

INLAND WETLANDS & WATERCOURSES COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, OCTOBER 3, 2012 @ 7:00 P.M.
POMFRET SENIOR CENTER

- I. OPEN REGULAR MEETING:** D. St. Martin opened the meeting at 7:00 pm.
- II. ROLL CALL: Present** –David St. Martin, Vice Chairman; James Rowley, Secretary; Paul Safin, Member; Marshall Eaton, Member; Nancy McMerriman, Member; Staff: Ryan Brais, WEO and James Rabbitt, Designated Agent.
Absent: John Folsom, Chairman; Joseph Stoddard, Member; John Bergendahl, Alternate; and William Gould, Alternate.
- III. SEAT AN ALTERNATE AS NEEDED:** N/A
- IV. ITEMS TO BE ADDED TO AGENDA:** None
- V. PENDING APPLICATIONS:**
 - A. George Avery, Donna Sabourin, 394 Mashamoquet Road,** building put up in the wetlands review area. Jamie said the building is within 25' of a regulated area. Members of the commission were to have site walked the property during the past month and give their view of what they saw. J. Rowley said that he and N. McMerriman went together to the property and saw that the structure was on a concrete frost wall but thought that any water would probably sit in that area. Remediation for the southern side might be stone or concrete blocks for run-off. D. St. Martin said he went in to view the property via the McLaughlin property. He saw some tires and debris along the property line that needed to be pulled back. J. Rabbitt then showed the commission members photos on his computer of the property. The prior remediation shows vegetation growth. D. St. Martin said that they still need to pull stuff back from the wall. Jamie said that they should move the surface debris and use the existing slope rather than pulling that whole slope back. We are looking for a long-term, permanent solution. D. St. Martin asked the members for their thoughts. J. Rowley asked if they scratch and put fill, in the rainy season, will it run/wash away. Jamie said that if a decision is made tonight, this would become a spring project as growing season ends 10/5/12. D. St. Martin asked the members if they thought it should be a full-blown restoration or tempered down. The members said they are leaning toward the latter. D. St. Martin then said he would entertain a motion as to what the commission would like the applicant to do. N. McMerriman said that the furthest pile of tires northerly needs work the most (surface debris). A suggestion for the motion would include removal of surface debris and stabilization of slope. P. Safin made a motion to approve the application with the following conditions: 1) debris piles from south to north will be removed against the town property; 2) areas noted in photos 9, 17, and 19 will have deeper remediation as directed by town staff; 3) no activity until the spring of 2013; and 4) pre-construction meeting to be held with staff. J. Rowley seconded the motion and it was approved unanimously.

VI. CITIZEN'S COMMENTS: None

VII. NEW APPLICATIONS: None.

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. 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 (10/3/12). Leave on agenda.
- C. **George Avery, Donna Sabourin, 394 Mashamoquet Road**, grading and filling of wetlands. NOV issued 12/12/11. Application was accepted at 1/4/12 meeting. Application was approved 2/1/12 with nine conditions. \$150 deposit was paid and permit was issued/dated 5/21/12. Jamie had a few calls with the applicant and site work is to be initiated on Tuesday, 7/17/12. Applicant was supposed to submit a new application by 7/10/12 for this meeting but it wasn't done. Donna was in the office today regarding this new application. Jamie said he made multiple site visits during July and they had a pre-construction meeting. Mr. Avery wanted Staff to sign off on section that was not completed (vehicle left there). D. St. Martin asked if there was a valid reason for not moving the vehicle. D. Sabourin said they had no chain to move it. D. St. Martin mentioned that the vehicle doing the work would be able to move it. D. Sabourin said that she felt a chain was necessary. J. Folsom received a call on 7/30/12 because the applicant wanted a sign off. Jamie is going to stop by to see if the vegetation is up. D. Sabourin said the grass is now growing. J. Folsom said that Jamie will look at site and inform the commission of what he found. D. St. Martin mentioned that he is not in favor of the applicant doing any less work than the permit states. The commission then directed Staff to check the vegetation growth and work done (8/1/12). Jamie will go out and see if things are going as expected (9/5/12). This work has been approved by Jamie. P. Safin made a motion to return unused portion of fees back to the applicant. M. Eaton seconded the motion and it was approved unanimously (10/3/12). This can now be removed from the agenda.
- D. **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). Leave on agenda.
- E. **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 possible placing a caveat on the land record (9/5/12). Jamie will do a follow-up (10/3/12). Leave on agenda.

