

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

Regular Meeting – March 6, 2013

MEETING MINUTES

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

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

ESTABLISHMENT OF QUORUM:

Present: Regular Members Richard Osborn (Vice Chairman), John Malin, Robert Slate, and Alternate Members Kathryn Roloff and Micahel Sawka.

Unable to Attend: Regular Members Michael Koczera and Ron Savaria.

Guests: Selectman Richard Pippin (Inland/Wetlands Liaison); Alan Baker, Selectman; Dale Nelson, Selectman; and Kathy Pippin, Board of Finance.

Vice Chairman Osborn noted the establishment of a quorum with three Regular and two Alternate Members as noted above. All Regular members will sit in on votes this evening.

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

AGENDA ADDITIONS:

Vice Chairman Osborn noted the following Agenda Additions:

1. **NEW BUSINESS: DETERMINATION OF NON-REGUATED USE: Town of East Windsor – Reservoir Avenue/Kogut Property** – Disc golf park/cross country running trail intended for community use. Assessor's Map 078, Block 57, Lot 001.
2. **NEW BUSINESS: 03-2013 - East Windsor Cemetery Association – Springdale Cemetery, Warehouse Point.** Repair and stabilize a slope failure within the 150' upland review area. Assessor's Map 91, Block 10, Lot 26

APPROVAL OF MINUTES – January 2, 2013:

MOTION: To APPROVE the Minutes of Regular Meeting dated January 2, 2013 with the following amendments:

Page 2, Line #63, “Description of Item ready READ by Vice Chairman Osborn.”

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

CONTINUED PUBLIC HEARINGS: None.

NEW APPLICATIONS TO BE RECEIVED:

Vice Chairman Osborn acknowledged the receipt of the following new applications:

1. **01-2013 – Applicant David Tyler for Skylark Airport** – Remove stumps to allow for plowing, planting grass to produce hay for farm activity at 54 Wells Road, East Windsor/Skylark Airport. Assessor's Map 115, Block 24, Lot #28.
2. **03-2013 - East Windsor Cemetery Association – Springdale Cemetery, Warehouse Point.** Repair and stabilize a slope failure within the 150' upland review area.

NEW BUSINESS: As-of-Right, Applicant David Tyler for Skylark Airport – Timber harvest/removal of trees for farm expansion at 54 Wells Road, East Windsor/Skylark Airport. Assessor's Map 115, Block 24, Lot #28.

Appearing to discuss this Determination of Use/As-of-Right proposal was David Tyler.

Wetlands Agent Newton noted Application 01-2013 – Applicant David Tyler for Skylark Airport, which is for stumping for field expansion, can be received tonight and acted on at the Commission's April Meeting. Mr. Tyler's Application for a Determination of an As-of-Right Use for farming can be made this evening. The Applicant would then subsequently be sent a letter confirming the Commission's decision. As both Applications involve the same property and area of involvement they can both be discussed this evening, but acted on as noted above.

Mr. Tyler reported that over the last couple of years he has been cutting hay along the runways at Skylark Airport. Commissioner Koczera and Mr. Tyler had been discussing that someone take down trees to get more area for growing hay; the hay is used by Mr. Tyler himself, with the remainder sold to others. Mr. Tyler reported the area under consideration involves approximately 8 acres; the property is owned by Skylark Airport.

Wetlands Agent Newton requested clarification that Mr. Tyler would be going south of the runway to the property border? Mr. Tyler agreed, noting he had the equipment to remove the stumps, which he then expected to put along the property line as a buffer for erosion. Wetlands Agent Newton referenced an aerial view of Skylark Airport which included a yellow line around the area under discussion; Mr. Tyler concurred that was the area being discussed. Wetlands Agent Newton requested that the record reflect that Mr. Tyler would be going to the property boundary, at which location he would be placing stumps along that area. Wetlands Agent Newton requested Mr. Tyler let her know when

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the clearing was to occur; she also requested that Mr. Tyler mark the boundary line.

Vice Chairman Osborn queried the Commissioners for questions; no one requested any additional information.

Vice Chairman Osborn queried the Commissioners for a motion.

MOTION: To APPROVE as an As-of-Right Activity the Application for David Tyler for Skylar Airport for Timber harvest/removal of trees for farm expansion at 54 Wells Road, East Windsor/Skylark Airport. Assessor's Map 115, Block 24, Lot #28.

DISCUSSION: None.

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

NEW BUSINESS: 03-2013 - East Windsor Cemetery Association – Springdale Cemetery, Warehouse Point. Repair and stabilize a slope failure within the 150' upland review area. Assessor's Map 91, Block 10, Lot 26

Vice Chairman Osborn read the description of this Item of Business. Appearing to discuss this new Application was Mr. Jay Ussery, of J. R. Russo & Associates, and Mr. Daniel Burnham, President of the East Windsor Cemetery Association.

Mr. Ussery reported he is presenting a plan for slope restoration which has been under discussion for over a year. During that time a number of things have happened:

- FEMA became involved as some of the slippage was considered to be associated with storm damage which occurred a year ago. Mr. Ussery reported East Windsor has received funding from FEMA to pay for some of the repair work.
- Dr. Clarence Welti did borings at the location of the slippage; he subsequently submitted a report (prepared under the name of GeoTech Services) which makes recommendations to repair the slippage.
- Some of the work will occur on land owned by the State of Connecticut; permission was required by the Department of Transportation (DOT) before work could be initiated. Mr. Ussery indicated he had experienced problems getting a response from the DOT; Town Engineer Norton intervened and was able to assist in moving the project forward. Bids are going out to local contractors for the work involved in this project.

Mr. Ussery reported they will be working near a watercourse, although all work will actually occur within the upland review area; that work requires a permit from this Commission. The wetlands were previously flagged by John Ianni. Work will involve removal of fill that was placed on the slope after the slippage occurred and removal of trees which subsequently fell over the slope; riprap will then be placed on the slope,

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which will be regarded to a 2.5 to 1 gradient at Dr. Welti's recommendation. Mr. Ussery noted the new grade will be slightly less than the grade prior to the incident.

Commissioner Slate requested a clarification of the installation of the riprap. Mr. Ussery indicated a large area of riprap will be added to hold fabric which will be added at the toe of the slope.

Wetlands Agent Newton noted this plan is being submitted tonight for acceptance of a new Application; the plan will be reviewed further and a decision made at the Commission's April Meeting. Wetlands Agent Newton advised the Commission both she and Town Engineer Norton have reviewed the plans as submitted and are ok with the proposal.

MOTION: To RECEIVE the Application of the East Windsor Cemetery Association – Springdale Cemetery, Warehouse Point. Repair and stabilize a slope failure within the 150' upland review area. Assessor's Map 91, Block 10, Lot 26.

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

NEW BUSINESS: DETERMINATION OF NON-REGULATED USE: Town of East Windsor – Reservoir Avenue/Kogut Property – Disc golf park/cross country running trail intended for community use. Assessor's Map 078, Block 57, Lot 001.

Vice Chairman Osborn read the description of this Item of Business. Appearing to discuss this proposal was Brian Donnelly, a resident of East Windsor.

Wetlands Agent Newton reported Mr. Donnelly went to the Board of Selectmen (BOS) and the Park and Recreation Commission to propose the installation of this disc golf course on the Kogut property. The course would be located behind the skateboard park. There is a stream and slope in the area; Wetlands Agent Newton, Director of Parks and Recreation Maltese, and Mr. Donnelly walked the property to determine the effect of the proposal on the area. Wetlands Agent Newton noted there are already walking paths in the area; this proposal would not involve much clearing. Mr. Donnelly concurred they are not proposing anything near the brook or watercourse. He indicated "they strive to co-exist without impacting others." Mr. Donnelly described the sport, noting there is a similar course in Wickham Park.

Commissioner Slate questioned how close the course would be to the road going into the tobacco field? Mr. Donnelly suggested the proposed course would circumvent that area as it would be difficult to clear out.

Wetlands Agent Newton indicated the impact of this proposal would be minimal to the area. She suggested this proposal qualifies under Section 4.24 as a Non-Regulated Use

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which would not impact a watercourse.

Vice Chairman Osborn queried the Commission for comments; no one raised any additional questions. Vice Chairman Osborn requested the Commission consider a motion.

MOTION: To MAKE A DETERMINATION AS A NON-REGULATED USE the Application of the Town of East Windsor for the Kogut property on Reservoir Avenue (the Kogut Property) for use as a Disc golf park/cross country running trail intended for community use. Assessor's Map 078, Block 57, Lot 001.

DISCUSSION: None.

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

OLD BUSINESS: East Windsor Cemetery Association – Springdale Cemetery, Warehouse Point – Cease and Desist Order for Conducting a Regulated Activity without a Permit:

See discussion under NEW APPLICATIONS TO BE RECEIVED.

MISCELLANEOUS/1) Discussion of Input to 2014 Update of East Windsor Plan of Conservation and Development:

Wetlands Agent Newton suggested the Inland Wetlands Commission would probably not have a lot of input for the Planning and Zoning Commission (PZC) with regard to updating the Plan of Conservation and Development (POCD). She further suggested the Commissioners consider if there were any environmental issues the Commission would like to refer on to the PZC.

AGENT DECISIONS: None.

STATUS REPORTS: None.

VIOLATIONS/1) Violation-Skylark Airport Realty-54 Wells Road – Fill Activity in a Regulated Area:

Wetlands Agent Newton reported that it came to her attention last week that Walmart was hauling fill to Skylark Airport. Wetlands Agent Newton and Town Planner Whitten visited the site and found fill had been deposited in a wetlands area. Walmart was asked to stop deposition of fill; they have received a Violation Notice under the Wetlands Regulations, and also a Zoning Violation as the amount of fill deposited approximated 1600 cubic yards. The situation also created considerable mud on Wells Road, which

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created a safety issue.

Wetlands Agent Newton reported she spoke with the Walmart Compliance Officer in Arkansas regarding this issue, and met with local representatives for Walmart this past week. Walmart will remove the fill they deposited at Skylark Airport and haul it to Massachusetts; they will upgrade the existing stonedust road, and use silt socks as erosion controls.

Wetlands Agent Newton reported plans involving the removal operation were received in the Planning Office today.

VIOLATIONS/2) Show-Cause Hearing/Cease & Desist Order for Continued Filling Activity – Brian Carpenter – 33 Mahoney Road:

Wetlands Agent Newton reported this violation involves ongoing filling which has been occurring at this location since 2009. The area being filled is a terrace escarpment slope, which requires a permit from this Commission. Wetlands Agent Newton reported the property owner, Brian Carpenter, was told to block the area off to prevent continued filling; she noted she passes this site daily and noticed two loads have recently arrived.

Appearing to discuss this Violation was Brian Carpenter, the property owner.

Mr. Carpenter indicated that when he received Wetlands Agent Newton's Violation/Cease and Desist letter he didn't know that anyone had been dumping fill at this location recently. He indicated he hadn't told anyone they could dump fill for some time. Mr. Carpenter suggested that over the years he thought he could dump up to 3 cubic yards of fill per year without a permit. Mr. Carpenter reported he was told the area of dumping was wetlands, but he can't see that; the only place he can see that is wet is on the land owned by the Water Company but that only gets wet in early Spring and then dries up in warmer weather.

Vice Chairman Osborn noted wetlands aren't defined by water. Mr. Carpenter indicated he understands that now. He had called Wetlands Agent Newton to tell her he would put a rope up to keep people from dumping but she didn't want that. He also has tree stumps which he could put up, or he would nail 2" x 6" boards to the trees. Mr. Carpenter indicated his neighbor filled in his back yard but Mr. Carpenter doesn't have the money to pay for someone to come in with a similar plan. Mr. Carpenter indicated he is looking for direction.

Wetlands Agent Newton reported she isn't comfortable with putting the stumps in place; someone with a dump truck, or even a pick-up, can back up to the stumps and dump fill over the stumps. She suggested she finds it difficult to believe that Mr. Carpenter didn't know people were dumping; someone has been home every day she has visited the site. Mr. Carpenter indicated he doesn't have a car, and is picked up by the Senior Center bus;

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he is looking for direction. Wetlands Agent Newton indicated she wasn't comfortable with the stumps alone; she felt it might be better to nail the boards into the trees along with placing the stumps in the area. She suggested she wasn't asking for the installation of jersey barriers, but this has been going on for the 4 years she's been working for the town; the filling needs to be stopped.

Commissioner Roloff questioned if the fill should be removed? Wetlands Agent Newton noted there is a lot of fill that would have to be removed; she didn't feel Mr. Carpenter had the money for removal. She cautioned that if this activity continues she will address it from a zoning standpoint, which will allow a fine of \$150/day and require removal of the fill.

Mr. Carpenter questioned if he could cut down the trees and install a lawn? Wetlands Agent Newton noted his entire lot is located on a terrace escarpment slope; she didn't want to see the trees cut down but that wouldn't be to say he couldn't cut down a few. If Mr. Carpenter does cut down some trees Wetlands Agent Newton noted she wants the stumps to remain in place to keep the soil together. She indicated the Cease and Desist is for Mr. Carpenter's own protection; she doesn't want to see his home slide down the slope. She noted a neighbor across the street is losing soil from beneath a shed for this same reason. Wetlands Agent Newton compared this site to the situation at Springdale Cemetery discussed earlier.

Commissioner Roloff questioned that Mr. Carpenter didn't know who was dumping fill? Mr. Carpenter replied negatively, noting he is not aware of anyone dumping for at least a year. Commissioner Roloff questioned Mr. Carpenter again; Mr. Carpenter continued his lack of knowledge of the source of the fill. Commissioner Roloff questioned Wetlands Agent Newton that she didn't want the fill removed? Wetlands Agent Newton reiterated it should be left there, but Mr. Carpenter needs to come to a permanent solution.

CONFERENCES/SEMINARS/TRAINING:

Wetlands Agent Newton advised the Commissioners the annual sessions of the DEEP training are not presently available; UCONN has dropped its association with this program. She will advise the Commissioners when training is available again.

CORRESPONDENCE: None.

GENERAL BOARD DISCUSSION:

Commissioner Slate gave the Commission an update on Commissioner Koczera's condition.

Wetlands Agent Newton advised the Commission she will be preparing a policy – allowable under Inland Wetlands Statutes - which will address the issue of wetlands

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violations. If someone creates a violation by adding fill in a wetlands area an After-the-Fact Application will no longer be accepted. She indicated the present mentality is that a violator will continue his activities but will stop temporarily if the violation is discovered, and will then file an After-the-Fact Application. Wetlands Agent Newton suggested there needs to be a penalty for violations; without a Fines Ordinance the Commission needs to create the violation policy.

Wetlands Agent Newton clarified that from a wetlands standpoint if a lot of fill is brought in within 150' of wetlands the proposal should be reviewed by Wetlands Agent Newton. If someone is bringing in fill that will change the grades of a location and a wetlands or watercourse is nearby then an Inland Wetlands Permit is needed. From a zoning standpoint the deposition of over 100 cubic yards of fill per year requires a Special Use Permit; if the deposition creates drainage issues a permit is required as well. Wetlands Agent Newton noted another property owner had hoped to acquire fill from Walmart to cover a farm field. Inspection by she and Town Engineer Norton found the addition of the potential fill would have created a drainage issue; the property owner was told that activity would require a Zoning Permit. She indicated Town Staff will assist property owners review sites and potential activities before they occur.

Discussion continued regarding various types of activities, the effect of those activities on slopes, wetlands, and/or watercourses nearby, and the permit requirements.

Vice Chairman Osborn noted the creation of a roadway into the woods off of Scantic Road where an abandoned home is located; he has noticed piles of fill in that area as well. He requested Wetlands Agent Newton investigate that issue.

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

No one requested to speak.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:58 p.m.

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

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(2937)