

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

Regular Meeting – January 3, 2018

MEETING MINUTES

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

CALL TO ORDER: Chairman Baker called the Meeting to order at 7:04 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. Pippins, Jr., and Rebecca Talamini, and Alternate Member Michael Sawka.

Unable to Attend: All members were present this evening.

Guests: Deputy First Selectman Steve Dearborn, Inland/Wetlands Liaison; Kathy Pippin, Board of Finance; Attorney Louis Flynn.

Chairman Baker noted the establishment of a quorum with 4 Regular and 1 Alternate Member as noted above. All members will sit in on discussions and participate in votes this evening.

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

PLEDGE OF ALLEGIANCE:

Everyone stood to recite the Pledge of Allegiance.

AGENDA ADDITIONS:

Chairman Baker read the description of the new application to be received.

MOTION: To ADD under **NEW APPLICATIONS TO BE RECEIVED**
Application #1-2018: Letourneau Builders: Wetlands Map
Amendment – Wetlands Designation only. 11 Mahoney Road, Broad
Brook, CT. Map 85, Block 30, Lot 079.

Osborn moved/Pippin seconded/DISCUSSION: None.

VOTE: In Favor: Unanimous

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – January 3, 2018
MEETING MINUTES**

2

APPROVAL OF MINUTES/1) December 6, 2017 – Regular Meeting:

MOTION: To APPROVE the Minutes of Regular Meeting dated December 6, 2017 as presented.

Talamini moved/Osborn seconded/DISCUSSION: None

VOTE: In Favor: Unanimous

PUBLIC HEARINGS: None.

CONTINUED PUBLIC HEARINGS: None.

NEW APPLICATIONS TO BE RECEIVED/#11-2017 MMCT Venture, LLC. – Wetlands Map Amendment – Wetlands designation only. 105 Prospect Hill Road, East Windsor, CT. Property at intersection of Bridge Street and Route 5, East Windsor, CT. Map 102, Block 14, Parcel 001.

Chairman Baker read the description of this Application. Wetlands Agent (WA) Tyksinski reported that MMCT is looking to amend the Wetlands Map for this parcel on which the cinema building is located. They have had a soil scientist review the wetlands; as the delineation is not 100% accurate MMCT would like the map amended. They have requested this application to be heard under a Public Hearing.

Chairman Baker questioned if all map amendments required a public hearing; Town Planner Whitten concurred but noted that the application for 11 Mahoney Road was more of a site plan approval than a map amendment. Chairman Baker noted the application had referenced a map amendment; Town Planner Whitten explained the applicant's intent to add an addition to the existing home. During that process it was indicated via a GIS demarcation that wetlands existed on the property closer to the home than understood, hence the wetlands review.

MOTION: To ACCEPT Application /#11-2017 MMCT Venture, LLC. for a – Wetlands Map Amendment – Wetlands designation only. 105 Prospect Hill Road, East Windsor, CT. Property at intersection of Bridge Street and Route 5, East Windsor, CT. Map 102, Block 14, Parcel 001.

Osborn moved/Talamini seconded/DISCUSSION: None

VOTE: In Favor: Unanimous

NEW APPLICATIONS TO BE RECEIVED/#12-2017 David Chicoine – 24 Holcomb Terrace, East Windsor. Request to conduct regulated activities to drop pond level and create rock retaining wall to hold back yard from encroaching on the pond. Nearest intersection is Main Street, Warehouse Point. Map 101, Block 12, Lot 044:

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – January 3, 2018
MEETING MINUTES**

3

Chairman Baker read the description of this Application. WA Tyksinski reported that Mr. Chicoine visited the Planning Office and reviewed before and after photos of the work he performed at his property.

Chairman Baker noted submission of this Application is to close out the Wetlands Violation at 24 Holcomb Terrace. He visited the site with Staff and found the area of activity buttoned up and seeded. The work seems to be in order; this was an After-the-Fact Application required to document the activity at this location.

MOTION: To ACCEPT Application /#12-2017 David Chicoine – 24 Holcomb Terrace, East Windsor. Request to conduct regulated activities to drop pond level and create rock retaining wall to hold back yard from encroaching on the pond. Nearest intersection is Main Street, Warehouse Point. Map 101, Block 12, Lot 044:

Talamini moved/Pippin seconded/DISCUSSION: None

VOTE: In Favor: Unanimous

NEW APPLICATIONS TO BE RECEIVED/#1-2018: Letourneau Builders - Wetlands Map Amendment – Wetlands Designation only. 11 Mahoney Road, Broad Brook, CT. Map 85, Block 30, Lot 079;

Chairman Baker read the description of this Application. Wetlands Enforcement Official/Wetlands Agent (WEO/WA) Whitten clarified that there is an existing house at this location; the Applicant is planning to add an addition to the other side of the existing home – further from the wetlands. This wetlands line was not delineated before; the Applicant is calling this a map amendment because the wetlands line is different than the GIS identification. He is looking to have a site plan approval next month. The work he intends to do is in the upland review area; the wetlands has been found to actually be further from the house than the GIS depiction.

