

INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING AGENDA
WEDNESDAY, DECEMBER 4, 2013 @ 7:00 P.M.
POMFRET SENIOR CENTER

- I. OPEN REGULAR MEETING:**
- II. ROLL CALL:**
- III. SEAT AN ALTERNATE AS NEEDED:**
- IV. ITEMS TO BE ADDED TO AGENDA:**
- V. PENDING APPLICATIONS:**
 - A.** Robert & Lois Hall, 90 Modock Road, provide additional ground level bedroom/bath and attached garage with ramp for ADA access to existing house; provide alternate access to existing barns; and provide new well.
- VI. CITIZEN'S COMMENTS:**
- VII. NEW APPLICATIONS:**
- VIII. NON-FEE APPLICATIONS:**
- IX. NOTICES OF VIOLATION/CEASE AND DESIST ORDERS:**
 - A.** **Roger Daigle, 193 Putnam Road, Cease and Desist.** 10/4/07; Received new application 9/2/09. Application was approved with conditions 12/2/2009. Work to be done in July. Permit has been approved awaiting payment. Mr. Daigle submitted a new application on 8/3/11 and it was approved with conditions on 8/17/11. Mr. Daigle submitted a letter (1/4/12) wanting to extend the permit. A new letter was sent 1/4/12 informing Mr. Daigle that he needs to submit a new application with the \$160 fee by 3/6/12 so it can be accepted at our 3/7/12 meeting. He was also told that any additional bonds or surety are determined by the Commission the time of approval of the application. This letter was re-sent to Mr. Daigle on 2/9/12 via CRR to both his CT and FL addresses for verification of receipt. New application received 3/7/12. This application was approved with 8 conditions on 5/2/12. Staff spoke with D. Morrisette and he is supposed to start work in July. There were questions regarding the amount of the surety and whether it could be reduced. The commission discussed this issue and the consensus was there is a history with the applicant and they are not in favor of reducing the surety. J. Folsom told J. Rabbitt to let Mr. Daigle know that the surety is not being changed (6/6/12). Jamie called D. Morrisette who said that Mr. Daigle would contact Jamie the next day. That day has passed. He suggested sending a letter to refresh Mr. Daigle on the last day of the work to be done (9/5/12). Mr. & Mrs. Daigle both spoke regarding this application. Mr. Daigle was concerned with the surety requested and felt the Town is against him. He said he is having difficulty getting the surety money together due to other financial obligations. He said he knows he did wrong but feels that Mr. Lane also did wrong by placing stumps in the stream channel. He also said that he is the one who contacted Sen. Guglielmo's office regarding this issue. Mrs. Daigle asked why the commission is waiting until her husband does the work before notifying Mr. Lane. After further discussion about what needs to be done, D. St. Martin told Mr. Daigle he could submit an extension request

because his permit was set to expire. Mr. Daigle said he wants to finish the project and D. St. Martin said the commission would like him to finish the project, too. Mr. Daigle stated that he is afraid that once the work is done, the commission will want him to remove the bridge abutments and that they will keep his surety. D. St. Martin then discussed the permit and how the commission has gone above and beyond with this application. Mrs. Daigle then asked why the commission couldn't remove the \$9,000 surety. At this point, Mr. Daigle was advised to write and submit an extension letter during the meeting to be acted on later during the meeting. Mr. Daigle's extension was granted later during the meeting (extended for one year leaving all conditions intact), but Jamie said that a new application would be needed to modify the other issues in the extension letter. Jamie also said that Mr. Daigle needs to include documentation to help the commission make a decision (10/3/12). This was tabled until January (12/5/12). This application was approved 1/3/13 with 7 conditions. W. Gould asked for clarification regarding the Sen. Guglielmo issue mentioned during a meeting he didn't attend. There was discussion of Mr. Daigle contacting Sen. Guglielmo's office and that office contacted Joe Courtney's office. Jamie received a call from Joe Courtney's office and had to explain and give the facts on just how far back this issue went and how it occurred (1/3/13). Nothing new (3/6/13). Commission is going to have Ryan site walk the property. Commission asked if surety had been deposited yet and the clerk said it had not. Clerk to send reminder letter to Mr. Daigle that his surety is due by May 1, 2013 (4/3/13). Mr. Daigle did not appear at the Town hall with his surety and inspection fees. P. Safin believes that counsel should be updated on this issue and ask counsel if there is a time limit regarding this issue. D. St Martin said he would talk to John regarding this issue (5/1/13). At the 7/10/13 meeting, D. St. Martin made a motion to authorize Town Counsel to initiate action and to draft a letter to Mr. Daigle. P. Safin asked that the letter state that it was based on the Cease and Desist of 10/4/07. The motion was amended, seconded and it was approved unanimously (7/10/13). The commission is awaiting word from Atty. Higgins regarding his decision to write a letter to Mr. Daigle. It was mentioned that if this property transfers to a relative at any time, the violation still exists (8/7/13). Atty. Higgins sent an e-mail saying the letter to Mr. Daigle should be ready soon (9/4/13). Attorney is still working on the letter (10/2/13). After coming out of executive session at this meeting, a motion was made to take immediate legal action against Mr. Daigle (11/6/13). Leave on agenda.

