

**INLAND WETLANDS & WATERCOURSES COMMISSION  
REGULAR MEETING MINUTES  
WEDNESDAY APRIL 2, 2014 @ 7:00 P.M.  
POMFRET SENIOR CENTER**

- I. OPEN REGULAR MEETING:** John Folsom opened the meeting at 7:00 pm.
- II. ROLL CALL: Present** – John Folsom, Chairman; David St. Martin, Vice Chairman; James Rowley, Secretary; Marshall Eaton, Member; Paul Safin, Member; Joseph Stoddard, Member; Nancy McMerriman, Member; John Bergendahl, Alternate; William Gould, Alternate. Staff: Ryan Brais, WEO; and Jamie Rabbitt, Designated Agent.
- III. SEAT AN ALTERNATE AS NEEDED:** J. Bergendahl was seated for N. McMerriman but unseated when she arrived 7 minutes into the meeting. Jamie was a few minutes late arriving due to being in court all day.
- IV. ITEMS TO BE ADDED TO AGENDA:** None
- V. PENDING APPLICATIONS:** None.
- VI. CITIZEN'S COMMENTS:** Jim Mayo of Deerfield Rd. attended the meeting due to the Building Official telling him he needed to get his permit here. Mr. Mayo was informed that he could obtain a zoning permit at the Town Hall or on Wednesday evening when Ryan is in the office.
- VII. NEW APPLICATIONS:** None
- VIII. NO-FEE APPLICATIONS:** None
- IX. NOTICES OF VIOLATION/CEASE AND DESIST ORDERS:**

**This section was tabled until Jamie arrives**

- A.** George Avery/Donna Sabourin, 394 Mashamoquet Road, NOV issued 1/30/14 for construction of a new shed, including grading and filling, without a permit. A special meeting was held on 2/6/14 regarding this. Mr. Avery and Ms. Sabourin were in attendance. Mr. Avery and Ms. Sabourin were told by the commission that this property had the same type of issue in the past and they should have been aware of what needed to be done (2/6/14). They are coming in for a no fee permit (4/2/14). Leave on agenda.
- B. 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). Nothing new (3/6/13). Commission is

going to have Ryan site walk the property (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). A question was asked to have Mr. Folsom contact Atty. Higgins regarding this matter (6/5/13). D. St. Martin made a motion to move this to commission business and it was seconded and approved. (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). This was tabled until the end of the meeting. After coming out of executive session, a motion was made to take immediate legal action against Mr. Daigle (11/6/13). J. Folsom had the Clerk speak to the commission regarding this issue. Atty. Higgins tried to have Mr. Daigle served, but he had already left CT for FL. Atty. Higgins needed Mr. Daigle's FL address and said that the process will now be carried out through the Secretary of State. Atty. Higgins believes that Mr. Daigle has been served but no CRR has been return as of today (12/4/13). Left message for Atty. Higgins but no update at this time (1/8/14). Clerk informed the commission that Mr. Daigle has attained legal counsel, Atty. Jeff Low on his behalf. Atty. Low has been in to the office and looked through the files and has asked for copies of some of the materials, which the clerk has copied for him and left for him to pick up (3/5/14). Atty. Low came in this week and picked up the copies of the Daigle file that he requested (4/2/14). Leave on agenda.

- C. **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 (4/2/14). Leave on 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). Work has subsided for winter (1/3/13). Nothing new (3/6/13). Some exterior renovation (5/1/13). Nothing new (7/10/13). Stable (12/4/13). Nothing new (4/2/14). Leave on agenda.
- E. **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). 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 additional 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). This was tabled until Jamie arrived. 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). This has been re-seeded and re-loamed (12/4/13). No new activity (1/8/14). Waiting for spring (3/5/14). Area is relatively stable (4/2/14). Leave on agenda.

