSSION:** Chairman Talamini felt this motion was premature; the Commission needs to prepare the public presentation and continue staff and Commission review.

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**Commissioner Sydoriak RESCINDED her motion; Commissioner Kebschull RESCINDED his second.**

The consensus of the Commission was to refer the documents back to staff for the minor revisions, then refer the revised documents to the Board of Selectmen for comments – which can hopefully be reviewed by the Wetlands Commission at their October Meeting.

Discussion followed regarding the PowerPoint presentation. Chairman Talamini will work with Commissioner Sydoriak regarding creating the slides; Commissioner Kebschull offered assistance reviewing the presentation; Commissioner Baker offered to be involved in the presentations. Chairman Talamini requested staff to prepare the documents for referral to the First Selectmen.

**MISCELLANEOUS/2) Discussion of tree issues at Scantic Glen:**

Wetlands Agent Calabrese advised the Commission that the Building Inspector brought to her attention that behind Folkstone Road in Scantic Glen there was debris and downed trees. Wetlands Agent Calabrese reported she and Operations Manager Sauerhoefer visited the site; they found trees denoted to be removed. She noted the Building Inspector had sent a letter to the Scantic Glen Homeowners Association and Property Manager asking that the activities cease until the Zoning Office could weigh in.

Wetlands Agent Calabrese reported she received an e-mail from the Homeowners Association citing concerns that the trees that have been marked are hazard trees; in the past there have been incidents when trees have landed on the units. She also received a call from the Property Manager for Scantic Glen to discuss his concerns regarding liability for the damage from the last storm, including damage to the roof of one of the units.

Wetlands Agent Calabrese advised the Property Manager that deposition of material in the regulated area would have to cease.

Wetlands Agent Calabrese indicated the Property Manager knows there are escarpment slopes in the area but he wants to top some of the trees near the units that are likely to fall and allow the tops of the trees to fall into the slope area. He would leave the tree root structure in place to keep it stable; the area is narrow and difficult to access with heavy equipment. She indicated she advised him she would bring the issue to the Commission's attention, and report back to him what his next steps are. Commissioner Baker questioned if the Property Manager was having a climber going out to top the trees sufficiently to make them no longer a hazard? Wetlands Agent Calabrese concurred. Commissioner Baker indicated he liked the idea; Chairman Talamini questioned why the issue was coming up because if it's a hazard they can cut trees in an

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upland review area, but they couldn't stump it. Wetlands Agent Calabrese suggested she had the same thoughts; they're not clear-cutting. She noted she was out there earlier in the week to review what looks like the heavy deposition of landscaping materials and debris on the bank. That was the issue that initiated the request that the Property Manager stop that activity. The Property Manager subsequently proposed this idea for the hazard management; she likes the proposal as well. Chairman Talamini indicated she's ok with the proposal also; she reiterated it's a very wooded area and there are very steep banks and tight corners behind those buildings making it difficult to get any equipment in there. Dropping the trees and leaving them for the habitat is fine. Commissioner Kebschull indicated he strongly agreed with the proposal; he cited he lives in a condominium complex where there are cottonwood trees which are rooted in the wetlands as well which have come close to his property; he strongly supports this proposal. Commissioner Sydoriak had no comments.

Commissioner Baker noted that it is a violation to pile stuff in the terrace escarpment slope. He cited that our previous Wetlands Agent, Robin Newton, had acquired information that piling stuff on the terrace escarpment slope is likely to make that escarpment slope more likely to slide. He felt the Property Manager needs to find a solution to that situation. Wetlands Agent Calabrese questioned if it does more harm to dig it out of there at this point; is it a Cease and Stabilize sort of thing? Chairman Talamini cited photo 2 in the attachment that's completely fallen sideways, she would leave that as it is as it's not leaning on anything else. It is in the uplands but nature will take its course and take it down. She felt the other trees could be topped to get them away from the structures. Commissioner Baker agreed with Wetlands Agent Calabrese that removing the trees may cause more issues but he cautioned going with that all the time because it's allowing a wetlands violation to stand. He felt the Property Manager needs to be told not to dump any more material in that area, and if we find more material dumped there we'll ask to have it all removed. They need to find another way to get rid of their landscaping material; no more dumping clippings or brush; maybe it needs to be chipped on site.

**MOTION: To AUTHORIZE Wetlands Agent Calabrese to handle this violation as an Agent Decision.**

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

**VOTE by rollcall: In Favor: Baker/Kebschull/Sydoriak/Talamini  
(No one opposed/No abstentions)**

Commissioner Baker suggested Wetlands Agent Calabrese send the property manager a letter regarding the Commission's comments. Wetlands Agent Calabrese concurred, citing she'll advise the property manager to leave the deposition that's there in place but

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cease any further deposition of landscaping material in that area, and when topping the trees remove all that they physically can from the upland area although some will fall deep into the ravine. The Commission concurred.

**AGENT DECISIONS:** None.

**STATUS REPORTS:** None.

**VIOLATIONS:**

Wetlands Agent Calabrese reported she has visited one site in her first week on the job, but she hasn't been able to contact the property owner yet; she's still working on this violation.

**CONFERENCES/SEMINARS/TRAINING:**

Commissioner Kebschull indicated he applied a month ago but hasn't heard back from the State, or the college that's administrating the test. Wetlands Agent Calabrese indicated she's having the same problems as well.

**CORRESPONDENCE:** None.

**GENERAL BOARD DISCUSSION:**

Commissioner Baker suggested we all need to take our DEEP training by the end of the year.

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

No one requested to speak.

**ADJOURNMENT:**

**MOTION:** To ADJOURN this Meeting at 8:24 p.m.

**Baker moved/Kebschull seconded/VOTE: In Favor: Unanimous**

Respectfully submitted:

  
Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission

**ATTACHMENTS: A - 2012 proposed ordinance; B – Flowchart; C(1) and C(2)) – Schedule of Fines; D – Wetland Violation Citations & Procedures, Ordinance #2013**



**TOWN OF EAST WINDSOR**

**Wetland Violation Citations & Procedures, Ordinance #2013-\_\_\_\_\_**

The following ordinance was adopted at a Special Town Meeting duly warned and held on \_\_\_\_\_.

**BE IT ORDAINED:**

ORDINANCE ENTITLED "WETLAND VIOLATION CITATIONS & PROCEDURES"

**A. Purpose:**

The purpose of this ordinance is to establish a means by which the Town of East Windsor can effectively enforce the Town of East Windsor Inland Wetland and Watercourses Regulations (the Regulations), with the implementation of citations and fines for violations and continued noncompliance of the Regulations.

**B. Statutory Authority:**

Pursuant to Connecticut General Statutes (C.G.S.) Section 22a-42g, as may be amended, and in addition to the remedies provided in C.G.S. Section 22a-44, the Wetland Enforcement Official is authorized to issue citations for violations of the Town of East Windsor Inland Wetland and Watercourses Regulations to the extent and manner provided for by this section. A citation may be issued for those types of Inland Wetland and Watercourses violations specified in Section C. of this ordinance. No citations may be issued against the State or any State Official or employee acting within the scope of his employment.

**C. Schedule of Fines:**

The schedule of fines will be a separate document maintained and updated by the Inland Wetland and Watercourses Agency and kept in the East Windsor Planning and Development Office.

**Nature of Violation (for activities with no active permit):**

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse:
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse:
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse:
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit:
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit:
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse:
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above:

**Nature of Violation (for activities with an active permit):**

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan:
2. Non-compliance with permit conditions:
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas:
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse:

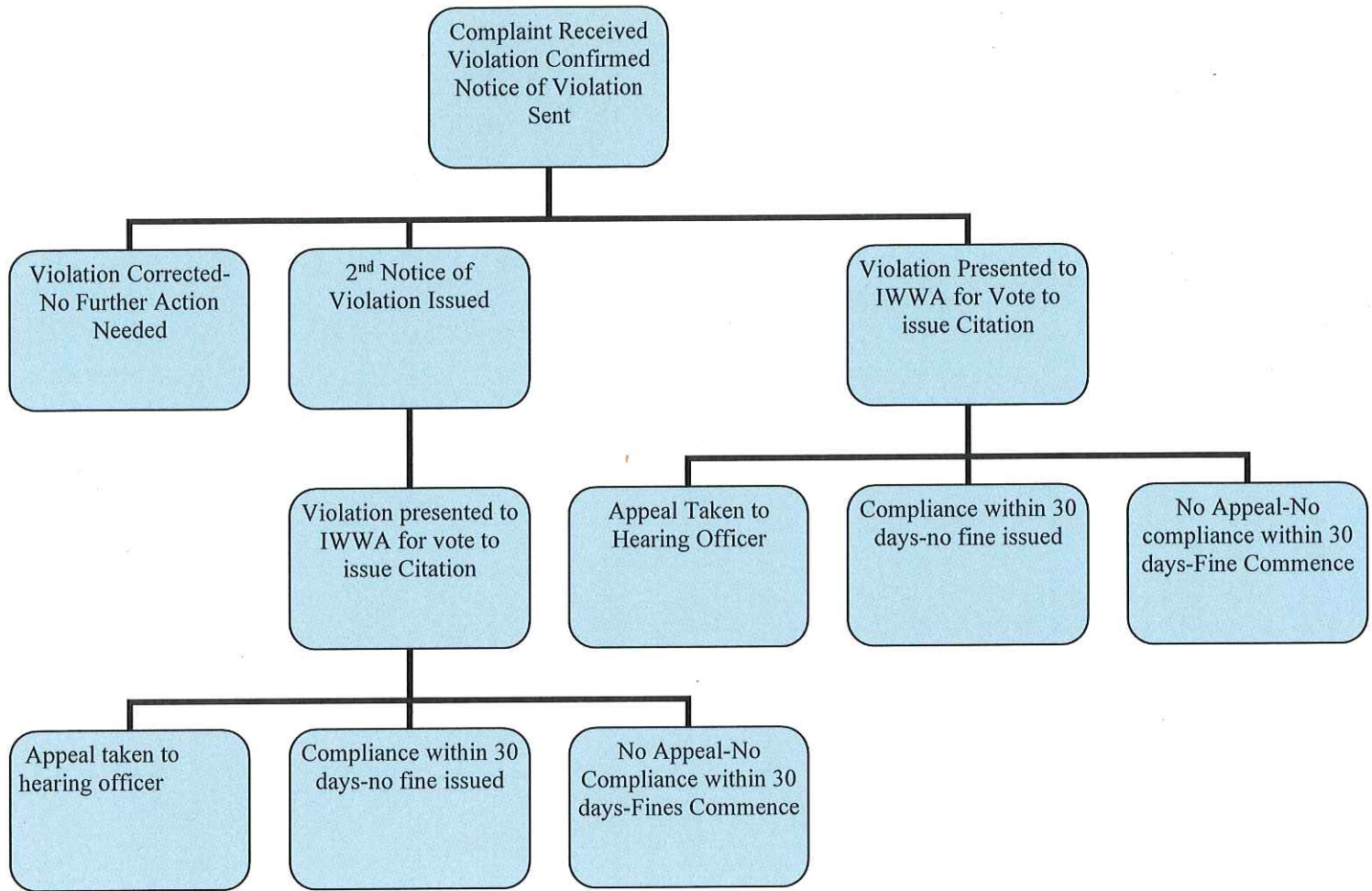
the Town of East Windsor Inland Wetland Regulations and Wetland Violation Citation and Procedure Ordinance. The Hearing Officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such a person is unnecessary. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce his or her decision at the end of the meeting. If the Hearing Officer determines that the person who received is not liable, the Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines against such person as provided by this Section.

5. If such assessment is not paid on the date of its entry, the Hearing Officer shall send, by first class mail, a notice of the assessment to the person liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court, together with the appropriate entry fee. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes pursuant to C.G.S. 7-152c.

6. The First Selectman shall appoint one citation Hearing Officer to conduct hearings provided by this section. Hearing Officers shall serve for terms of two years, unless removed for cause. Neither the Wetland Enforcement Official nor any employee, agent or member of the Town of East Windsor Planning and Development Department or Inland Wetland Commission who exercises Wetland Commission Authority may be appointed as a Hearing Officer.

Said Ordinance shall become effective fifteen (15) days from publication thereof.

Shetlands 9/2/2020 Attachment B





## TOWN OF EAST WINDSOR

### PLANNING AND DEVELOPMENT

Planning, Zoning, Zoning Board of Appeals, Conservation/Inland Wetlands, Economic Development

**11 Rye Street, Broad Brook, CT 06016**

**PHONE: (860) 623-6030 FAX: (860) 623-4798**

PLANNING & DEVELOPMENT WEB SITE ⇨ <http://www.eastwindsor-ct.gov>

## SCHEDULE OF FINES FOR WETLAND VIOLATIONS

ADOPTED : , 2013 BY EAST WINDSOR INLAND WETLAND AND WATERCOURSES AGENCY

#### Nature of Violation (for activities with no active permit):

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse: \$ 50.00
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse: \$150.00
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse: \$200.00
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit: \$500.00
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit: \$1000.00
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse: \$1000.00
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above: \$ 50.00

#### Nature of Violation (for activities with an active permit):

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan: \$100.00
2. Non-compliance with permit conditions: \$150.00
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas: \$250.00
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse: \$500.00





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## SCHEDULE OF FINES FOR WETLAND VIOLATIONS

ADOPTED : , 2013 BY EAST WINDSOR INLAND WETLAND AND WATERCOURSES AGENCY

### Nature of Violation (for activities with no active permit):

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse: \$150.00
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse: \$300.00
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse: \$350.00
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit: \$500.00
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit: \$750.00
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse: \$1000.00
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above: \$250.00

### Nature of Violation (for activities with an active permit):

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan: \$150.00
2. Non-compliance with permit conditions: \$150.00
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas: \$250.00
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse: \$500.00



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### **POLICY FOR WETLAND VIOLATION ENFORCEMENT AND CITATIONS**

1. The violation shall be verified and documented by the Wetland Enforcement Official.
2. A Notice of Violation (hereinafter NOV) will be sent to the property owner. This NOV will document the details of the violation, reference to non-conformance with ordinance number and/or Wetland Regulation Section. The NOV will include details for how to bring the property into compliance.
3. A written response will be required by the violator within 15 (fifteen) days of the NOV explaining how the violation occurred and what steps they have taken to comply with the NOV. A total of 30 (thirty) days from the date of the NOV will be provided for compliance.
4. If the conditions of the NOV are not met within 30 days from the date of issuance, the wetland agent will ask the Commission to vote on whether a citation inclusive of fines may be issued. Once approval is issued from the Commission granting the issuance of a citation, fines may commence 30 days after the issuance of a citation (not the NOV). For every day that a violation continues a new citation can be issued.
5. Any person who has received a NOV need not to receive a second notice of violation before a citation is issued. For those violations in which time is of the essence, i.e. filling of a stream embankment, diversion of a watercourse, large amounts of sediment flowing into a wetland or watercourse, a second NOV would NOT be issued. For those violations in which a longer time can be provided to achieve compliance, i.e. work in the upland review area which does not pose an immediate threat to the wetland or watercourse, failure to install or maintain silt control measures in accordance to an approved plan, or non-compliance with permit conditions, a second notice may be issued.
6. A reminder notice shall be sent every 15 days with accumulated fines and requirements for compliance.
7. Violations that are not brought into compliance within 35 days of issuance of a citation may be subject to a Notice of Non-Compliance.
8. Payments of fines and appeals of citations shall follow the procedure outlined in the adopted ordinance.
9. In extreme circumstances where permanent damage and pollution can occur to a wetland or water resource, the wetland agent will issue a Cease and Desist OR Cease and Correct Order along with a Citation. If the Commission at the show cause hearing overturns the Agent's Cease and Desist or Cease and Correct Order the Citation will become null and void.