

**INLAND WETLANDS & WATERCOURSES COMMISSION**  
**REGULAR MEETING MINUTES**  
**WEDNESDAY, MAY 1, 2013 @ 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; Marshall Eaton, Member; Paul Safin, 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:** .
- V. PENDING APPLICATIONS:** None
- VI. CITIZEN’S COMMENTS:**
  - A. Albert Washburn, 19 Wolf Den Road,** discuss with commission the planting of evergreens as visual buffer. He would like to do some planting in the wetlands on his side of the stream. The plantings are to be done by hand. D. St. Martin asked Jamie if this would be considered agricultural. Jamie said it would be in the section of the regulations regarding permitted use “as of right”. D. St. Martin then said that he thought that this would not be an issue, especially with everything be planted by hand. N. McMerriman asked if they would be removing the invasive species. A. Washburn said that was not in their plan. P. Safin made a motion to move this item under Section VIII No Fee Application. The motion was seconded by M. Eaton and approved unanimously.
- VII. NEW APPLICATIONS:**
  - A. Jeremiah & Bonnie O’Brien, 5 Mill Road,** select cut trees; seed/plant grass. Mrs. O’Brien said that John Roy of Roy’s Tree Service will be doing the work for them. Jamie told the commission that he had met with the O’Brien’s the previous week and that the work will probably be done in two phases. After discussion and looking at photos and a draft proposal of the work to be done, the commission accepted the application. The commission informed the O’Brien’s that they can’t act on this application tonight, but it will be carried to next month for further discussion and possible action.
- VIII. NO-FEE APPLICATIONS:**
  - A. Albert Washburn, 19 Wolf Den Road,** discuss with commission the planting of evergreens as visual buffer. Jamie said that staff would need a motion ruling this as a no-fee application for general maintenance of a property (i.e., as of right). P. Safin made a motion approve this work as a “use as of right” with Mr. Washburn submitting a no-fee application for Jamie’s signature. M. Eaton seconded the motion and it was approved unanimously.

## **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. Morrissette 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. Morrissette 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). 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 (5/1/13). 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). Nothing new (3/6/13). Some exterior renovation (5/1/13). 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). Nothing new (2/6/13). Jurisdictional ruling has been signed. Letter to be sent to applicant (4/3/13). Letter was sent to applicant. Nothing new (5/1/13). 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. Nothing new (3/6/13). Fees were paid. Still tracking the site (4/3/13). Donna Sabourin was present and spoke regarding this item. Jamie said he will try to site walk the property tonight after the meeting if it is still light enough outside (5/1/13). 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). 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). 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 (2/6/13). This applicant actually owes money to the town, so there will not be a bond return (3/6/13). This is going to be tracked (4/3/13). Nothing new (5/1/13) Leave on agenda.
  - 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). Nothing new (3/6/13). This is going to be tracked (4/3/13). The plunge pool is stable but the culver outflow needs to be cleaned out (5/1/13). Leave on agenda.

- C. 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 (5/1/13). Leave on agenda.
- D. Pomfret School, 398 Pomfret Street (10/6/10)**
1. **Turf Fields** – need to follow-up on the utility line; Nothing new (5/1/13)
- E. 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). Leave on agenda.
- F. 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). Leave on agenda.
- G. 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). 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 (5/1/13). 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). 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). 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). 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. At this point, Greg Bristow spoke regarding this issue. He said he never received a letter regarding the denial of his application. He did everything Jamie told him to do. He then complained about people going on his property without his permission to which J. Folsom responded that people could see the excavator from the road, they didn't go on the property. Mr. Bristow then said that the excavator is not stuck and the dam is fixed. He is upset that he never received any phone calls regarding the monthly meetings. J. Folsom then told him that DEEP would make a ruling regarding the dam. The commission asked the clerk to send a copy of the denial letter to the Bristow's. Mr. Bristow continued by saying that he never even thought that a permit was necessary and that Jamie had to come to look at the problem. He said that by the time the IWWC came into play, 95% of the work had already been done. He doesn't understand why the application was denied. J. Folsom then explained that the commission only has 65 days to make a decision on an application and the engineering firm never sent any information. Mr. Bristow then asked what if the application doesn't have money to hire an engineer. Jamie will 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 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). Leave on agenda.

**XV. NEW COMPLAINTS: None.**

**A.** Jamie mentioned that some activity was taking place on Bosworth Road, but staff is already following up on the issue.

**XVI. CITIZEN'S COMMENTS:** Donna Sabourin of 394 Mashamoquet Road had questions as to why Mr. Washburn didn't have to pay any fees to do his work but she had to on her property. Jamie explained that the work on her property was a permitted activity whereas Mr. Washburn's work is considered general maintenance and is exempt. D. St. Martin mentioned that she and George Avery placed gravel in the wetlands prior to a permit and then they erected a structure without a permit. Jamie then explained how Donna could plant on her property, too, without a permit. He said he would talk with her more after the meeting.

**XVII. EXTENSIONS REQUESTED: None.**

**XVIII. COMMISSION BUSINESS:**

- A.** Updates and Report from WEO and Commission Members. No new issues other than what has already been discussed or will be coming up shortly.
- B.** Approval of the *April 3, 2013* meeting minutes. M. Eaton made a motion to approve the minutes as written. J. Rowley seconded the motion and it was approved unanimously with one abstention.
- C.** Report of billing and bond releases – Discussion; the clerk informed the commission Jason Lavallee has not responded to the letter sent to him. Jamie said we cannot release the bond until Mr. Lavallee informs the commission of what he is doing regarding this application. Jamie also mentioned that the Dexter issue should be resolved within the next week or two.

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

Jason B. Lavalley (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 – very little mail, other than Connecticut Wildlife magazine

**E.** As needed –.N/A

**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 7:50 pm.

Respectfully submitted,

Lynn L. Krajewski, Clerk

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