MOTION: To ACCEPT Application /#1-2018: Letourneau Builders for a - Wetlands Map Amendment – Wetlands Designation only. 11 Mahoney Road, Broad Brook, CT. Map 85, Block 30, Lot 079;

Osborn moved/Talamini seconded/DISCUSSION: None

VOTE: In Favor: Unanimous

NEW BUSINESS: None.

OLD BUSINESS/#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. (Application continued to 1/3/2018):

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – January 3, 2018
MEETING MINUTES**

4

Steve Dearborn, the Applicant, and Attorney Louis Flynn, joined the Board. Mr. Dearborn reported he has maps with him showing the removal of the stumps in the area of the wetlands; it also shows the addition of 3 rows of hay bales installed for erosion control. Mr. Dearborn indicated this is the way the property looks today.

Chairman Baker questioned if the check dam is still there? Mr. Dearborn, referencing an area of modified riprap, replied affirmatively; he noted the stump pile is moved out of the 15 feet and piled up with the rest of the stumps.

Commissioner Pippin suggested that as long as no one has an issue with this he has no problem with this work. Commissioner Pippin questioned if Mr. Dearborn would be putting the stumps from the other property in the same area? Mr. Dearborn suggested he would screen out the dirt and then put the stumps in a row; to tear them up is bad for his machinery. Attorney Flynn questioned that Mr. Dearborn would be putting the stumps where the other pile is? Chairman Baker and the Commissioners were good with that proposal.

Mr. Dearborn noted that the area received a lot of rain before the Board came out to the property; that was why he wanted the Board to see behind the berm. Chairman Baker agreed that the berm makes more sense than silt fence or hay bales, and as long as Mr. Dearborn isn't putting a permanent building in this area he's fine with this work. Mr. Dearborn suggested he tried to fix the problem.

MOTION: To LIFT the Cease and Correct Order and ACCEPT as an AS-OF-RIGHT DETERMINATION Application #09-2017 – 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.

Osborn moved/Talamini seconded/DISCUSSION: None

VOTE: In Favor: Unanimous

MISCELLANEOUS/2) After The Fact Permitting –

i. Fee Schedules

WA Tyksinski reported that as follow up to previous discussion with the Board he reached out to several communities regarding their use of After-the-Fact Permits. He found that some municipalities do use the After-the-Fact Permit process; other municipalities say you can't do it. WA Tyksinski indicated that while he understands there is a need for this process he found no clear consensus regarding actions of other towns.

Chairman Baker requested WA Tyksinski continue his research. He suggested contacting CACIWC or DEEP first. If information is lacking from either of those agencies then

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – January 3, 2018
MEETING MINUTES**

5

Chairman Baker, as Chairman of the Commission, would contact Town Counsel at Pullman and Comley requesting a referral of the question to a land use specialists.

WEO/WA Whitten suggested the Commission might consider implementing a Fines Ordinance as well. She indicated the current fee schedule is difficult to interpret and apply. Discussion followed. Commissioner Pippin didn't feel both proposals should be undertaken at the same time; citing past experience he also felt the Fines Ordinance wouldn't fly. Chairman Baker suggested his preference would be to implement the Fines Ordinance first and add After-the-Fact Permitting to the bylaws. Chairman Baker reiterated the need to create a process to correct activities undertaken without applying for permission via the normal permit process. He suggested that if someone is doing something in the wetlands or upland review area they need to apply for a permit.

Discussion returned to the Fines Ordinance. A review of the current ordinances found Ordinance #03-02 is related to fees initiated by the Planning and Zoning Commission exclusively. Commissioners Talamini and Sawka agreed to implementation of a Fines Ordinance specific to Wetlands activity. Commissioner Osborn felt the Fines Ordinance will be a difficult sell but agreed as to the need. Chairman Baker cited the Commission is doing its job by seeking any of these options.

Commissioner Pippin favored the After-the-Fact Permit, which segued into discussion of WA Tyksinski's third discussion item of comparisons of Wetlands Applications. Commissioner Pippin liked Windsor's option of activities within 50 feet of upland review areas. Commissioner Pippin felt the 150 foot buffer requirement in East Windsor is excessive, especially for smaller/homeowners' projects. Discussion followed regarding revising the Agent Decision process to include Agent approval of smaller projects. WEO/WA Whitten cited the current fee, which includes the mandatory State fee; she questioned if an applicant would be subject to the 30 day review period as well? Chairman Baker requested WEO/WA Whitten and WA Tyksinski to return with fee proposals, and a list of activities which could be dealt with quickly/same day as an Agent Decision.

With regard to the fee schedule, WEO/WA Whitten questioned the need for a fee for an As-of-Right Determination for farming? The consensus of the Board felt the implementation of a fee depended on the scope of the activity proposed.

Discussion turned to application form comparisons.

See additional discussion under application form comparisons regarding the cost of After-the-Fact Applications.

MISCELLANEOUS/3. Examples of Inland Wetlands Applications

- i. City of Waterbury**
- ii. Town of Windsor**

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – January 3, 2018
MEETING MINUTES**

6

- 1. Short Form**
- 2. Long Form**

WA Tyksinski referred to the application form examples used in Waterbury and Windsor provided to the Commissioners. WA Tyksinski favored the Windsor applications, noting the short form application could be used for smaller activities/projects while the longer form would be used for more involved projects. Commissioner Pippin also favored the Windsor application; he'd like to see a definition for the 50 foot vs 150 foot referenced on the Windsor application. Chairman Baker favored a short form application for smaller/residential activities, such as adding a garage or porch but felt the 150 foot buffer area was appropriate for East Windsor.

Discussion returned to fees; Chairman Baker questioned what fees could be legally waived? Discussion returned to the difficulty for staff in interpreting the current fee schedule or the activity identification. The applications for map amendments were given as an example. WEO/WA Whitten cited the need and cost to publish 2 legal notices prior to the hearing, and the fees associated with the map amendment on the GIS system. Commissioner Talamini questioned the cost of a map amendment for a residential project vs. a commercial project? Commissioner Pippin felt the Board should define residential vs commercial; WEO/WA Whitten cited the overlap of a residential subdivision actually being a commercial project. Commissioner Osborn recalled the Board reviewed the present fee schedule extensively during Robin Newton's employment; he cited there had been good reasons for the decisions made regarding the fees currently in place.

Chairman Baker requested the fees, or a fee schedule, be added to the bylaws for the Commission's review.

Chairman Baker also requested staff pursue development of a Fines Ordinance, and research on the legality of After-the-Fact Permits. *WA Tyksinski noted that for the town's that do implement an After-the-Fact Permit the application cost is double or triple the cost of the regular application fee.*

MISCELLANEOUS/1) Review of Inland Wetlands and Watercourses Agency Bylaws:

Chairman Baker requested the addition of the following items:

- Wetlands Fee Schedule
- Proposal for Agent Decisions revisions

WEO/WA Whitten questioned if staff should include a section regarding waiver options in the bylaws? Chairman Baker suggested staff needed to codify that option.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – January 3, 2018
MEETING MINUTES**

7

WA Tyksinski noted we currently lack an explanation of the length of the wetlands permitting process; he would like to add such information. Chairman Baker concurred and requested a proposal for the next Wetlands Meeting.

AGENT DECISIONS: None,

STATUS REPORTS/1) Melrose Bridge Update:

Commissioner Talamini noted pictures of the Melrose Bridge have been added to the Facebook page. Chairman Baker reported he had stopped over as well; things look good.

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.

WA Tyksinski reported he and WEO/WA Whitten inspected the property today. Mr. Brown has cleared up a lot of the debris and has planted small trees, but there's still a pile of stuff he needs to remove. The process has been delayed. In response to Chairman Baker's question WA Tyksinski indicated Mr. Brown has yet to submit an After-the-Fact Application as he feels he doesn't have to do one. Chairman Baker suggested this is an example of something that probably would have been an Agent Decision had Mr. Brown submitted an application in the first place.

WEO/WA Whitten suggested if someone was standing on the railroad path there is still a pile of debris on the path. She felt this might be some of the material Mr. Brown moved from behind his shed but it's difficult to tell what debris belongs to what property owner. Chairman Baker suggested if the rail path is Town property then the Planning and Zoning Commission should cite Mr. Brown.

Chairman Baker indicated the Cease and Correct Order is NOT lifted for Mr. Brown. He requested an update from WEO/WA Whitten and WA Tyksinski next month.

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 – Craftsman Road and 9 Craftsman Road - M-1 Zone; Map 093, Block 19, Lots 009 & 010.

Chairman Baker noted the Cease and Correct Order has been lifted for Mr. Dearborn by approval of the As-of-Right Determination made earlier.

CONFERENCES/SEMINARS/TRAINING: Nothing to present.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – January 3, 2018
MEETING MINUTES**

8

CORRESPONDENCE: None.

GENERAL BOARD DISCUSSION: None.

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

No one requested to speak.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:40 p.m.

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

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission