

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

Regular Meeting – December 6, 2017

MEETING MINUTES

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

CALL TO ORDER: Chairman Baker called the Meeting to order at 7:02 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

Present: Regular Members Alan Baker (Chairman), Richard Osborn, Richard P. Pippin, Jr., and Rebecca Talamini, and Alternate Member Michael Sawka.

Unable to Attend: All Members present.

Guests: Deputy First Selectman Steve Dearborn, Inland/Wetlands Liaison; Kathy Pippin, Board of Finance; Dale Nelson, Tom Talamini, Stu Brown, Jim Martino, Robert Winot.

Chairman Baker noted the establishment of a quorum with 4 Regular and 1 Alternate Members as noted above. All Regular members will sit in on votes this evening. Chairman Baker welcomed Commissioner Pippin back to the Commission.

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

PLEDGE OF ALLEGIANCE:

Everyone stood to recite the Pledge of Allegiance.

AGENDA ADDITIONS:

WA Tyksinski requested the addition of discussion with Anthony Grossi of Grossi Forest Products regarding selective timbering. Chairman Baker suggested adding discussion under **MISCELLANEOUS.**

MOTION: To ADD under MISCELLANEOUS – Discussion with Anthony Grossi of Grossi Forest Products regarding selective timbering.

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

APPROVAL OF MINUTES – November 1, 2017:

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MOTION: To APPROVE the Minutes of Regular Meeting dated November 1, 2017, as presented.

Osborne moved/Talamini seconded/DISCUSSION: None.

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

PUBLIC HEARINGS: None.

NEW APPLICATIONS TO BE RECEIVED: 1) #09-2017 AS-OF-RIGHT

DETERMINATION: Steve Dearborn – Clear cutting of timber for expansion of agricultural crop land at Craftsman Road and 9 Craftsman Road. Map 093, Block 19, Lots 009 and 010

Steve Dearborn, owner of 9 Craftsman Road, joined the Commission. Mr. Dearborn noted that a couple of members of the Commission had joined him on a site visit of the property. At that time they agreed to several things:

- That Mr. Dearborn hire a soil scientist
- That Mr. Dearborn hire a surveyor to put things on the map and to find the boundary line.
- That Mr. Dearborn have stumps and berms located in the wetlands removed.

Mr. Dearborn reported that he had Herb Holden remove the stumps; Mr. Dearborn then put in 3 rows of baled hay in the area. Mr. Dearborn noted he had added arrows to the map to show the location of the wetlands flags, which are difficult to see on the map. Mr. Dearborn also reported that a small corner of Namerick Brook was found to be located on his property.

Mr. Dearborn reported he has done everything they agreed to; he is present this evening to acquire his permit.

Chairman Baker concurred that he and Commissioner Talamini visited the property and met with several people and Mr. Dearborn. They agreed that Mr. Dearborn would hire a soil scientist to define the wetlands line. Chairman Baker clarified that they did NOT agree to removal of the stumps because Mr. Dearborn is under a Cease and Correct Order, under which he was to return with a plan to be reviewed by the Commission prior to making an As-Of-Right determination or issuing a permit for the activity proposed.

Mr. Dearborn disagreed, suggesting the permit was for the stumping. Mr. Dearborn felt he had gone above and beyond what a farmer should do on his farmland. Chairman Baker reiterated that usually the process is for an applicant to come into the Planning Office to seek an As-Of-Right determination before doing any work. Mr. Dearborn is now in the Correction phase of this activity. Chairman Baker reiterated they did NOT agree to removing anything. Chairman Baker noted Mr. Dearborn's attorney, Lou Flynn, was also present during the site walk. Chairman Baker indicated they agreed that Mr.

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Dearborn would create an effective erosion control plan. Chairman Baker referenced Minutes from a 2009 application which indicated that Mr. Dearborn had put in a check dam; Chairman Baker referenced the map Mr. Dearborn has presented the Commission and noted he doesn't see the check dam reflected on the map. Mr. Dearborn suggested he put in 3 rows of hay bales; Mr. Dearborn referenced his map and noted that 15 feet is the distance from that wetlands flag to "here"; he reiterated he has put in 3 rows of hay bales. Chairman Baker questioned if Mr. Dearborn felt the 3 rows of hay bales were efficient erosion controls? Mr. Dearborn suggested that seems to work on other construction sites you see. He suggested you often see 1 row of hay bales and silt fence; Mr. Dearborn reiterated he has put in 3 rows of hay bales; he thought it would work. Chairman Baker and Mr. Dearborn continued to discuss their opinions of the effectiveness of the erosion control plan.