- B. JASD, Orchard Hill Road**, work in regulated area. NOV issued 11/4/05. Nothing new. Ryan did mention that Jim Rose, owner of the property, spoke to him about looking to put a new building on the property but he has not heard back from him. J. Folsom wondered if he would be back to solve the NOV issued in 2005. Nothing new (11/6/13). Leave on agenda.
- C. Elaine Malchman, 321 Killingly Road**, fill piles placed along bank of brook. NOV issued 12/14/11. Maurice Godbout said that he would file an application the week of the 1/4/12 meeting. Mr. Godbout filed an application for the 2/1/12 meeting, but the application was incomplete and was withdrawn. New application was submitted 3/7/12. Application was approved 4/4/12 with conditions. Work is being done on the house and one of the piles has been reduced (7/11/12). The site is contained (8/1/12). Pile is getting smaller and Jamie will follow-up within the next two weeks (9/5/12). Majority of work is remodeling. Minor re-grading has been done. Jamie showed pictures of re-grading. There is no re-grading yet behind the house. They are slowly picking away at the piles on the stream bank (10/3/12). Work has subsided for the winter (3/6/13). Some exterior renovation has been done (7/10/13). Stable (11/6/13). Leave on agenda.
- D. Pomfret School, 398 Pomfret Street**, wetlands disturbance. NOV/Cease & Desist was issued 9/14/12 and sent to J. Timothy Richards, Pomfret School Headmaster; Ryan Brais, Pomfret ZEO; John Folsom, IWWC Chairman; James Rivers, First Selectman; and Tony Malagrino, Pomfret School Director of Facilities. NOV states that the property has initiated construction (grading and filling) activities and such work constitutes a regulated activity pursuant to the Town's Inland Wetland and Watercourses Regulations. A special meeting

was scheduled and held on 9/17/12 for a special hearing on this NOV. Tony Malagrino, Director of Facility Services was present and spoke regarding the Notice of Violation. He said that the violation was not issued in error as a mistake was made on the school's part in the course of a big project. They allowed four contractors to use part of the site for temporary fill storage. The school's mistake was not intentional as they have great respect for this commission. J. Rabbitt then spoke. He said that this was an historic area used for maintenance and upkeep of the property. There was sedimentation of a wetlands area. There is now stabilization to prevent further issues. Perhaps at the October meeting, the school will submit a new application to work in a regulated area. They need to drain, remove sediment, and then restore to original condition. The jurisdictional ruling the school previously applied for was only to stabilize the slope 1' vertical to 2' horizontal. They will then loam, geotextile, and seed. The school is making sure that there is staff on site throughout the day today (9/17/12) to watch site through the storm that is supposed to come in overnight/tomorrow. J. Rabbitt then showed the commission members a video he taken earlier in the day at the site and what has already been accomplished. The site has been substantially re-graded and the site is stable. He expects an application from Pomfret School in November/December. Pomfret School is aware that the commission is waiting for an application from them for remediation (10/3/12). The excess materials area has been graded, loamed, seeded and hayed. Jamie has a call in to KWP regarding the new application that is supposed to come in to the commission (12/5/12). Jamie said the site is stable in the maintenance debris area. He has a call in to Terry Chambers (1/3/13). Nothing new (2/6/13). Jamie is giving KWP a breather due to the unexpected passing of Terry Chambers. He will call them shortly to speak with someone about this issue (3/6/13). Jamie will make spring rounds and check out what things have been done and the condition of multiple sites including the waste area (4/3/13). Jamie mentioned that the stream channel is still stable, along with the maintenance area. The utility trench needs addition attention. M. Eaton asked Jamie to look at a new issue at the school regarding a controlled burn that was done (5/1/13). Ongoing (6/5/13). Jamie said this is still ongoing but the trench should be a simple installation because they are aware of three trouble spots (7/10/13). Jamie said they will be coming in soon to seek a jurisdictional ruling (8/7/13). Jamie has a meeting with T. Malagrino next week regarding the submission of an application for an underground gas line down to the hockey rink (could ask for a jurisdictional ruling) (9/4/13). Jamie met with T. Malagrino. A jurisdictional ruling was submitted, signed off, and a surety deposited with the Town. At this point, three quarters of the work has been done. Jamie will site walk the area again this week. Jamie is going to prepare an outline of the Pomfret School items for next month's meeting (10/2/13). They have finished the installation of the gas line to the hockey rink (11/6/13). Leave on agenda.

