



TOWN OF ESSEX
Inland Wetlands and Watercourses Commission

Executive Board
Fred Szufnarowski, Chairman
Daniel Lapman, Vice Chair

29 West Avenue • Essex, Connecticut 06426
Telephone (860) 767-4340 • FAX (860) 767-8509

Regular Members

Jim Leo
Steve Knauth
Jeffrey Lovelace, Conservation Liaison
Jim Hill, Zoning Liaison
Vacancy, Planning Liaison

Alternate Members

Ernest Cook
Andre Roussel

Unapproved

Minutes - Regular Meeting
Tuesday, November 14, 2017

1. Call to Order and Seating of Members

The regular Meeting of the Essex IWWC was conducted on November 14, 2017 in Room A of the Essex Town Hall at 7:00 p.m.

Attending Members:

Fred Szufnarowski
Daniel Lapman
Steve Knauth
Jim Hill
Jim Leo
Jeff Lovelace
Ernest Cook, Alternate

Absent Members:

Andre Roussel

Staff:

Stella Beaudoin, Recording Clerk
Joseph Budrow, Wetlands Enforcement Agent

F. Szufnarowski called the meeting to order at 7:00 p.m.

Seated for the meeting were F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook.

MOTION made by D Lapman seat E Cook for the Planning Commission Liaison; **SECONDED** by J Leo;
Voting In Favor: F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:**
None; **Abstaining:** None; **Approved:** 7/0/0.

2. Approval of Minutes

- September 18, 2017 site walk

MOTION made by D Lapman to approve the September 18, 2017 site walk Minutes on behalf of Stephen R. Cline, Successor Trustee, 85 Westbrook Road with following amendment;

1) "Commission members present", to correct spelling of *Szufnarowski*; **SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

- October 16, 2017 site walk-

MOTION made by D Lapman to approve the October 16, 2017 site walk Minutes on behalf of Thomas and Pam Carroll, property situated at 39 Main Street, Essex, CT, with the following correction: 1) "Commission members present", to correct spelling of *Szufnarowski*; **SECONDED** by J Lovelace **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

- October 10, 2017 Regular Meeting

MOTION made by D Lapman to approve the October 10, 2017 regular meeting Minutes with the following corrections: 1) Page 1, Add D. Lapman to members in attendance; 2) Page 2, 2nd paragraph within the text of Application #17-10, last line: "R Doane stated that there are six *properties*"; **SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

3. Public Hearing

- No public hearing scheduled.

4. Regular Meeting

- **Cease and Desist: Thomas and Pam Carroll. 39 Main Street, Essex.** Driveway expansion without approval.

The Wetlands Enforcement Agent, Joseph Budrow issued a Cease and Desist order on October 6, 2017 to Thomas and Pam Carroll for expansion of a driveway by adding approximately 400 s.f. of gravel parking area. M/M Carrol was issued an IW Permit #15-18 on December 8, 2015, however the driveway work was not included in the approval of said Permit. Per the WEO's Cease and Desist, the property owners must remove the gravel and dirt or apply for an IW Permit to allow for a parking area.

J Budrow stated that on October 16, 2017 a Site Walk was conducted, and subsequent to the site walk, J Budrow met with Mr. Mandel, and the property owner followed up with the submission of an IWWC application. J. Budrow stated that he will write a letter on Wednesday November 15, 2017 stating that the Cease and Desist is no longer in effect.

J Lovelace stated that he supports the decision for the WEO to write a letter on November 15, 2017 revoking the Cease and Desist Order issued to Thomas and Pam Carroll, 39 Main Street, Assessor's Map 47, Lot 18, Essex, CT.

5. Receipt of New Applications

- **Application #17-12 Thomas and Pam Carroll, 39 Main Street, Assessor's Map 47, Lot 18, Essex, CT.** This is an application to modify a previous approval and to allow a final driveway location. Also, to allow a planting plan within a wetland area.

It was determined at the October 16, 2017 site inspection that the proximity of the gravel parking area is not as close to the wetland as first feared. There is approximately 30 feet of upland review area between the wetland and the parking area.

Chuck Mandel, agent on behalf of the applicant stated that the only access to the site was a shared driveway off of Main Street and the existing gravel drive off of Pratt Street was a common driveway for the public. C Mandel noted that there was a small wetlands pocket on the property that was filled with invasive plants and litter and as per the previously approved Wetlands Permit, in-process of the construction, modified the driveway with a small parking area. C Mandel stated that the applicant would like to remove five trees to include the decaying Willow trees on site and to also remove the invasive vegetation and replant with wetlands plants to be installed in the spring 2018. C Mandel stated that the applicant proposes the installation of two landscape walls on Pratt Street and to remove the existing Pratt Street parking area and narrow it down so that it is strictly a driveway.

C Mandel stated that he would like to get some of the hardscape in so as to eliminate erosion over the winter.

J Budrow stated that the wetland has been identified as a lower quality wetland and he suggested that the proposed work on the subject property to be handled administratively.

F Szufnarowski stated that this proposal is a huge enhancement to the original application and he thanked the applicant for her cooperation. F Szufnarowski stated that the Commission is comfortable in authorizing this proposal to be handled administratively.

The work would consist of realigning the lower end of the driveway to be curved centrally to the front property line, to remove 5 trees and grass the area as noted on the site plan and to do planting plan around the wetlands.

MOTION by D Lapman to authorize the Wetlands Enforcement Officer to administratively approve a permit **Application #17-12 Thomas and Pam Carroll, 39 Main Street, Assessor's Map 47, Lot 18, Essex, CT.** This is an application to modify a previous approval and to allow a final driveway location, to allow a planting plan within a wetland area, to remove five trees and grass the area as noted on

the site plan; **SECONDED** by S Knauth; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

C Mandel submitted a letter requesting permission to do work after October 15, 2017 in order to hardscape portion of the premises at 39 Main Street, Assessor's Map 47, Lot 18, Essex, CT.

MOTION by S Knauth to allow work after October 15, 2017 for **Application #17-12 Thomas and Pam Carroll, 39 Main Street, Assessor's Map 47, Lot 18, Essex, CT.** This is an application to modify a previous approval and to allow a final driveway location. Also to allow a planting plan within a wetland area; **SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

6. Section 11 Approvals

- **Application 17A-6 – Conservation Commission for Viney Hill Brook Park.**
Approval to allow the installation of a beaver control device.

Motion by S Knauth to table discussion with regard to administrative approval on **Application # 17A-6, Conservation Commission for Viney Hill Brook Park**, to allow the installation of a beaver control device; **SECONDED** by D Lapman; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

- **Application No. 17A-7 – Joe Mendler, 15 Heron Pond Road.** Approval to expand an existing patio to a point 40-feet from a pond granted July 21, 2017

Motion by S Knauth **that the Essex Inland Wetlands and Watercourses Commission concurs with the decision of the Wetlands Agent with regard to Application No. 17A-7, Joe Mendler, 15 Heron Pond Road** for approval to expand an existing patio to a point 40 feet from a pond; **SECONDED** by J Leo; **Voting In Favor:** D. Lapman, F. Szufnarowski, J Leo, J Hill, D Lapman, J Lovelace, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

7. Other Business

- **Election of Officers**

MOTION made by S Knauth to nominate F Szufnarowski, Chair; **SECONDED** by D Lapman; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

MOTION made by J Lovelace to nominate D Lapman, Vice Chair; **SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

8. Correspondence and Invoices

There was no correspondence and there were no invoices,

9. Reports:

a. Wetlands Official –

- J Budrow reported he is in-process of following up on E&S measures for various properties in-town. In addition he is looking into the construction of a garage on Mares Hill and landscaping maintenance work that resulted in leaves being blown into a drainage swale.
- J Budrow will contact R Doane to determine when work will begin at 85 Westbrook Road.
- River Road Follow up - J. Budrow will visit the site and report back to the Commission.
- J Budrow reported that two motions required amendment related to items #'s 1, 2 and 3 of the summary ruling with the “allowed activity occurring between March 15th to October 15th of the year of initiation.”
- J Budrow reported that the Motion language in the sample 1b Declaratory Ruling has been simplified. Copies of the revised motions were distributed to the Commission.

b. Chairperson –

- F Szufnarowski reported at the October 2017 meeting on the restructuring of the IWWC which will see a reduction in membership from seven members to five member with two alternates. There are currently six regular members, D Lapman, J Leo, S Knauth, F Szufnarowski and two liaisons, Zoning Liaison, J Hill and Conservation Commission Liaison J Lovelace; Two alternates, E Cook and A Roussel. F Szufnarowski stated that as per the Town ordinance of July 24, 2017, the Selectman will appoint a new regular member on December 1, 2017 to a 3-year term. On December 31, 2018 the two liaison seats will go away.
- F Szufnarowski reported on an October 25, 2017 meeting with Suzanna McCauley, legal counsel for the Commission. In that meeting the IWWC purview over Conservation Easements was discussed. The summary of the October 25, 2017 meeting between F Szufnarowski and Attorney McCauley is as follows:
 - a. Conservation Easements:
 - i. IWWC has no statutory authority regarding a conservation easement held by a third party.
 - ii. IWWC statutory authority limited to activities in the review area as they relate to the wetland or watercourse.
 - iii. IWWC could decide a public hearing is in the public interest.

- iv. Consider revising the IWWC regs to include a requirement in the application that *all owners of any interest in the subject property be notified*.
- b. Conflict of Interest (COI)
 - i. Not the appearance of impropriety.
 - ii. Defined as a Commissioner having a pecuniary (financial) interest or benefit.
 - iii. If there is a blatant appearance of impropriety (Commissioner has a “dog in the fight”) it could open the IWWC up to appeal and delay the applicant.
 - iv. Cannot force a commissioner to recuse himself.
- c. Jurisdiction over tidal watercourses
 - i. Statute & DEEP confirm that IWWC has jurisdiction over tidal watercourses and the associated upland review area within their municipality.
 - ii. The 2011 decision in the *Watrous vs the Town of Preston* found the IWWC did not have jurisdiction over the activities because the upland review area was in a different municipality.
- c. **Planning Commission Representative** – Vacant. No report.
- d. **Conservation Commission Representative** –
 - J Lovelace reported that the Conservation Commission has submitted an application to the Rockfall Foundation for grant funding to install signage in a beaver habitat area and on Thursday November 16 the Commission will visit the site in the area in which the beavers are working to determine the best course of action, if any.
- e. **Zoning Commission Representative** –

J Hill reported that the Zoning Commission is working in conjunction with the Planning Commission on a change in zoning related to accessory apartments and multiple family housing.

10. Adjournment

MOTION made by D Lapman to adjourn at 8:02 p.m. to the next regularly scheduled IWWC meeting to be held on Tuesday, December 12, 2017 at the Essex Town Hall, 2nd Floor Conference Room A, 29 West Avenue; **MOTION SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

Stella C. Beaudoin
Recording Secretary