

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION**

**Meeting #1617
August 14, 2012**

*******Draft Document – Subject to Commission Approval*******

The Meeting was called to order in the Cafeteria of the East Windsor High School, 76 South Main Street, East Windsor, CT. at 7:05 P. M. by Chairman Ouellette.

ESTABLISHMENT OF QUORUM:

A quorum was established as five Regular Members (Devaney, Gowdy, Ouellette, Sullivan, and Thurz) and one Alternate Member (Zhigailo) were present. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Should any of the Regular Members need to step down from service Alternate Member Zhigailo would also join the Board regarding discussion and action on all Items of Business this evening as well.

Also present was Town Planner Whitten.

GUESTS: First Selectman Denise Menard; Alan Baker, Board of Selectmen Liaison to the Planning and Zoning Commission; Dick Pippin, Selectmen; Jim Richards, Selectman; Kathy Pippin, Board of Finance.

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, August 2, 2012, and Thursday, August 9, 2012, was read by Chairman Ouellette:

1. Application of the Town of East Windsor for a Special Use Permit per Chapter 304 for Municipal Park Improvements along Reservoir Avenue for proposed BMX Park, Dog Park, and Community Gardens located at 24 and 40 Reservoir Avenue. [R-3 Zone; Map 78, Block 57, Lot 1].

ADDED AGENDA ITEMS: None

PUBLIC PARTICIPATION:

Chairman Ouellette queried the audience for comments on non-Agenda items; no one requested to speak.

APPROVAL OF MINUTES/July 24, 2012:

MOTION: To APPROVE the Minutes of Regular Meeting #1616 dated July 24, 2012 as amended:

Page #5, **NEW HEARING: Leonard J. Norton, P. E., Director of Public Works – Special Use Permit for stockpiling of construction materials at Town Public Works Facility, 6 Woolam Road....., Fourth Paragraph, First Sentence: “Town Engineer Norton also submitted an Aquifer Protection Map provided by DOT DEEP.”**

Devanney moved/Thurz seconded/

VOTE: In Favor: Devanney/Ouellette/Sullivan/Thurz
Opposed: No one
Abstained: Gowdy

RECEIPT OF APPLICATIONS:

Chairman Ouellette acknowledged receipt of the following Application:

1. Application of Eric C. James for Modification of Approved Site Plan for used car sales at 38 Prospect Hill Road, owned by Dean Rasmussen. [M-1 Zone; Map 92, Block 17, Lot 32].

PERFORMANCE BONDS - ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE:

Nothing presented this evening.

CONTINUED PUBLIC HEARING: Leonard J. Norton, P. E., Director of Public Works – Special Use Permit for stockpiling of construction materials at Town Public Works Facility, 6 Woolam Road, owned by the Town of East Windsor, for use on Town maintenance/construction projects. [A-1 Zone; Map 44, Block 34, Lot 1]. (*Deadline to close hearing 8/28/2012*):

Chairman Ouellette read the Hearing description. Present to discuss this Application was Leonard J. Norton, P. E., Director of Public Works/Town Engineer Norton.

Chairman Ouellette questioned Commissioner Gowdy if he felt comfortable sitting in on this continued Application, as he had not been present during the previous Meeting. Commissioner Gowdy preferred to step down. LET THE RECORD SHOW Commissioner Gowdy stepped down from service; Alternate Commissioner Zhigailo served in his place.

Town Engineer Norton began his presentation by advising the Commission he believed they had received his memo dated 8/8/2012 to Town Planner Whitten, which included an

attachment describing the definition of “clean fill” – which includes asphalt paving fragments/millings – as defined by DEEP (the Department of Energy and Environmental Protection). Town Engineer Norton also provided a letter from Environmental Compliance Services, Inc. (ECS) – an environmental consulting firm – which specified recommendations for management of the millings at the Town Garage site. Town Engineer Norton READ THE LETTER FOR THE RECORD; it says, in part, “that if the material is intended to be re-used for its original purpose, i.e. as road base, then it is not a solid waste, and therefore, not subject to regulation.” Town Engineer Norton reiterated the department does NOT use the material for fill; they use it on dirt roads, and Town parking lots – such as Scout Hall, the BMX parking lot, etc.

With regard to the North Central District Health Department (NCHD), Town Engineer Norton reported that they have not contacted him regarding testing of water at the site.

Chairman Ouellette questioned how long Town Engineer Norton anticipated the pile of material would be located at the Town Garage? Town Engineer Norton indicated that due to the public comments he has already given away several truckloads of the millings to East Granby; the Town of Ellington is also interested in acquisition of the material. He may barter some of the millings for other materials – such as gravel, road sand, top soil – which he also needs. Town Engineer Norton reported people heard he was selling the millings for 50 cents/yard, which is not true. Town Engineer Norton reported he has not been receiving any additional millings.

Commissioner Sullivan questioned what would be the estimated savings to the Town vs. buying the material? Town Engineer Norton suggested processed gravel goes for approximately \$20/yard. Town Engineer Norton estimated the annual cost to maintain the roads in East Windsor is \$1.3 million.

Commissioner Zhigailo requested clarification of the status with the NCHD? Town Engineer Norton indicated he had asked staff from the NCHD to come to the Town Garage and the person across the street to test the wells; the NCHD has not yet arrived on site to do any testing. Town Engineer Norton clarified the millings are a pile of material; water doesn't travel through the millings. They have to loosen the material with a backhoe to load trucks with the material.

Chairman Ouellette opened discussion to the public.

Rosemary Raber, 241 Scantic Road: indicated she was at the previous Meeting, Mrs. Raber submitted photos of the site and a petition signed by several people who are on well water who are requesting the material be removed. They want the site to be covered with top soil, seeded, and maintained.

Chairman Ouellette queried Town Planner Whitten how the petition affects this Application? He noted with the petition submitted at this Meeting the names haven't been verified. Town Planner Whitten suggested the only time a petition makes any

difference is if it is submitted under an Intervener status. This petition shows there is concern; the Commission could postpone their decision on the Application to allow staff time to check to see if the people listed on the petition have wells in the area of concern. While Town Planner Whitten indicated she understood the residents' concerns, she referenced the DEEP definition of clean fill – which includes millings; she also noted the CGS (Connecticut General Statutes) allow use of this material.

Mrs. Raber questioned if the Town needs a discharge permit for the water running off the material into the culvert, even if the water is going away from the site? Chairman Ouellette clarified the questioned of discharge permits is outside the realm of the Planning and Zoning Commission (PZC). Town Planner Whitten noted the Inland Wetlands Agent, on behalf of the Inland Wetlands Agency, signed off on this Application.

Mrs. Raber felt the use of the millings required a permit; the Town has had others in town who have been fined for storage of millings. Town Engineer Norton suggested he didn't feel he needed a permit for storage of the millings. It is clean fill as defined by DEEP. If it were hazardous waste the way it's handled would be regulated but it's clean fill. He is before the Commission because he was asked to get a permit for storage at the Town Garage as a contractor's storage yard for all materials used for maintenance throughout Town.

Mrs. Raber questioned why Town Engineer Norton would feel he was above others? Chairman Ouellette indicated he has come before the Commission for a permit for the contractor's storage yard. Town Planner Whitten recalled that millings have been stored at the Town Garage in the past. Town Engineer Norton was asked by staff to provide a plan to show where storage of various materials may be located. There is a drainage ditch behind the Town Garage which takes runoff/drainage from Scantic Road and has been taking that runoff for years. She indicated she can't see how this storage exacerbates that drainage. With regard to other people they have been fined because storage of material is not allowed in the zone in which they are storing materials.

Mrs. Raber suggested that at the last Meeting Town Engineer Norton was asked to provide a letter from the NCHD indicating they didn't see this runoff as a hazard. Town Engineer Norton indicated he can't dictate NCHD's schedule. Commissioner Thurz indicated that at the last Meeting the Commission didn't have the letter from the environmental consultant. Mrs. Raber suggested it was discussed at the previous Meeting if there were other sites this material could be stored. Commissioner Thurz reiterated millings have been stored at this site at other times. Mrs. Raber suggested not in this quantity.

Philip Olsson, 236 Scantic Road: indicated that he has some understanding of asphalt, it includes crude oil, which is a carcinogen. That pile is an eyesore; it's bigger than the building.

Karen Devassey, 35 Cemetery Road: would like to know if the Commission could pursue the NCHD and acquire a letter. She felt it's a serious issue, although she didn't know how serious.

Town Planner Whitten indicated she attended the meeting at which Town Engineer Norton spoke with staff from the NCHD regarding this issue. That person person didn't have an issue with the storage of the millings. Town Planner Whitten also clarified that this area of storage is OUTSIDE the aquifer for the Town; any recharge for the Town's aquifer is not coming from this site.

Philip Olsson, 236 Scantic Road: if this material was top soil he wouldn't have an issue with it. He doesn't know how long it will sit there. Every time it's disturbed you start the process all over again.

Commissioner Devanney felt a letter from the NCHD might lessen concerns. Town Engineer Norton reiterated he spoke with staff at another meeting; staff didn't seem to have a problem with the storage; he will contact NCHD again. Town Engineer Norton indicated he was just trying to save residents money for road repairs. If the Commission tells him the material must be removed he has other towns interested in the free material. East Windsor residents will then have to pay for road repairs in the future.

Chairman Ouellette referenced the petition, which identifies the potential reduction in property values, the aesthetic unpleasantness of the piles, the potential environmental concerns – he suggested he didn't have answers for the aesthetic issue. Town Engineer Norton reported the last time someone complained about storage of materials he acquired an estimate for installation of a berm which was approximately \$25,000. He reiterated he took the millings to save money; the cost of the berm defeats the savings. First Selectman Menard concurred they had been discussing landscaping.

Chairman Ouellette queried the Commission about tabling the Application to give the Applicant time to contact the NCHD regarding documentation that there isn't an issue with this storage? Commissioner Sullivan advised the Commission that when the Town had all that rain last week he visited the site to check on runoff. Commissioner Sullivan indicated he expected to see an oil sheen running off the pile; he did NOT see any oil film coming off the pile at all.

Philip Olsson, 236 Scantic Road: suggested there are millings available every year because the State doesn't want to deal with them themselves. He questioned the ability to get another pile next year; you can get them for nothing except the cost of transport. Town Engineer Norton indicated that millings may be available every year but the receiving town must be within a specified radius of the work being done by the State. These millings were from repair of Route 5; it was a perfect opportunity to get free material for road repairs for East Windsor.

Rosemary Raber, 241 Scantic Road: if the panel decides “to go with it” and 5 years down the road is the Town of East Windsor accountable, or in 10 years we find the water is polluted, are we in violation of the Clean Water Act? No one wants that in their back yard. If she has to look at that for 2 years it’s an eyesore.

Chairman Ouellette noted the Commission needs an extension from the Applicant to continue the Hearing; First Selectman Menard indicated she will give an extension until September 11th – the next PZC Meeting.

Commissioner Sullivan suggested if the pile is moved to any other location we would still have the same problem. Chairman Ouellette suggested then the Commission would have another set of residents citing their concerns. Town Planner Whitten clarified that the Commission still needs an approved Site Plan for contractor’s storage.

MOTION: To CONTINUE the Public Hearing of Leonard J. Norton, P. E., Director of Public Works for a Special Use Permit for stockpiling of construction materials at Town Public Works Facility, 6 Woolam Road, owned by the Town of East Windsor, for use on Town maintenance/construction projects. [A-1 Zone; Map 44, Block 34, Lot 1]. Public Hearing continued until the Commission’s regularly scheduled Meeting to be held on September 11, 2012, in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Thurz seconded/

**VOTE: In Favor: Devanney/Ouellette/Sullivan/Thurz/Zhigailo
No one Opposed/No one Abstained**

Town Planner Whitten advised the residents to check the Town Website for the location of the next meeting on the posted Agenda. Meeting venues have been changing due to political elections.

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

NEW HEARING: Town of East Windsor – Special Use Permit per Chapter 304 for Municipal Park Improvements along Reservoir Avenue for proposed BMX Park, Dog Park and Community Gardens located at 24 and 40 Reservoir Avenue. [R-3 Zone; Map 78, Block 57, Lot 1]. (*Deadline to close hearing 9/18/2012*):

Chairman Ouellette read the Hearing description.

LET THE RECORD SHOW Regular Commissioner Sullivan stepped down from service as he is a member of the Dog Park Committee; Alternate Commissioner Zhigailo served in his place.

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Town Planner Whitten reported that approximately 4 years ago an Application for the Dog Park and the BMX Park received Site Plan Approval for this location at the Kogut property across from the East Windsor Park. Both projects also went through the 8-24 referral process to the Board of Selectmen. A Public Hearing was not held at that time; that is the process being held this evening. At the time of the Site Plan Approval the PZC endorsed the Dog Park and the BMX Park, and subsequently approved Community Gardens on this site as well.

Town Planner Whitten noted this area is a location earmarked on the Plan of Conservation and Development (POCD) for recreation. The Kogut property was also considered for possible expansion of Town facilities. This area across from the East Windsor Park was thought to be a good site for location of the BMX Park, Dog Park, and Community Gardens. Town Planner Whitten described the facilities as follows:

- **Dog Park:** a 200' x 200' enclosed area used for dogs to run off leash; owners must be present with their dog; no children present without an adult; people who use the park police it. It's doing well.
- **BMX Park:** a 100' x 100' asphalt area; the committee has gotten enough money to purchase a couple of pieces of apparatus – two ramps and a bump in the middle; they are proposing landscaping and a berm in the front of the location; the Dog Park is located to the west of the BMX Park.
- **Community Gardens:** volunteers, including Jim Stempfer and others, have used their own equipment and manhours to till an area which will be available in the Spring for people to use as Community Gardens. It's anticipated the gardens will be allotted on a first come, first served basis; if the concept is extremely popular a lottery system may be initiated the following year. The Conservation Commission has given their support to the project.
- **Parking:** each park/facility will have a separate gravel lot accommodating 20 cars.

Chairman Ouellette questioned the proposed landscaping for the BMX Park. He suggested the landscaping on the Site Plan isn't as colorful as the renderings received in his Meeting packet. Town Planner Whitten suggested the BMX Committee recently submitted the material in the Commissioner's packet but has not yet presented that material to the PZC; the current landscaping is basically non-existent.

Town Planner Whitten indicated she had heard discussion that a fence is being proposed to surround the BMX Park. That component of the park wasn't discussed with the PZC originally, although she felt it may have been discussed with the Board of Selectmen she didn't feel that issue has been finalized.

Chairman Ouellette noted the Commission is hearing a presentation on 3 separate entities tonight. He requested clarification on the approval or denial process – would the Commission move on all 3 entities or each one separately? Town Planner Whitten noted that the parks were advertised as one application, but the Commission has the ability to modify the action and vote separately.

Chairman Ouellette suggested he will break discussion down to 3 separate issues.

Chairman Ouellette queried the audience if there were any questions regarding:

THE COMMUNITY GARDENS:

Nancy Wandzy, 45 Reservoir Avenue: questioned the location of the access road for the Community Gardens. Chairman Ouellette identified the location as being 400+/- feet west of the existing driveway for the Dog Park; Town Planner Whitten suggested that access would be closer to the Town Hall. Ms. Wandzy suggested she thought that was where the skate park was going. Town Planner Whitten replied negatively. Ms. Wandzy questioned if the skate park will have its own access road? Chairman Ouellette indicated the access to the BMX Park would be near the patch of asphalt.

No one else raised any questions regarding the Community Gardens.

THE DOG PARK:

Karen Devassey, 35 Cemetery Road: felt all 3 facilities are attractive; she felt East Windsor has an image problem; she felt people would be attracted to the Dog Park, people over 55 would like the Community Gardens. Ms. Devassey felt it's important to have amenities.

No one else raised any questions regarding the Dog Park.

THE BMX PARK:

Jennifer Gallier (sp?): spoke of the need to have a safe place for the kids to go.

Scott Riach, 33 Windsorville Road: would like to see a trail connecting the parking lots for each facility, and a crosswalk from the East Windsor Park to these facilities. Chairman Ouellette reported the PZC has concerns regarding sidewalks and ADA accessibility for everyone; the crosswalk would be an issue to bring to the Police Commission. Mr. Riach indicated that other than those two issues he felt all the facilities were good.

Bill Arre: felt they need a park because everywhere they skate they get yelled at.

Melissa Maltese, Director of Parks and Recreation: East Windsor is the fastest growing town in the State; these facilities need to be marketed to other residents – not just the 3 year old using the playground, or the 55 year old using the gardens, or just the kids who are getting kicked out of other places. We need to think of this as one project with all the Town departments working as a team. We also need to be careful about how things are spoken, and not pick apart each facility.

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Chairman Ouellette questioned Mrs. Maltese if the Town would support a trail connecting all the facilities? Mrs. Maltese responded affirmatively, noting she is working on grants for trails presently. She noted the Parks and Recreation Department created a walking trail around the grounds at the Middle School. Part of the grant process is getting an assessment of how the areas can be used.

With regard to the crosswalk, that's something they are already talking about. She noted the gate at East Windsor Park has been moved back for better access and to improve safety and eliminate parking on Reservoir Avenue.

Ms. Shew, daughter of Carol and John Percoski of 41 Reservoir Avenue: Ms. Shew advised the public Mr. and Mrs. Percoski are on vacation this week; they are requesting that the Hearing be postponed until their return. Ms. Shew reported she understood what it's like to make teenagers happy, but people should go to the park and see that this isn't a good place for the skate park. Her parents live directly across from the park, kids already use it as a party spot. It's not a good thing for the people living next door. Ms. Shew **READ FOR THE RECORD** the letter submitted by Mr. and Mrs. Percoski. The Percoskis disagreed with comments made previously regarding contact/communication related to construction of this park; they oppose the park due to the proximity to their home, and raised concerns regarding self-policing of the skateboard park, safety for pedestrians, traffic on Reservoir Avenue, liability to the Town, and concern for home value.

Chairman Ouellette suggested with regard to the postponement of the Hearing, he's been on the Commission for over 10 years and has been Chairman for the past 8 years, and it's rare to have such a large turnout of people interested in a Hearing. He would continue the Hearing to get more information, but not because of the Percoski's request.

Brenda Crockett, 10 Rockville Road (President of the Skateboard Committee): with all due respect to Ms. Shew's parents if you buy a property next to a recreational use you might assume there may be more recreational uses around you in the future. Mrs. Crockett suggested there was a lot more going on behind the Percoskis than they will ever see across the street.

Mrs. Crockett indicated that public concerns have been addressed over the past 4 ½ years as the Skate Park Committee's meetings have been open to the public. There have been PZC Meetings, and Board of Selectmen Meetings; there is information on the Town website via the Skate Park page. They are not a bunch of parents trying to push off their kids; they love their kids. They have been working in a volunteer capacity; it's been frustrating but she wouldn't trade the experience for the world. Mrs. Crockett felt every concern the Percoski's raised have been addressed. There will be a fence and signage, what will be in the rules and regulations have been considered, the project has been approved by CIRMA. Until recently the area has been a massive overgrown eyesore. They have a master gardener who has donated her time to the project; nurseries are donating plants and they are being tasteful if the Town will give them a chance.

With regard to the location of the park, Mrs. Crockett didn't feel they were being held specifically to being directly across from East Windsor Park. She cited many competent entities – the Selectmen, the PZC, the Inland Wetlands Commission – got together to identify a proper place in Town for the park, and that research determined the current location to be the best with regard to visibility (you don't want the kids tucked away behind something else), and for accessibility (other locations, such as Woolam Road, would have required kids traveling significant distances on bikes).

Nancy Wantzy, 45 Reservoir: indicated she lives across the street from the parking lot for the Skate Park, people are already partying over there, no one in this neighborhood wants this. Why was the park moved? Motorcycles are there now. It's going to be a big problem.

Chairman Ouellette questioned Ms. Wantzy if she sees these activities going on did she call the Police? Ms. Wantzy replied no, the last time she spoke out she got vandalized. Ms. Wantzy suggested if someone did research these parks cause vandalism, drugs, graffiti – they are a magnet for this. Ms. Wantzy suggested a website for reference. Mrs. Crockett reiterated the Skate Park Committee is comprised of volunteers. Ms. Wantzy questioned who do they call if there are problems? Chairman Ouellette suggested there will be rules and regulations. Commissioner Gowdy suggested if he were in Ms. Wantzy's shoes he would call the Police. Ms. Wantzy stated she doesn't want the park there; she doesn't want to look at it. Ms. Wantzy questioned where the sign would be going and what would it say? Chairman Ouellette suggested people walking around that site was no different than people walking around the ballfields in Town. Ms. Wantzy indicated she didn't feel it was fair; she questioned why it wasn't located inside the (East Windsor) Park?

Resident, 47 Reservoir Avenue: suggested everyone says it will be a maintenance problem. Ten years down the road will it still be a lush garden? She questioned if it will still be same once everyone's children have gone.

Nancy Wantzy, 45 Reservoir Avenue: will there be a fund to maintain it? Chairman Ouellette indicated it's the Commission role to decide on the use of the property; there is only so much the PZC can address.

First Selectman Menard, 73 Miller Road: suggested that anyone who has questions regarding the rules, and signage, should go to a BMX Park Committee Meeting. She noted that the volunteers for the Dog Park have maintained their site; she felt this would be the same. Ms. Wantzy felt it wouldn't be the same. First Selectman Menard cited the Dog Park filled a void in the community, as she felt the Community Gardens will also do. She felt the Skateboard Park will do the same thing; there really is no place for these kids to go. Ms. Wantzy suggested the site contains 150 acres.

Ms. Shew, 41 Reservoir Avenue: it does say on the (Skateboard Park) website that it will be across from this property, she felt there has been a little bit of deceit. Ms. Shew

agreed there is a need; it isn't fair for the teenagers not to have a place to go. But it isn't fair to her 70 year old parents. She questioned the right to have the Skateboard Park driveway across from their home. Ms. Shew referenced Chairman Ouellette's earlier comments regarding a reason to table the Hearing, she suggested researching if it will logistically be a problem for her parents to get out of their driveway if there is traffic. Ms. Shew suggested it may be a good thing for the Town and the teenagers; her parents aren't against it, they would just prefer it was not right across from their home.

Brenda Crockett, 10 Rockville Road: cited the Skateboard Park Committee had held fundraisers/events that were beneficial to Seniors. They are trying to teach their kids how to do things for others, to teach little kids how to use the skateboards, trying to show the Town they want to give back.

Commissioner Gowdy felt that many of the questions being raised – the insurance coverage, etc. – could be answered by going to the BMX website. Ms. Wantzy didn't feel that information is on it. She questioned if there is going to be fence? Ms. Wantzy suggested it must be supervised unless the Town will be liable for the problems. Chairman Ouellette questioned Town Planner Whitten if the Site Plan shows a fence? He questioned if the Commission approves this park and after the fact the fence is proposed would the BMX Park Committee need to come back for a plan modification? Town Planner Whitten suggested installation of a fence could be handled as an administrative process; that wouldn't be unusual for a municipal site. Ms. Wantzy suggested these is no fence, and no gate, because there is no money and when everyone loses interest it will be a mess and then they'll have to look at it.

Mrs. Crockett indicated the fence and the gate were discussed. They want the kids to be safe but they don't want them to be locked out of the park. They discussed the fence issue with CIRMA and the Board of Selectmen and they were able to move forward without a fence. It's not required, maybe they would like one. With regard to the gate there were other parks in Town with locked gates and picnic tables were piled up. Mrs. Crockett suggested there are all kinds of things going on behind the scenes. Mrs. Crockett indicated they are thinking about a fence down the road.

Lori Gabriel, Miller Road: Enfield paid \$75,000 to hire a company out of New York to find things for the kids to do. There were tennis courts which were not being used; they were paved over for a skateboard park. That park is gated because it was the tennis courts previously. Ms. Gabriel indicated they tried to use the tennis courts (at East Windsor Park) but Park and Recreation wouldn't let them do that. They would have liked the skateboard park to be inside East Windsor Park but they couldn't be inside.

Chairman Ouellette suggested that he didn't think it was really the amenities that were the issue; it's the location the neighbors oppose.

Commissioner Devaney questioned the hours? Mrs. Crockett suggested everything is on the website. It will be daylight hours; there will not be any lights.

Commissioner Thurz suggested Ms. Shew's parents have lived there for 40+ years, they knew the park was behind them. He felt they could assume anything new would be nearby. Ms. Shew noted when her parents purchased their property the Town didn't own the property across the street. Commissioner Thurz questioned if it would be better if the land were used for a housing development? Ms. Shew said they were told it would be used for walking trails or municipal buildings; that's what she means by it being a little deceitful. Town Planner Whitten referenced the 2004 Plan of Conservation and Development (POCD), which shows this location as a conceptual municipal campus, and the area under discussion as being ballfields so the purchase of the Kogut property was thought of as a logical expansion of a municipal use. Ms. Wantzy felt that was down the line. She questioned why not put the skateboard park inside the (East Windsor) Park; it's a beautiful place for it. Chairman Ouellette suggested that was her opinion.

Selectman Jim Richards, 43 Rockville Road: suggested in his mind the Kogut property was purchased for a high school, and not only the skateboard park, but for fields and trails. There would be lights because that's the way school fields are done. With regard to traffic he suggested the current high school holds many night activities; people sometimes congregate back there drinking, etc. Selectman Richards commended the Dog Park volunteers and the Skateboard Park volunteers for doing a tremendous job; he also commended the Strempfers for clearing land nearby. Selectman Richards suggested there would be buses on the property when it's used for a school; this is probably the quietest it's going to be. He agreed nobody wants something in their back yard.

Chairman Ouellette queried the Commission on their preference for action this evening. He suggested he hadn't heard anything negative about the Dog Park, or the Community Gardens. Does the Commission need time to digest this information; is additional information needed or can the Public Hearing be closed?

Chairman Ouellette queried the audience for any new information?

Melissa Maltese, Director of Parks and Recreation: questioned if a delay regarding a decision on these parks would mean she couldn't install a gate at the Dog Park until the decision was made? Town Planner Whitten noted equipment has also been ordered for the Skateboard Park. Chairman Ouellette concurred he understood the concerns regarding those business decisions.

The Commission requested a recess.

MOTION: To TAKE A FIVE MINUTE RECESS.

Devanney moved/Gowdy seconded/VOTE: In Favor: Unanimous

The Commission RECESSED at 8:52 p.m., and RECONVENED at 9:01 p.m.

Chairman Ouellette again queried the audience for additional comments:

Robin Chesky, Co-Chairman of the Dog Park Committee: questioned if a delay of the decision would put any activity – such as fundraising – and day to day activities for the Dog Park in jeopardy? Ms. Chesky suggested the reason she is bringing this issue up is, like the BMX Committee, they have been working with the Town, and have been open for over a year. She felt they are a great addition to the community. Can they still work towards their fundraising goals?

Chairman Ouellette referenced the comments made by Selectman Richards regarding future use for the Kogut property. He suggested any parcel is always up for change. The Comp Plan (POCD) is scheduled for updating in 2014; if people didn't like the potential use he encouraged everyone to bring their comments to the Commission.

Lori Gabriel, Miller Road: questioned what the PZC needs to do? She would have had the PZC come to their meetings if they wanted to know more information. Chairman Ouellette suggested the parks were voted on once, but the use is a Special Use Permit which is a use that doesn't fit exactly into the Zoning Regulations. The Commission must approve the use, and make an 8-24 referral regarding use of municipal property to the Board of Selectmen (BOS).

Nancy Wantzy, 45 Reservoir Avenue: referenced the comment someone made to a letter being sent to the people; Ms. Wantzy suggested that didn't happen. Chairman Ouellette clarified that the previous approval didn't trigger the need for mailings; a Special use Permit required a Public Hearing and mailings. Ms. Wantzy said the notes said they would do mailings.

Christina Dahl, 102 Reservoir Avenue/member of the Dog Park Committee: cited they have a fundraiser coming up; how does the approval, or denial, affect that? Chairman Ouellette suggested if the Board votes for a disapproval that is a concern. Ms. Dahl reiterated this activity is for the Dog Park. Chairman Ouellette felt the Commission's intention was to close the Public Hearing and take a vote tonight.

Ms. Shew, 41 Reservoir Avenue: questioned the length of time they are allowed for the Special Use Permit? Chairman Ouellette suggested the Special Use Permit doesn't expire unless the conditions associated with the approval are not completed or complied with. Ms. Shew requested clarification that they have an unlimited time to use it? Chairman Ouellette concurred, noting unless the owners want to change the use.

Chairman Ouellette queried the Commission regarding their intent to close or hold the Public Hearing open, and their intent regarding making a decision tonight. The consensus of the Commission was to close the Public Hearing. Chairman Ouellette advised the public the Commission would not be taking any additional information. No one requested to speak again.

MOTION: To CLOSE THE PUBLIC HEARING on the Application of the Town of East Windsor – Special Use Permit per Chapter 304 for Municipal

Park Improvements along Reservoir Avenue for proposed BMX Park, Dog Park and Community Gardens located at 24 and 40 Reservoir Avenue. [R-3 Zone; Map 78, Block 57, Lot 1].

Devanney moved/Gowdy seconded/

DISCUSSION: None.

VOTE: In Favor: Devanney/Gowdy/Ouellette/Thurz/Zhigailo
No one Opposed/no one Abstained.

MOTION TO APPROVE the site plan of up to a 100' x 150' BMX Skate Park with associated grading and graveled parking to be located east and across the street from the East Windsor Park entrance on the Kogut open space property.

Devanney moved/Gowdy seconded

DISCUSSION: Commissioner Zhigailo requested clarification that each activity was being voted on separately. Chairman Ouellette confirmed the separate vote.

VOTE: In Favor: Devanney/Gowdy/Ouellette/Thurz/Zhigailo
No one Opposed/no one Abstained

MOTION TO APPROVE the site plan for a 200' x 200' Dog Park, and associated grading and graveled parking to be located generally to the west and across the street from the East Windsor Park entrance, on the Kogut open space property.

DISCUSSION: None.

VOTE: In Favor: Devanney/Gowdy/Ouellette/Thurz/Zhigailo
No one Opposed/no one Abstained

MOTION TO APPROVE the Community Gardens and associated grading and graveled parking area to be located generally to the west and across the street from the East Windsor Park entrance, and west of the dog park.

DISCUSSION: None.

VOTE: In Favor: Devanney/Gowdy/Ouellette/Thurz/Zhigailo
No one Opposed/no one Abstained

MOTION TO RECOMMEND TO THE Board of Selectmen to allow the development of the BMX/Skate Park, Dog Park, and Community Gardens to be located on Town Open Space located generally across Reservoir Road from the East Windsor Park, Map 78, Block 57, Lot 1.

DISCUSSION: None.

VOTE: **In Favor: Devanney/Gowdy/Ouellette/Thurz/Zhigailo**
 No one Opposed/no one Abstained

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

OLD BUSINESS: Armster Reclaimed Lumber Company- Modification of Approved Site Plan for 232 & 242/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. [M-1, B-2 & A-2 Zones; Map 12 Block 5, Lots 84-1 & 7]. (*Deadline for decision extended to 8/14/2012*):

Chairman Ouellette read the description of this Item of Business. Appearing to discuss this Application was Jay Ussery, of J. R. Russo & Associates, LLC, and the Applicant, Klaus Armster.

Mr. Ussery suggested that based on discussion at the last Meeting they have come back with new revisions. At the last Meeting they had shown on the plans a berm around Hotcakes, and expansion into Phase II; that has now been eliminated. Essentially, they are showing the Phase I fence location line as it is currently located; the existing fence is located 35+/- feet forward of the location approved in the original approval. The original approved fence line is shown in red on the plans; the existing fence line is shown as a green line. They are not proposing any storage area around the cell tower; a 10' area free of storage has been recommended to be installed around the cell tower. That storage free area will be scraped of top soil, gravel will then be installed. Mr. Armster has already reduced the height of some of the piles; they are no longer visible over the fence. Better access has been provided around the piles. There is still some wood in the storage area in back. A letter (e-mail) from the Fire Marshal indicates there is still some work to be done. Mr. Ussery noted they are showing a drop-off area "here", which isn't visible from the street.

Chairman Ouellette noted the e-mail from the Fire Marshal cites continuing problems. Mr. Ussery indicated they were in receipt of a copy of the e-mail.

Commissioner Thurz questioned Mr. Armster if he had taken any more deliveries at this site since the Commission's last Meeting? Mr. Armster indicated there had been more deliveries, and he had moved a significant amount of wood from this site. Commissioner Thurz recalled that he thought Mr. Armster was NOT to take any more lumber in at this

site. Commissioner Thurz indicated he drove by at 5:30 this evening and there is another delivery of wood on the site. Mr. Armster replied, yeah, he sent out 7 truckloads since the last Meeting but purchased 3 more loads as well. Commissioner Thurz recalled the deal was that Mr. Armster was to NOT take in any more material. Mr. Armster suggested that since the last Meeting he has done 3 things:

- 1) Met with Mr. Ussery and has pulled the plan back to something that would be palatable to the Commission.
- 2) Signed a Letter of Intent for a 4 acre property in Hartford for storage; Mr. Armster submitted the letter to the Commission for review. Commissioner Zhigailo questioned why the letter was dated 11/7/2007? Mr. Armster suggested the letter was faxed to him by the attorney but it's a brand new letter. Commissioner Zhigailo questioned if a new letter with signature was available? Mr. Armster questioned if it was a fax stamp? Chairman Ouellette questioned the signature on the document; Mr. Armster indicated it's his signature, it's brand new. Chairman Ouellette shared the document with the Commission members.
- 3) Mr. Armster indicated he has made efforts to get into compliance. They spent 315 manhours trying to lower the height of the piles behind the fence as well as remove wood in areas around the building. They have moved material away from the front drop-off area, and outside the building. Mr. Armster offered the Commission photos on his iPad.

Chairman Ouellette questioned if the photos Mr. Armster was showing the Commission, the clean aisles – were they referred to on the plan being submitted tonight as areas where wood couldn't be stored? Mr. Armster replied affirmatively. Chairman Ouellette indicated Mr. Armster was showing pictures behind "this" building; he questioned if there was a note on the plan that indicated there would be no storage in the cross aisles? Chairman Ouellette suggested if someone else buys this property they could operate it the way it's drawn on these plans. There is no note to make that restriction obvious.

Commissioner Thurz suggested Mr. Armster has a parcel containing several acres; he suggested getting everything in compliance in Phase I, like should have been done in the first place, and then go from there.

Town Planner Whitten suggested the top of the slope is the designated storage area; it appears there is more wood there and there should be a 10' separation distance which she didn't feel has occurred. Chairman Ouellette indicated he felt the Commission would like to accommodate Mr. Armster's business plan but there have been continuous compliance issues. If the plan were executed and properly followed it would be one thing. Town Planner Whitten concurred, noting if the previous plan had been followed there would be compliance. Commissioner Thurz noted there were tracks from a front loader there when he visited the site tonight. Mr. Armster indicated he had a load come in today. Town Planner Whitten questioned if the load had been delivered behind the tower? Mr. Armster replied yes. Town Planner Whitten suggested she had asked

Mr. Armster point blank if he had more wood delivered. Mr. Armster suggested the wood there had gone to another customer. Town Planner Whitten suggested then the answer is “yes”; you lied to me? Mr. Armster suggested that’s what he believed when he talked to Town Planner Whitten. Commissioner Thurz offered cell phone photos of the site during his visit this evening. Commissioner Thurz suggested the Commission told Mr. Armster 2 weeks ago not to bring in more wood, and you bring in more.

Chairman Ouellette suggested the Commission take a five minute break.

MOTION: To TAKE A FIVE MINUTE RECESS.

Gowdy moved/Thurz seconded/VOTE: In Favor: Unanimous

The Commission RECESSED at 9:35 p.m. and RECONVENED at 9:40 p.m.

Mr. Ussery indicated he had spoken with his client during the break. Mr. Ussery didn’t feel this Application was going anywhere. He suggested the Commission take a vote, and if it’s denied perhaps it could be done without prejudice, or the Commission could take a straw vote and they may need to withdraw the Application.

Commissioner Gowdy questioned Mr. Ussery if he felt the site would be in better shape in a couple of months? Mr. Ussery indicated he didn’t know. Commissioner Gowdy indicated he would like the Commission to take a straw vote. The poll of the Commissioners regarding approval of the submitted plan was as follows:

- Commissioner Thurz: no
- Chairman Ouellette: no
- Commissioner Gowdy: no
- Commissioner Sullivan: no, he needs to see something positive from the Fire Marshal
- Commissioner Zhigailo: her concern is safety, people will have to contend with snow in a couple of months. It’s a dangerous situation. She has a problem with the lack of compliance.
- Commissioner Devanney: if she had to vote tonight it would be a negative vote.

Commissioner Gowdy questioned the Letter of Agreement. Town Planner Whitten noted she needs that for the Application file as it was submitted tonight as part of the public record.

Mr. Armster suggested the letter says he has agreed to purchase the property in Hartford, he has 45 days for him to do his due diligence, and allows 7 days for the owner to..... Mr. Armster suggested the letter has been signed by himself and the owner; it’s a Letter of Intent to purchase the property at a specific price if he can get

financing and the owner is willing to sell at that price – it's a Letter of Intent to purchase property.

Chairman Ouellette questioned how a denial without prejudice affects the operation? Town Planner Whitten indicated it makes Mr. Armster revert back to the original plan which he must comply with – he can't gravel Phase II, and he can't move (storage) into Phase II until Phase I is compliant, and he must move the fence back.

Mr. Ussery reported they would like to withdraw the Application. He thanked the Commission for their time.

MOTION TO ACCEPT THE REQUEST TO WITHDRAW THE APPLICATION of Armster Reclaimed Lumber Company for a Modification of Approved Site Plan for 232 & 242/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. [M-1, B-2 & A-2 Zones; Map 12 Block 5, Lots 84-1 & 7].

DISCUSSION: None

VOTE: In Favor: Devanney/Gowdy/Ouellette/Sullivan/Thurz
No one Opposed/no one Abstained

NEW BUSINESS: None.

OTHER BUSINESS: None.

BUSINESS MEETING/(1) Correspondence: None.

BUSINESS MEETING/(2) Staff Reports:

- Town Planner Whitten advised the Commission that Specialty Printing, which occupies a building at Revay Road, wants to put in a 20' high tower for storage of gas. The tower won't be visible, except from the back. They will need to apply for a Zoning Permit for the use. She questioned if this approval could be done administratively? The Commission concurs with the acquisition of a Zoning Permit as part of the Administrative approval process.
- Updated Zoning Regulation booklets, including Subdivision Regulations, Bylaws, and the Comp Plan, are being prepared for the Commission. Discussion followed regarding the Commission's preference for compilation of the documents.

BUSINESS MEETING/(3) Signing of Mylars/Plans, Motions:

Motions:

Site Plan Approval for 104 Prospect Hill Road – Verizon

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
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Mylars:

Site Plan for DMD Reality

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 9:50 p.m.

Gowdy moved/Sullivan seconded/VOTE: In Favor: Unanimous

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(7697)