**X. JURISDICTIONAL RULINGS:** None

**XI. AGRICULTURAL ACTIVITIES:**

- A.** Eric Johnson to do a timber harvest for Jim Rivers on Searles Road

## **XII. PRIOR APPLICATIONS WITH CONDITIONS:**

**This section was tabled until Jamie arrives.**

**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 last Thursday and there is no new activity (4/3/13). Nothing new (7/10/13). Ongoing (12/4/13). Nothing new (1/8/14). No activity (4/2/14). 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 a 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). This is now healed and we are in the process of releasing funds (12/4/13). No activity (1/8/14). Like to button-up in the spring (3/5/14). Jamie will write/button up with Pomfret School regarding their open projects (4/2/14). 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 (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 the 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 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 surety in place; 2) Staff determines if further remediation is necessary; and 3) prior to the release of the surety, all fees due are paid or taken from the surety. The motion was seconded by J. Bergendahl and approved unanimously. (11/6/13) We are now working on the release of funds (12/4/13). No activity (4/2/14). 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). 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 B. Messier (3/6/13). The trailer is still there and it was noted that about 6 spackle buckets are 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). Trailer is still there (12/4/13). Trailer is finally gone. Jamie will do a quick site walk (1/8/14). Staff will do close out on project (4/2/14). 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. Talked about moving power source from one side of the road to the other. There will be interference with basin otherwise (6/5/13). No new work going on (7/10/13). Jamie will be doing a fall site walk. Nothing new (10/2/13). Jamie had a discussion today with B. Hull. They need to remove additional material. Jamie is to meet with him in the next week (11/6/13). Jamie was on site this past month. They need to evaluate the grade to their proposed grade in their application and there was a stockpiling of stumps on the property (12/4/13). Nothing new. This will continue to be tracked (1/8/14). Staff needs to check the situation (3/5/14). This is on Staff's spring list and is an open project (4/2/14). Leave on agenda.

### **XIII. SUBDIVISIONS APPROVED BY PLANNING AND ZONING: None**

#### **XIV. COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION:**

**This section was tabled until Jamie arrives**

##### **A. Ongoing**

- 1. 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). They will complete the remediation in spring or fall after the campers leave (2/6/13). 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 met with them two weeks ago and walked the site with them 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). There has been construction activity on the site which a component of their plan. Jamie will follow-up regarding this and the remediation issue (12/4/13). Nothing new with the major renovation (1/8/14). This will go into the spring (3/5/14). Jamie stated that Mr. Ryder came before the P&Z Commission regarding Federal funding they were looking into, which in order for them to be ADA compliant meant they had to make provisions for an elevator. Through zoning they are an existing non-conforming use and are limited to the size of their expansion. They were already approved for the 25% allowed, but they needed to increase up to 5% above the approved plan. They applied to ZBA and received a variance for an elevator shaft. They will need to return to zoning with the modified plans and go back to wetlands, too. They will need a sign-off from wetlands for zoning (4/2/14). Leave on agenda.

- XV. NEW COMPLAINTS:** W. Gould said this is not a complaint but mentioned that he saw a skidder on Abbott's property on Brayman Hollow Road. It will be checked out. P. Safin then mentioned that he feels we should finally shorten the agenda. The commission decided to put this discussion under Commission Business.

- XVI. CITIZEN'S COMMENTS:** None.

- XVII. EXTENSIONS REQUESTED:** None.

#### **XVIII. COMMISSION BUSINESS:**

- A.** This was tabled until later in the meeting. Updates and Report from WEO and Commission Members. Jamie apologized for being late to the meeting and said that he hoped to have something next month for the commission regarding the regulations.

**B.** Approval of the January 8, 2014 meeting minutes. M. Eaton made a motion to approve the minutes as submitted. N. McMerriman seconded and it was approved unanimously. There were four abstentions. Approval of the March 5, 2014 meeting minutes. M. Eaton made a motion to approve the minutes as submitted. N. McMerriman seconded the motion and it was approved unanimously. There were four abstentions.

**C.** Report of billing and bond releases – clerk is still working on releases. She will check on the Liberty Mutual bond for Dexter to see if it has been released.

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

Jason B. Lavalley (IWWC)

Rose Construction (IWWC)

Pomfret School (IWWC and P&Z) – working on release

Ridgewood Farm LLC (P&Z) – working on release

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

Bruce & Kerry Dexter (IWWC) – letter sent to insurance company to release the bond (leave on until we know if bond has been released)

**D.** Correspondence – no new correspondence

**E.** As needed – Adjusting the agenda. There was a lot of discussion on how to shorten the agenda and it was decided to cut each item back to the start date and the latest remarks. Commission members will be obtaining copies of the agendas and minutes from the website, but the clerk will bring a couple copies of full agendas/minutes to meetings.

**Jamie arrived at 7:12 pm so we then went back to the tabled items IX, X, XII, XIV, and XVIII.**

**XIX. ADJOURNMENT:** M. Eaton made a motion to adjourn. J. Rowley seconded the motion and it was approved unanimously. The Chairman closed the meeting at 7:51 pm.

Respectfully submitted,

Lynn L. Krajewski, Clerk

Date approved\_\_\_\_\_