- F. 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). Leave on agenda.
- G. 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).

X. JURISDICTIONAL RULINGS:

- A.** Pomfret School, 398 Pomfret Street, for the remediation and stabilization of existing stockpile area. Jamie explained that the application was only to stabilize the slope 1' vertical to 2' horizontal and then loam, geotextile and seed. Jamie told the commission that there is stabilization but no vegetation (10/3/12). He told the commission he would sign the jurisdictional ruling.

XI. AGRICULTURAL ACTIVITIES:

- A. Hull Forest Products, 101 Hampton Road,** have begun work for the round log storage lay down area.

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 (10/3/12).
- 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. Leave on agenda (10/3/12).
- 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 (10/3/12).
- 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 (10/3/12). Leave on agenda.
- E. Pomfret School, 398 Pomfret Street (10/6/10)**
 - 1. Remediation** – stream channel is stable
 - 2. Turf Fields** – trying to button-up this projectIt was mentioned by D. St. Martin that the commission should probably consider releasing the bond for this soon.
- 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). Leave on agenda.
- H. 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.

- I. 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). Leave on agenda.
- J. 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).

XIII. SUBDIVISIONS APPROVED BY PLANNING AND ZONING: None

XIV. COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION:

A. Ongoing

- 1. Sharp Hill Vineyard (9/1/10)** – The road was paved (6/8/12). Jamie made a site visit last week and the shoulders are stable with no erosion problems (7/11/16). Conditions have not changed (8/1/12). There is no change. Jamie spoke with G. Postemski who said that loaming and seeding will be done after Labor Day (9/5/12). This site has no enforcement issues. The Town should be done with seeding and loaming (10/3/12). Leave on agenda.
- 2. 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 is still wants to put in some ponds (10/3/12). Leave on agenda.
- 3. 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 (10/3/12). Leave on agenda.

4. **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). Leave on agenda.

XV. NEW COMPLAINTS:

- A. M. Eaton mentioned that he saw a large excavator in the vicinity of 44 and Wrights Crossing Road. D. St. Martin said he thought it was a driveway cut for a previously approved subdivision. The commission would like Ryan to pull up the subdivision plan to make sure that this work is being done under a valid permit.
- B. P. Safin mentioned that there is something going on 101 near the KWP office, right before Higgins oil.

XVI. CITIZEN'S COMMENTS:

- A. Donna Sabourin wanted to know if the State is doing work, do they need to apply for a permit to work near the water. D. St. Martin explained to Ms. Sabourin that the State is exempt from its own regulation.

- XVII. EXTENSIONS REQUESTED:** At this point, Jamie read into record a letter written by Roger Daigle requesting an extension of his permit. Jamie told the commission that they could make a motion to grant the extension but a new application would be needed to modify the other issues in the letter. P. Safin made a motion to extend the current application for one year, leaving all conditions intact. M. Eaton seconded the motion and it was approved unanimously. D. St. Martin asked Jamie how the commission was to handle the changes to the application. Jamie said that the applicant needs to submit a new application to the commission to modify his current permit. He needs to fill out a new application for permit modification. He also needs to include documentation to help the commission make a decision.

XVIII. COMMISSION BUSINESS:

- A. Updates and Report from WEO and Commission Members. Ryan and Jamie had nothing new to add.
- B. Approval of the *September 5, 2012* meeting minutes and the *September 17, 2012* special meeting minutes. J. Rowley made a motion to approve the 9/5/12 minutes as submitted. N. McMerriman seconded the motion and it was approved unanimously with two abstentions. M. Eaton made a motion to approve the 9/17/12 minutes as submitted. J. Rowley seconded the motion and it was approved unanimously with 3 abstentions.

C. Report of billing and bond releases – release requests for Miller and Sarantopoulos have been submitted to the Town Treasurer. Awaiting release of these two bonds.

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

Jason B. Lavalley (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 – Jamie mentioned that the commission could be looking at modifications to their regulations in the next 6-8 months

E. As needed –

XIX. ADJOURNMENT: M. Eaton made a motion to adjourn. P. Safin seconded the motion and it was approved unanimously. The Chairman closed the meeting at 8:30 pm.

Respectfully submitted,

Lynn L. Krajewski, Clerk

Date approved_____