X. JURISDICTIONAL RULINGS:

XI. AGRICULTURAL ACTIVITIES:

XII. PRIOR APPLICATIONS WITH CONDITIONS:

- A. Moon et. al., Peter, 596 Pomfret Street,** single-family home 3/08. Application was approved with 10 conditions. New application was approved 7/7/10. Lot is advertised for sale with all approvals in place. No activity. Correspondence dated 5/31/12 requesting extension of permit. Extension was granted on 6/6/12 for three more years. Nothing new (8/1/12). This remains the same (12/5/12). No activity. Site is still for sale (1/3/13). Nothing new (3/6/13). Jamie checked the site last week and there is no new activity (4/3/13). Nothing new (7/10/13). Ongoing (11/6/13). Leave on agenda.

B. Pomfret School, 398 Pomfret Street (10/6/10)

- 1. Turf Fields**-need to follow-up on the utility line; this will be part of the new permit. (7/10/13). Jurisdictional ruling approved 9/17/13 for underground natural gas service line. Ongoing (10/2/13). See prior agenda item Section IX-D (11/6/13). Leave on agenda.

C. Ridgewood Farms, LLC formerly CT Real Estate Holdings, LLC, 195 Searles Road, Cease and Desist in effect as of 3/16/05. Certificate of NOV placed on the land records on 5/19/06. (gravel extraction) Actual date of permit is 11/07. Deposit date of surety/bond monies is 8/15/10. Site is stable. Jamie met with Gino (owner) and discussed the existing permit for gravel extraction and looked at alternatives to excavation knocking the 210 elevation to 166. Jamie said this is going to be more of a landscaping operation than a gravel extraction. D. St. Martin said he would need a revised site plan and application. Jamie said he is still tied to the restoration, but could possibly have an amendment to his current permit. P. Safin asked if Jamie knew what the end use of the parcel is going to be. Jamie said that in the near term, it is for fishing and hunting. It will all depend on possible future development (3/7/12). Staff spoke with Gino and they are going to sit down and discuss things. He is seeking bids on the value of gravel. He said he may let the permit lapse or possibly amend/re-apply (6/6/12). Nothing new as Gino has not made a decision (8/1/12). Jamie received an e-mail from Gino and will discuss it with the chairman (9/5/12). Gino asked Jamie to put together a package regarding his application (10/3/12). Jamie is still looking at the status of the permits (12/5/12). No activity. Jamie is trying to set up a meeting with Gino (1/3/13). Nothing new (2/6/13). Jamie has not been able to contact Gino (3/6/13). No new activity (4/3/13). Atty. Cotnoir has been hired by Gino to close this application out. Jamie spoke with the attorney and informed him of the issues with this application. Atty. Cotnoir is going to speak with his client and get back to Jamie (5/1/13). Ongoing (7/10/13). Nothing new (9/4/13). Ongoing (10/2/13). A letter was received from Atty. Cotnoir requesting the release of the bond for Ridgewood Farms. Jamie said the site is stable. This owner inherited these issues, he did not create them. They would like the release of the performance bond (cash bond) in connection with the noted permit number 2008-08. J. Bergendahl asked about remediation. D. St. Martin said there were conditions of approval. There was further discussion among the commission members regarding removing or not removing the NOV, etc. Jamie will do a site visit, take photos, and compile written correspondence on this issue. D. St. Martin made a motion to release the surety under the following conditions: 1) we allow Staff to review property and decide whether to keep all or part of the surety in place; 2) Staff determines if further remediation is necessary; and 3) prior to the release of the surety, all fees are paid or taken from the surety. The motion was seconded by J. Bergendahl and approved unanimously (11/6/13). Leave on agenda.