WEO/WA Whitten noted she had also been at the site walk; she felt the Commissioners had liked the stumps but if Mr. Dearborn wanted to leave them in then he would need a permit for that activity. Mr. Dearborn reiterated that he has had them removed so he wouldn't be filling wetlands. He reiterated the property has been cleaned up and the wetlands have been delineated. WEO/WA Whitten questioned Mr. Dearborn if he would have preferred leaving the stumps there; Mr. Dearborn replied – personally, yes.

Discussion continued regarding the steps of the process. Chairman Baker suggested the Commission needs a map or a plan for the record so they can vote. Mr. Dearborn felt a farmer didn't have to go this far; Chairman Baker suggested if Mr. Dearborn had come in first and asked for the As-of-Right determination before you did anything it would be done. Mr. Dearborn suggested he's present for his permit. Chairman Baker suggested the plan is missing erosion control measures; if Mr. Dearborn thinks the 3 rows of hay bales will work show that on the plan. Commissioner Talamini suggested the plan shows the stumps in the wetlands. Chairman Baker suggested the other area also needs something; does the guy who will clear it do a silvi plan? Mr. Dearborn indicated it's going to be a cornfield; the guy comes in in two weeks to clear the property.

Chairman Baker suggested the Commission needs to find out if Mr. Dearborn will offer a continuance of the application. Mr. Dearborn agreed to a continuance.

MOTION: To CONTINUE, at the request of the Applicant, Application #09-2017 AS-OF-RIGHT DETERMINATION: Steve Dearborn – Clear cutting of timber for expansion of agricultural crop land at Craftsman Road and 9 Craftsman Road. Map 093, Block 19, Lots 009 and 010; continuance is for 35 days.

Osborn moved/Pippin seconded/

DISCUSSION: Commissioner Talamini clarified that the continuance is for both properties. Commissioner Pippin cited concern that the applicant will be stumping at this time of year. Chairman Baker reiterated that the map needs to show the location of the

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erosion controls; staff will meet with the applicant to discuss the erosion control plan. WEO/WA Whitten questioned if the Commission would rather have the stumps returned as part of the erosion control plan? The consensus of the Commission was to not return the stumps as it would cause more disturbance in the wetlands; Chairman Baker didn't have a preference; his concern was how the erosion control plan will be done.

VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Talamni)

MOTION: To GO OUT OF THE POSTED AGENDA ORDER and discussion VIOLATIONS next.

Pippin moved/Talamini/DISCUSSION: None.

VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Talamni)

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

Chairman Baker announced this item of business. Mr. Brown, of 20 Margaret Drive, identified himself; he asked if the Commission wanted him to address the things that were said last night (at the Board of Selectmen's Meeting), or should he just discuss issues related to the wetlands? Chairman Baker requested that Mr. Brown keep comments to the wetlands.

Regarding the Cease and Desist, Mr. Brown indicated that WEO/WA Whitten and Zoning Enforcement Officer/Wetlands Agent (ZEO/WA) Tyksinski visited the site and asked him to correct the issues on the terrace escarpment slope. Referencing the two maps Mr. Brown was given by the Town he identified the wetlands area and the terrace escarpment slope; he referenced an area which was photographed by staff. Mr. Brown suggested there was old plywood and 2 x 4s on the slope, and "this" corner was littered, and there was concrete "here". Mr. Brown indicated he took out about 2 wheelbarrow loads of concrete. He referenced a pile of dirt that was spoken of last night; it's dirt from the back of his house from the area where he's putting in a patio and a hot tub. He's also moving some of the dirt to his girlfriend's house. Mr. Brown indicated he also has a dumpster on the property so he's putting a lot of stuff in that. Mr. Brown identified an area where a neighbor, Mr. Winot, had claimed still had concrete piles; Mr. Brown suggested it's actually over here at the end of the gully. Mr. Brown suggested he's spent several hours clearing the hillside of trees and branches.

Mr. Brown reported he lives at 20 Margaret Drive; he has a business so he's away from the property quite a bit. There is still a small amount of material to be removed.

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Mr. Brown indicated he felt he has satisfied what WEO/WA Whitten and ZEO/WA Tyksinski wanted him to do. Mr. Brown suggested someone wanted him to get a wetlands permit. Chairman Baker indicated that was him. He suggested he understands why it would be confusing and annoying; people often don't understand the laws and don't know they're doing something wrong but the Commission has a responsibility to follow the process and the wetlands laws. The Commission decided to require people to come in even after the fact with an application, discuss the issue with the Commission and explain how they propose to deal with erosion controls. Chairman Baker suggested resolutions will vary for everyone. The Commission can't waive the State fees but they need to follow the process. Chairman Baker indicated it's not a personal issue; obviously people don't like contacted regarding these issues; Chairman Baker apologized but cited the need to follow the process. Chairman Baker suggested this issue doesn't require the services of an engineer; the Commission is only concerned with the wetlands. Mr. Brown was confused as to the need for the permit; Chairman Baker suggested the permit is the end of the Cease and Correct Order; it's for the removal of the debris. A member of the audience who had accompanied Mr. Brown questioned who approves the permit and can it be done now? Chairman Baker replied the Commission approves the permit; issuance of the permit doesn't occur at a Commission Meeting.

The after the fact application requirement stands; it's anticipated Mr. Brown will be filing the application shortly.

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

See discussion under Application #09-2017 AS-OF-RIGHT ETTERMINATION: Steve Dearborn - Clear cutting of timber for expansion of agricultural crop land at Craftsman Road and 9 Craftsman Road

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

ZEO/WA Tyksinski reported Mr. Chicoine is working to hire an engineer; Mr. Chicoine is scheduled to visit ZEO/WA Tyksinski tomorrow to discuss the process; he seems to be moving forward.

MOTION: To GO BACK INTO THE POSTED AGENDA ORDER.

Talamini moved/Osborn seconded/DISCUSSION: None

VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Talamni)

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MISCELLANEOUS – Discussion with Anthony Grossi of Grossi Forest Products regarding selective timbering:

Mr. Grossi, owner of Grossi Forest Products, joined the Commission. Mr. Grossi indicated he is working with three landowners to harvest mature timber to encourage future growth of the forests. The properties include:

- 169 Rye Street, owner: Mary Nilsson
- Adjacent property, owner: 124 Back, LLC
- Ellsworth Road, owner: Ellsworth family.

Regarding the Nilsson property at the rear of 169 Rye Street, Mr. Grossi indicated they would be creating one small wetlands crossing; the work will be selective harvesting and yield 78 cords of firewood. Mr. Grossi indicated the understory timber hasn't been removed from the Nilsson property in 60 to 70 years.

Mr. Grossi reported the adjacent parcel, owned by 124 Back, LLC, is owned by the same family. A portion of this parcel includes a tobacco field. There is a series of roads into the property now; Mr. Grossi indicated they will make improvements around the tobacco field. There is a deeded right-of-way through the property. Mr. Grossi indicated they will enter the parcels from an existing farm road on the Markowski property.

Mr. Grossi suggested the plan is to move from one parcel to another. Commissioner Osborn noted both parcels are sensitive locations containing steep slopes.

Chairman Baker questioned if Mr. Grossi followed a silviculture plan? Mr. Grossi replied negatively, noting he and a forester review the properties and will use Best Management Practices during the work. They will use mats, which will be removed later, at the crossings

WEO/WA Whitten noted she hasn't seen a detailed plan but Mr. Grossi seems knowledgeable about the work. She also cited concern for the terrace escarpment slopes. Mr. Grossi indicated that if they can't approach the slopes from the top they'll go around them; he noted there is one enormous cliff with an 80 degree slope on one of the properties. WEO/WA Whitten noted the Planning Office must be notified so they can visit the site during this work. Chairman Baker requested a copy of Mr. Grossi's plan; Mr. Grossi indicated his documentation is a narrative.

Chairman Baker questioned what they leave for seed trees? Mr. Grossi indicated they leave 12, 13, and 14 foot trees. He noted there are a few pockets of wetlands on the parcels but they don't have to drive into those areas. They will leave a buffer between the brook and the ponds. Mr. Grossi suggested when they're done with the work it will still look like a forest.

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Mr. Grossi reported the third property is owned by the Ellsworth Family and is located on the curve at Rye Street and Ellsworth Road. Much of the property contains terrace escarpment slopes in the rear along the river. Mr. Grossi indicated the Ellsworth Family has retained four accesses from Rye Street but he felt they will use only two while working the parcel – one near the old Christmas tree farm and the second further south. Mr. Grossi indicated they can't access the parcel from the west because of the brook but they plan to go between the terrace escarpment slopes. With regard to sedimentation and erosion controls, Mr. Grossi indicated they will install water bars. He noted they will do the work in the Winter, and will try to avoid working during the hunting season for obvious reasons. Mr. Grossi indicated they won't begin work before 7:00 a.m. because of concerns for proximity to neighbors. Although Rye Street is wide they are also aware of the schedule for the school buses.

Mr. Grossi indicated he will advise the Planning Office when they plan to start work.

In a related issue Commissioner Osborn advised the Commission another parcel on Scantic Road, south of the Congregational Church, owned by the Tyler/Morell/Barber family is being forested. WEO/WAWhitten indicated she was unaware of the work; WA Tyksinski reported he had recently been advised of the work by Building Inspector Stanley.

STATUS REPORTS: 1) Melrose Bridge Update:

Chairman Baker suggested he'll drive by and check on the progress of this project.

CONFERENCES/SEMINARS/TRAINING: 1) CACIWC 40th Annual Meeting & Environmental Conference (November 18th):

WA Tyksinski reported he attended this conference and participated in a session on wetlands laws and wetlands enforcement. He will be attending another session on aquifer protection.

Chairman Baker questioned if they had provided any articles he could share with the Commission? Wetlands Agent Tyksinski noted the brochure listed below as item 2 under correspondence; that brochure had been provided at the conference.

CORRESPONDENCE:

- 1) CACIWC Newsletter – “The Habitat”, Fall 2017
- 2) DEEP Brochure – “Agriculture, Forestry, & CT's Inland Wetlands and Watercourses”

GENERAL BOARD DISCUSSION:

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See Commissioner Osborn's comments following Mr. Grossi's presentation involving local timber harvesting projects.

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

Jim Martino, 22 Margaret Drive: Mr. Martino indicated he had been speaking to some people regarding work on terrace escarpment slopes and was told there shouldn't be any activity within 150 feet of the slope. Mr. Martino cited Stu Brown's wetlands violation; he suggested the second paragraph of the Cease & Correct Order states there should be no activity within the 150 feet of the escarpment slope.

Chairman Baker indicated he would be speaking generally, rather than addressing Mr. Brown's violation. Chairman Baker suggested that filling or removal of soils is the issue. Wetlands in Connecticut are basically determined by a soil scientist. The concern with terrace escarpment slopes is that accumulation of material can cause the slope to slide and cause erosion of the slope. Activities such as digging, removal of materials, stumping, filling would not be allowed, while all forms of passive recreation would be allowed. Discussion continued. WEO/WA Whitten referenced Section 4 – Permitted Uses as of right and non-regulated uses, sub-section 1d of the Wetlands Regulations; she read an excerpt from the regulation for Mr. Martino. Chairman Baker gave an example, noting if a tree comes down in a storm that could be removed while stumping wouldn't be allowed.

Mr. Martino raised another question relative to Mr. Brown's violation. Chairman Baker and WEO/WA Whitten indicated they couldn't discuss Mr. Brown's violation. Chairman Baker clarified that this Commission can't talk about specific items with the public because the agenda item isn't subject to a Public Hearing.

Robert Winot, 25 Margaret Drive: questioned that he couldn't speak if he's filed a formal complaint? It's not on the agenda. Chairman Baker suggested Mr. Winot make a written complaint to staff. Mr. Winot questioned submission by e-mail; Chairman Baker agreed e-mail would be acceptable.

NEW BUSINESS: 1) Review of Inland Wetlands and Watercourses Agency Bylaws:

Chairman Baker suggested the Commission had discussed changes to the current fee schedule; he questioned if staff had any information this evening? Wetlands Agent Tyksinski indicated he had nothing tonight.

Chairman Baker recalled Commissioner Pippin had suggested inclusion of an "after the fact" fee for applications filed after unapproved work had been done. WA Tyksinski recalled information presented at the CAIWAC conference which he can include in his review. WEO/WA Whitten suggested addition of information regarding the fee schedule should be included in the bylaws.

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Chairman Baker suggested the fee schedule review should be carried over for the next meeting. Commissioners were requested to send suggestions to staff prior to the January meeting.

NEW BUSINESS/2) Election of Officers

MOTION: To KEEP the same slate as last year.

Pippin moved/Osborn seconded/DISCUSSION: Chairman Baker questioned if anyone else would like to serve in one of these positions? No one opposed the proposed slate.

VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Talamni)

NEW BUSINESS/3) Approval of 2018 Meeting Schedule

**MOTION: To ACCEPT the 2018 Meeting dates for the Inland Wetlands Commission with the following change:
July, 2018 Meeting to be scheduled for the second Wednesday - July 11th, 2018 – to avoid a conflict with the July 4th holiday.**

Talamini moved/Osborn seconded/DISCUSSION: None

VOTE: In Favor: Unanimous (Baker/Osborn/Pippin/Talamni)

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:28 p.m.

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

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission