

INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, JANUARY 3, 2013 @ 7:00 P.M.
POMFRET SENIOR CENTER

- I. OPEN REGULAR MEETING:** J. Folsom opened the meeting at 7:00 pm.
- II. ROLL CALL: Present** – John Folsom, Chairman; David St. Martin, Vice Chairman; James Rowley, Secretary; Paul Safin, Member; Joseph Stoddard, Member; John Bergendahl, Alternate; and William Gould, Alternate; **Staff:** Ryan Brais, WEO and James Rabbitt, Designated Agent.
Absent: Marshall Eaton, Member and Nancy McMerriman, Member;
- III. SEAT AN ALTERNATE AS NEEDED:** Both Bergendahl and W. Gould were seated.
- IV. ITEMS TO BE ADDED TO AGENDA:**
- A.** New Application for Windham County 4H Foundation, 326 Taft Pond Road
 - B.** Town Treasurer needs permission to transfer funds from Bosworth A/C # 2011.006 (withdrawn) into A/C # 2011.011 to cover fees due.
- P. Safin made a motion to move the 4H application issue under New Applications on the agenda and the Bosworth issue under Commission Business on the agenda. The motion was seconded and approved unanimously.
- V. PENDING APPLICATIONS:**
- A.** Roger Daigle, 193 Putnam Road, re-stabilization of stream and modifications to the original application including the bridge decking, ramps, and that the surety amount be omitted. There was no one present to speak for the application. J. Rabbitt had a draft motion prepared for the commission. When asked about a time line, J. Folsom said that the bond needs posting first and that permit will become invalid if the bond is not posted by 5/1/13. D. St. Martin thought that COA #1 should be revised to state “during the dry season”. J. Bergendahl then said that he thought the wording in #7 was off a bit. Jamie said he would rather use wording such as “low flow” rather than “dry season”. D. St. Martin then made a motion to approve the application with the 8 Conditions of Approval as modified. P. Safin seconded the motion. J. Folsom then said that the 5/1/13 date for the bond should be added to the COA. D. St. Martin then amended his motion to include this change. P. Safin again seconded the motion. Jamie then said that #1, #1, and #7 have been amended, but he would like to combine #1 and #2. D. St. Martin made a motion to approve the application with these new amendments: 1) The applicant shall complete all work associated with the project shown on plans prepared by KWP, Terry Chambers, P.E. (on file with the commission) by October 15 2013 and the work shall be completed during low flows. The permit shall be valid until November 1, 2013. The applicant shall post a \$9,000 surety with the Town of Pomfret to insure compliance with the approval. Inspection fees of \$1,000 shall be posted. If the cost to review and inspect exceeds the initial \$1,000 deposit, funds may be withdrawn from the \$9,000 surety in order to reimburse the town for costs incurred on the project. The surety shall be posted by May 1, 2013 or this permit shall become invalid; 2) a preconstruction meeting is held with town staff (Town Planner) prior to any construction

and grading activity on the site. The surety shall be submitted to the Town prior to the preconstruction meeting; 3) the existing abutments shall be allowed to remain during the reconfiguration of the stream channel but no ramps or decking; 4) Staff shall determine the need for an erosion control mat/fabric based on the time of year in which vegetation is planned to be installed/planted; 5) the applicant shall pay all costs associated with the review and process of their application; 6) invasive species on north and south side of stream channel can be removed as part of this permit as agreed between applicant and Staff. The areas associated with the removal and re-grading of invasive species may be maintained as lawn area by the land owner; and 7) check dam construction can be reviewed during construction regarding number and location upon agreement between Town Staff and applicant's consulting design engineer. P. Safin seconded the motion and it was approved unanimously.

- VI. CITIZEN'S COMMENTS:** Donna Sabourin of Mashamoquet Road complained that her neighbors have been taking photos of her property all the time and harassing them. J. Folsom told her that she would need to call the police regarding this issue. The commission can't get involved in this unless it has a specific wetlands complaint.

VII. NEW APPLICATIONS:

- A.** Windham County 4H Foundation, Inc., 326 Taft Pond Road, construct addition to dining hall, improved parking and add Handicap Parking, install new grease trap and well, upgrade site electrical service and add propane tank and generator. Janet Blanchette from J&D Civil Engineers, LLC was present to speak for the application. She informed the commission that there would be a 25% expansion due to this being a con-conforming issue. She said the whole site is in the upland review area, about 300' from the brook. They are going to keep the ball field as it is. Parking will be in a new area, near the oval. They will be adding a new grease trap and B100 has been submitted to NDDH. They will be upgrading the power and come into ADA compliance by putting in ramps and handicap parking. D. St. Martin asked what the time line might be on this project. Janet said it would probably go out to bid in the spring. J. Folsom asked if it would be done before camp this year. Janet said that once it went out to bid, it probably wouldn't get done until after camp this year. J. Folsom then mentioned that the 4H camp had an outstanding application with the commission. Janet said she didn't work on that, but she will mention it to the appropriate people. Jamie said he would do a site walk prior to the next meeting. Janet said she is going to submit an application to P&Z this month, so the applications will be overlapping two commissions. The application was accepted and will be acted on next month.

- VIII. NO-FEE APPLICATIONS:** None

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). D. St. Martin stated that at the last meeting, the chairman was to send a letter to Mr. Daigle, which was done and submitted at the meeting. Mr. Daigle was present and said that a lot of things have come up. He was ready to proceed with project until he saw a \$9,000 surety bond was needed. He said he doesn't want to pay the town to do the work. D. St. Martin explained to him that the surety bond sits and if the work is done in a timely manner, it would be returned at the end of the project. R. Daigle said he is having difficulty getting the money together for the surety bond due to financial obligations. He feels he did wrong but he also feels that Mr. Lane did wrong by placing stumps in the stream channel. He never felt that he abused his property and feels that the town is against him. He feels that if he has to fix this channel, then Mr. Lane needs to remove the obstruction he placed. He admitted that he was the one who called Senator Guglielmo's office and the Senator came out to see the property and he then received a letter from Sen. Guglielmo's office. He knows that there has been a caveat on his property for the past five years. D. St. Martin said he went with Jamie on the initial visit because of the initial complaint. Johanna Daigle then asked why the commission is waiting until Roger does the work before notifying Mr. Lane. D. St. Martin said he should maybe take a new look at what the property looks like now. Johanna said they have photos from five years ago and now and how the water runs. R. Brais then mentioned he had received an anonymous complaint that there was tree trimming in the area of Route 44 (Lane property), but Ryan found no wetlands activity. Johanna then said that she has photos of Larry Lane bulldozing trees down near the wetland. After further discussion, D. St. Martin said that the approved application runs out on 10/15/12 and that he applicant could apply for an extension. Mr. Daigle said he wants to finish the project. D. St. Martin said the commission wants him to finish the project, too. Mr. Daigle then said that he was afraid that once the work was done the commission will want him to remove the bridge abutments and they will keep the 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 can'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. A new application has been tabled until the next meeting (12/5/12). This application was approved 1/3/13 with 7 conditions. W. Gould asked for clarification regarding the Sen. Guglielmo issue mention 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). 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 (1/3/13). 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 winter (1/3/13). Leave on agenda.
- D. **Robert Fowler, Wade Road**, was issued a NOV 7/15/11. Still under NOV. Jamie said the work on the property will be done in the late spring/early summer. Mrs. Fowler called Jamie saying she was unable to contact/coordinate with Tom Hoffa (6/6/12). Staff will follow-up on this issue, but the commission expects the property owner to correct the issues (6/6/12). Nothing new. Need to check to see if there is a caveat on the land record for this applicant (8/1/12). The clerk reported that there is no caveat on the land record. D. St. Martin asked if Jamie had any more contact with them. Jamie said no and suggested that the commission send a letter and a date for possibly placing a caveat on the land record (9/5/12). Jamie will do a follow-up (10/3/12). Chair will look at developing a letter as soon as jurisdictional ruling is signed (12/5/12). The NOV issue needs to be reviewed. The Town Planner and Chairman will get together on this issue (1/3/13). Leave on agenda.
- E. **George Avery, Donna Sabourin, 394 Mashamoquet Road**, structure built in set-back with no permits, etc. Staff met with contractor from American Drywall who is helping Donna with this situation. They went over the remediation needed. This NOV was for Planning & Zoning, not IWWC, but as there is already a NOV with IWWC, this structure shouldn't have been put up. Nothing new. A new application was submitted (8/1/12) and accepted. This item was tabled for now (9/5/12). This was approved (10/3/12). This will stay on the agenda until the permit is satisfied. R. Brais has been on sight but is unsure of what occurred. Staff is continuing to track. Jamie will go out with Ryan to look at site and note changes (12/5/12). The permit was issued but not signed because there are fees due. Leave on agenda.
- F. **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). Leave on agenda.

X. JURISDICTIONAL RULINGS: None.

XI. AGRICULTURAL ACTIVITIES: None.

XII. PRIOR APPLICATIONS WITH CONDITIONS:

- A. Paul Miller, Tyott Road,** request for reduction of surety. The area has been seeded and stabilized. Surety was released on 3/29/12, leaving \$1,500 for possible additional fees. Staff said he felt we could release the rest of the surety. D. St. Martin made a motion to release the surety. He was seconded by M. Eaton and approved unanimously. Leave on agenda until bond is released (1/3/13).
- B. Town of Pomfret, Grosvenor Road,** remove old culverts and replace with two new ones. Start date of this project was 8/27/09. The remediation date was 1/6/11. Syl Pauley, licensed engineer for the project, signed off on the project on 1/10/11. Staff is continuing to observe the situation. Staff will be out in that area due to new construction going on. Nothing has changed. Leave on agenda through hurricane season. This is ongoing (9/5/12). M. Eaton said it appears as if a re-cut has been done in this area. D. St. Martin thought it might be temporary paving. This is ongoing (1/3/13). Leave on agenda.
- C. Sarantopoulos, 325 Wrights Crossing Road,** subdivision 5/07. CO has been issued. Landscaping and E&S are stable. Minimal landscaping left to complete. Staff visited the site and said the surety can now be released. M. Eaton made a motion to release the surety. It was seconded by D. St. Martin and approved unanimously. Leave on agenda until bond is released (1/3/13).
- D. 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). Leave on agenda.
- E. Pomfret School, 398 Pomfret Street (10/6/10)**
 - 1. **Turf Fields** – need to follow-up on the utility line
- F. 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). Leave on agenda.

- G. Shane Pollock, 131 Orchard Hill Road, (11/2/11)** formerly owned by R. Canning, was approved with conditions through IWWC. This was originally approved 4/12/11. Shane Pollock submitted letter requesting transfer and deposited surety/fees. Permit has been signed (1/4/12). Site is re-graded and the silt fence is up (2/1/12). House is completed (3/7/12). It appears that the area has been seeded and hayed (4/4/12). Staff to check vegetation this month (5/2/12). This will be watched through the fall. Site is stable. Posts and buffer tags are being put up (9/5/12). M. Eaton made a motion to release the fees/bond on this application. P. Safin seconded the motion and it was approved unanimously. Leave on agenda until bond is released (1/3/13).
- H. 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). 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). Leave on agenda.
- I. 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). Leave on agenda.

XIII. SUBDIVISIONS APPROVED BY PLANNING AND ZONING: None

XIV. COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION:

A. Ongoing

- 1. Scott Lee, 585 Mashamoquet Road (9/1/10)** – the site is a mess (4/4/12). 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 (1/3/13). 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). (8/1/12) - They are supposed to call Jamie before starting work once the campers leave. Jamie said that they should be contacting us this month now that camping season is over (9/5/12). Nothing new (1/3/13). Leave on agenda.
3. **Greg & Tracie Bristow, 806 Hampton Road, (9/7/11)** 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). Leave on agenda.

XV. NEW COMPLAINTS:

- A. Jamie said he received a phone call regarding the abutter's of Donna Sabourin and George Avery. George Avery had a complaint against the Washburn's that they were digging up and planting trees and also burying sheep. Ryan went out there for a site walk and told Jamie that there was landscaping of 12-18" bare root plantings and no sight of any burial activities. Ryan then told the commission that the activity was 25% from the wetlands on the edge of a pasture with no impact on the wetlands. The holes for the plantings were 10" in diameter and 10" deep with no disturbance to affect the wetlands. He also did not find an evidence of sheep burial.

XVI. CITIZEN'S COMMENTS: None.

XVII. EXTENSIONS REQUESTED:

- A. Richard Hall, 208 Fox Hill Road, letter requesting to extend his permit for another year. D. St. Martin made a motion to approve the extension. J. Bergendahl seconded the motion and it was approved unanimously.

XVIII. COMMISSION BUSINESS:

The issue of releasing/transferring funds from Bosworth A/C # 2011.006 to 2011.011 was discussed. D. St. Martin made a motion to release the funds from the withdrawn account

#2011.006 (\$150.00 to transfer over and \$160.00 remains to cover the town and state fees for the application) and deposit it into the active A/C # 2011.011. P. Safin seconded the motion and it was approved unanimously. The commission asked the clerk to send a letter to Ms. Bosworth regarding this transfer.

A. Updates and Report from WEO and Commission Members. D. St. Martin asked Jamie about Mr. Daigle and whether there were any problems with the neighbor. Jamie said there are no significant changes. There was a discussion of the original issue and there was nothing new to add. Jamie then mentioned that he has been tracking Murdock farm. They are making progress with the pond. It is completely contained and stable.

B. Approval of the *December 5, 2012* meeting minutes. J. Bergendahl made a motion to approve the 10/3/12 minutes as submitted. W. Gould seconded the motion and it was approved unanimously with one abstention.

C. Report of billing and bond releases – driveway bond for Shane Pollock was released. No other bonds have been released. Lynn and Sherry will be working hard during January to accomplish getting some of these bonds released.

1. *List of Bonds being held with Town of Pomfret (Escrow Agent) and Putnam Bank:*

Jason B. Lavallee (IWWC)

Donna Smith (inspection fees) (IWWC)

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)

Miller Family LLC (IWWC and P&Z)

Town of Pomfret & James Rivers (inspection fees) (IWWC)

Ridgewood Farm LLC (P&Z)

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

Bruce & Kerry Dexter (IWWC)

D. Correspondence – correspondence was handed out and reviewed by the commission.

E. As needed – Jamie mentioned that the CT Bar Association would be holding its annual seminar at Wesleyan in early March. It is a full day event and it's about who's who in Land Use. The fee is usually \$30-\$40.

XIX. ADJOURNMENT: D. St. Martin made a motion to adjourn. P. Safin seconded the motion and it was approved unanimously. The Chairman closed the meeting at 8:17 pm.

Respectfully submitted,

Lynn L. Krajewski, Clerk

Date approved _____