D. Janice Bosworth (5/4/11) - relocation of an existing house trailer on the property and associated land disturbance. Ryan spoke with Bob Messier on 6/29/11 and 7/3/11. Application was submitted to the commission on 8/3/11. Extension granted on remediation application. New application submitted on 11/2/11. Original application was withdrawn. This new application for two single-family homes was approved 1/4/12 with 11 conditions. Jamie said he received revised plans from B. Messier with the COA on the plans. Jamie went to the test site and a couple of test pits were done. The junk trailer has been removed from the site. There are no issues with erosion. There is still a trailer on site. Vegetation is coming up and site is stable. This will be tracked through the fall. This remains the same (9/5/12). The site is stable. We are just waiting for the trailer to be removed (10/3/12). This is still an open item. It will be monitored through the spring (1/3/13). Nothing new (2/6/13). This will be tracked during the spring. Trailer is still there. Jamie is in contact with Bob Messier (3/6/13). The trailer is still there and it was noted that about 6 spackle buckets are sitting there (4/3/13). Nothing new (5/1/13). Ongoing (7/10/13). Trailer is still there (8/7/13). Nothing new (11/6/13). Leave on agenda.

- E. Hull Forest Products, 101 Hampton Road,** install 12' gravel drive and create round log storage area which will require filling of 4,035 square feet of wetland soils (approved 3/2/11 with 24 conditions). They have now undertaken their project for the log lay down area (10/3/12). They are still working on the site. Jamie is supposed to visit there next week (12/10-12/15) to check on their progress (12/5/12). Site is stable. Not aware of any work being done through the winter (1/3/13). Nothing new (2/6/13). Site is stable (3/6/13). Jamie will be doing a project walk within the next two weeks (4/3/13). They have the E&S on the west side and are going to start on the detention basins (5/1/13). J. Rabbitt met with Hull to discuss catch basin installation and retention basin. There will be interference with basin otherwise (6/5/13). No new work going on (7/10/13). Nothing new (9/4/13). Jamie will be doing a fall site walk. Nothing new (10/2/13). Jamie had a discussion with B. Hull today. They need to remove additional material. Jamie is to meet with him in the next week (11/6/13). Leave on agenda.
- F. Greg & Tracie Bristow, 806 Hampton Road,** an application was submitted in reaction to a violation. Application was denied without prejudice on 11/2/11 due to lack of information from consulting engineer and under the condition that the applicant be notified the NOV will still be in effect, a caveat may be placed on the land records, and there is a potential for fines. An excavator is still stuck where the applicant tried to repair the dam and spillway, without consulting staff or the commission. Apparently some non-permitted work has been done at the site and Staff will be going to check it out (7/11/12). Jamie will check the site out, contact the owner, and give the commission an update (8/1/12). Jamie said that he is waiting for a call back from Anchor Engineering. Depending on the discussion they have, there is a possibility that other regulatory agencies may become involved (9/5/12). Jamie has stopped at the home twice, but no one was home. He is still waiting to hear from Anchor Engineering. He will work with J. Folsom to write a letter to the applicants (10/3/12). Jamie stopped there three weeks ago and no one was home. The Chairman is going to write a letter to the applicants (12/5/12). After researching, the NOV was never issued. Chairman will report back to the commission next month regarding this issue (1/3/13). J. Folsom call the DEEP at dam safety and was told that there are two types of permits issued. Neither of these types of permit was applied for by the applicant. The DEEP took the applicant's address and someone will go out and take a look at the site. J. Folsom will e-mail a follow-up of this DEEP conversation. M. Eaton is concerned regarding the letter the commission received from Mr. Bristow where in the last line it states that no one is to go on his property without permission as target practice takes place there often. He thought that John should inform the DEEP not to send anyone out there without a police escort due to the target practice issue. The clerk will scan the letter from Mr. & Mrs. Bristow and e-mail it to John for him to forward to the DEEP (2/6/13). J. Folsom e-mailed dam safety and this dam is not on their registry of dams. DEEP will call and meet with J. Folsom on the property. Greg Bristow was present and spoke regarding this issue. For complete response by Mr. Bristow, please see the 3/6/13 minutes. Jamie was to speak with the Bristow's after the meeting (3/6/13). We are waiting for a response from dam safety (4/3/13). DEEP went out to look at the dam and their opinion is that this is not under their jurisdiction. Their recommendation was the downside and the dam should be armored/re-vegetated. We will get the documentation from John that he received from the DEEP and show it to the applicant to inform them (5/1/13). Waiting for DEEP correspondence (6/5/13). A copy of DEEP correspondence was shown to the commission members. There was discussion about how the local authority (IWWC) denied this application but the work was done anyways. J. Folsom thought a letter should be written to the applicant to come in for an application with his thoughts of what he's like to accomplish. The commission agreed that Mr. Bristow should be asked to come in and present to the commission, in the form of an application, what he wants to accomplish so he can avoid further violations. We will also ask Mr. Bristow to contact Jamie for guidance in this issue (7/10/13). A new application was submitted tonight. J. Stoddard made a motion to file

a caveat on the land records due to the NOV on this property. J. Rowley seconded the motion and it was approved unanimously (8/7/13). New application was approved 9/4/13 and this item is now being moved to Prior Applications with Conditions (9/4/13). The work was undertaken, inspected and preparation to sign-off. Sign off cannot occur until all fees are paid in full with the Town. Wait until November to see if caveat can be lifted (10/2/13). Fees are still not paid as of this meeting date (11/6/13). Leave on agenda.

XIII. SUBDIVISIONS APPROVED BY PLANNING AND ZONING:

XIV. COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION:

A. Ongoing

1. **Scott Lee, 585 Mashamoquet Road (9/1/10)** – the site is a mess. There are trees down and Scott has been talking to DEEP about putting in a couple of ponds. Site is healing nicely. Ryan will check site (8/1/12). Ryan said the site is healed up and the trench is completely vegetated although Mr. Lee is still working around the property (9/5/12). There is nothing new although Mr. Lee is looking to clear trees here and there. He still wants to put in some ponds (10/3/12). Nothing new (9/4/13). Jamie is scheduled to site walk the property soon. This could possibly be removed from the agenda. The commission would like to know the expiration date of his permit (10/2/13). No new wetlands issues (11/6/13). Leave on agenda.
2. **Windham 4-H Camp, Taft Pond Road (4/6/11)** (cease and desist was issued 3/16/11) application was approved with conditions on 8/3/11. Nothing new. Work should be done in late spring/early summer. Jamie returned a call to them but had to leave a message (5/2/12). They are supposed to call Jamie before starting work once the camper leave (8/1/12). Jamie said they should be contacting us this month now that camping season is over (9/5/12). Nothing new (12/5/12). They will complete the remediation in spring of fall after the camper leave (2/6/13). [New application submitted 1/3/13. New application was approved on 2/6/13 with 7 conditions.] This work will be undertaken when the new project takes place, possibly a fall project (4/3/13). This remediation work will be done in the fall when they complete their new application work (5/1/13). Site inspection requested but put off until construction starts (6/5/13). Nothing new (7/10/13). Waiting for camp to end. Jamie walked the site two weeks prior to this meeting and found 6 areas needing water bars (8/7/13). Nothing new (9/4/13). Working on their funding process. Do not anticipate any work this fall. Letter should possibly be sent to them regarding where they stand with the remediation work (10/2/13). J. Folsom will write letter. Jamie said they are still dealing with fund raising (11/6/13). Leave on agenda.

XV. NEW COMPLAINTS:

XVI. CITIZEN'S COMMENTS:

XVII. EXTENSIONS REQUESTED:

XVIII. COMMISSION BUSINESS:

- A. Updates and Report from WEO and Commission Members.
- B. Approval of the 11/6/13 meeting minutes.
- C. Report of billing and bond releases –
 1. **List of Bonds being held with Town of Pomfret (Escrow Agent) and Putnam Bank:**
 - Jason B. Lavallee (IWWC) [new jurisdictional ruling]
 - Rose Construction (IWWC)

Bruce Dexter II (IWWC) – look at status of their permit; need to check perimeter to see if it is stable; Jamie will check the site and report at next month's meeting
Pomfret School (IWWC and P&Z)
Ridgewood Farm LLC (P&Z)

2. *List of Bond(s) being held with Liberty Mutual Insurance Company:*

Bruce & Kerry Dexter (IWWC)

D. Correspondence –

E. As needed –

1. Election of officers

XIX. ADJOURNMENT: