

TOWN OF ESSEX
Inland Wetlands and Watercourses Commission
29 West Avenue
Essex, CT 06426
essexct.gov

MINUTES

Regular Meeting - August 9, 2011

Call to Order and Seating of Members

The regularly scheduled meeting of the Essex IWWC was conducted on August 9, 2011 in Room A of the Essex Town Hall. Those members in attendance were Chair, Daniel Lapman, Chuck Corson, Fred Szufnarowski, Barbara Zernike, Steven Knauth and Larry Shipman. Also in attendance was Stella Beaudoin, Recording Secretary.

Old Business

Application 11-8, Novelty Lane, Town of Essex for public access improvements

Jeff Going presented on behalf of this application. Mr. Going stated that as requested by Chairman Lapman at the July 2011 IWWC meeting, the Town Engineer, Bob Doane inspected the site and has submitted a memorandum dated August 5, 2011 along with a diagram of a proposed method to alleviate the pooling water. This report and sketch were distributed at this evening's meeting for review by the Commissioners.

In his report Mr. Doane indicated that the ponding problem could be remediated by digging a shallow 2 ft by 2 ft trench and installing a curtain drain. Mr. Doane's report is accompanied by a sketch which reflects the location of the proposed trench.

Mr. Going referenced Mr. Doane's plan noting that the pipe should not extend to the bulkhead; Mr. Going thought that might be an error. Mr. Going questioned who was to pay for the remediation of the ponding problem between the stone retaining wall and the wooden fence. Mr. Doane had further suggested that with the installation of a curtain drain with stone to the surface, the placement of a perforated four inch pipe. Mr. Going stated that the funding for this proposal is not the responsibility of the Harbor Commission, noting that the recent construction of the stone wall and creation of the pipe outlet exacerbated the situation

Mr. Going stated that the Harbor Management Commission does not feel that it is the financial responsibility of the Town of Essex to resolve the problem. Mr. Going stated that the town has been awarded grant funding for the beautification and repair of the Novelty Lane access-way and he noted that digging a 50 foot trench and filling it in is risky. The grant money expires on December 13, 2011.

It was indicated that any work conducted under the guise of the grant requires approval from the CT Department of Environmental Protection. If there is a pipe which extends to the cove, the DEP must review and approve.

Chuck Corson stated that if Bob Doane approved the plan he must have done so with the confidence that the run-off would be allowed by the DEP.

Fred Szufnarowski questioned if the Essex IWWC would consider approval of this Permit contingent upon the further approval from the DEP.

Mr. Corson stated that this proposal looks like it would work, however the drainage pipe should be wrapped in filter fabric to prevent clogging.

Joel Marzi, Board of Selectmen stated that grants are held and administered outside of the Town's budget. If there is an alleged violation of a private property owner, the town is not in a position to correct that error. The Town will not be held responsible for an alleged violation of a property owner.

Terry Lomme, Novelty Lane, presented. Mr. Lomme stated that this is the first time that he saw the August 5, 2011 report from Mr. Doane. Mr. Lomme indicated that he was not convinced that DEP would not allow this proposal since it involves only roof run-off and there are no contaminants draining. Mr. Lomme stated that the structure was built in 1926. The roof drain which was incorporated into the structure has since been extended by one foot. The existing height and location remains in the same location where it was originally constructed. Mr. Lomme went on to say that the water has, since 1926 always drained to where it drains now. Mr. and Mrs. Lomme did meet with Jeff Going and the Dr. and Mrs. Sinatra along with a representative of the chandlery, Doug Germaine. At that meeting, the general consensus was that this proposal could not be accomplished within the parameters of the \$30,000 grant. Mr. Lomme noted that with regard to the cost of this project, in his experience who is expected to fund such a project is not a consideration nor is it within the purview of the IWWC. The question however is does this application meet the criteria of the Commission. Mr. Lomme stated that he has no reason to doubt the content of Mr. Doane's comments.

Larry Shipman noted that the Commission must consider if this proposal meets the criteria of the IWWC regulations. Whether the Harbor Management Commission or the Town of Essex or private property owners fund this project, is an issue those parties must sort out.

Chuck Corson noted that another benefit of this plan is that this will act as an under drain for the lower portion of Novelty Lane and the ground will not be as spongy as it has been. To install the system as proposed by Bob Doane to include the perforated pipe and stone, in conjunction with the work that is planned for the lower portion, is a sound plan.

Motion made by Chuck Corson to grant a Permit to **Application 11-8, Novelty Lane, Town of Essex.** This is an application for public access improvements. Based on the documents presented, the site walk and on the testimony given at this meeting and former meetings, the Commission finds that the proposed activity is a regulated activity not involving significant or major effect upon the inland wetlands or watercourse which occur on the property as defined in Section 2.2, and that no reasonable or prudent alternative exists to the proposed plans. The Commission members feel that the proposed activities are well suited to the area.

The Commission makes a Summary Ruling and grants a permit and permission for the applicant to proceed with proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. The under-drain pipe will connect to the roof leader as shown on a plan from Doane-Collins Engineering entitled "Novelty Lane Sketch Plan 1"=10" which was attached to and referenced in the August 5, 2011 letter from Robert Doane, Jr., Town Engineer.
2. The pipe will be wrapped in a non-woven filter fabric to prevent clogging. The IWWC Commission requires that this will be done in advance of the work or in conjunction with the work.

3. In accordance with the Commission's Regulations, the activity pursuant to said permit shall be initiated within 5 years of the date of publication and shall be completed within one year of the date of initiation and will occur between March 15th and October 15th of the year of initiation.
4. Should the applicant determine that the permitted activity will not be completed between March 14th and October 15th of the year of initiation, the applicant agrees to appear before the Commission and present a plan for the stabilization of the site during the non-permitted months.
5. In amendment to above referenced Permit Conditions #3 and #4, the construction will be allowed to continue after October 15th with the oversight of and regular inspection by the Essex Zoning Enforcement Officer.
6. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes she/he deems necessary or may require for the protection of the inland wetlands and water course during the process.
7. The Commission, through its Enforcement Officer, shall be notified in writing upon the initiation of the authorized activity and again upon completion of these activities.

Discussion: The Essex Inland Wetlands and Watercourse Commission is amenable with any modifications to the August 5, 2011 plan submitted by Doane-Collins Engineering that the Department of Environmental Protection deems appropriate.

Motion seconded by Fred Szufnarowski and passed 5/1 with Dan Lapman in opposition.

Other Business

Tom Metcalf – Activities at 141 Saybrook Rd., and 24 Cove Rest Pentway, Essex, CT

Mr. Metcalf presented on behalf of Michael Picard. Mr. Metcalf stated that this property was under cease and desist and shortly thereafter a proposal was filed for stabilization of the site. At the time of the remediation presentation to the IWWC it was indicated that it was emergent to complete the landscaping with the exception of the property on the northern property line adjacent to south cove.

Mr. Metcalf stated that there is a drainage problem which prevented the landscaping from being completed and the problem is within Cove Rest Pentway which is a driveway that services 4 or 5 houses. The driveway slopes towards Mr. Picard's property. There is a questionable drainage system which is north of his property. It is then piped down and runs parallel to Mr. Picard's property line and then dumps directly onto his property. This pipe was installed when Mr. Kolp, the adjoining neighbor, made additions to his house and his driveway. Mr. Metcalf indicated that he could not find permits for this work.

There is erosion leading to the cove. The McDonald's property which is situated in the forefront location has an easement to get to the cove along the Picard's northerly property line. Mr. McDonald notified Mr. Picard that per the right of way, he needs a viable walkway down to the cove. Mr. Picard cannot accomplish this until the drainage issue is resolved.

Mr. Metcalf stated that the drainage issue actually begins at Mallard Point and Mr. Metcalf has been speaking with Mr. Kolp and the adjoining property owners concerning remediation. Mr. Picard is proposing to install a yard drain and extending that with a pipe to the cove. Mr. Metcalf indicated that if you don't break the plain of title wetlands or watercourse, then it is permissible. Mr. Metcalf stated that he will follow up on this. With the installation of the yard drain, the erosion will cease and it will enable Mr. Picard to complete the walkway and further allow compliance with the legal right of way that the McDonalds own. Additionally, this installation will allow Mr. Picard to pursue the planting plan which was originally proposed. Mr. Metcalf asked the Commission members for their initial thoughts on this plan.

Chuck Corson noted that this pipe was a problem from the get-go.

Mr. Metcalf agreed and noted that the issue has been exacerbated in that Mr. Kolp has plugged the pipe. Mr. Metcalf indicated that the easement extends all the way to the water and as such a vegetative buffer cannot be installed.

Mr. Metcalf indicated that the McDonald's are demanding that the legal right of way be modified so that they have access to the water.

Mr. Picard stated that legally he does not have to amend this situation and that it was Mr. Kolp who initiated that issue and technically the issue should be left between the McDonalds and the Kolps. Mr. Picard stated that he is trying to honor the cease and desist, noting that the best solution would be to keep the drain pipe on Mr. Kolps property.

Mr. Metcalf indicated that the water that has been coming down Cove Rest Pentway has made subtle changes in the homeowner's driveways and in the road. The water jumps the drainage system and washes down the bank and there has been a tremendous disaster washout through the road. Mr. Metcalf stated that before this issue might be pursued, there are other issues that derive from Mallard Point that must be addressed.

It was suggested that if the pipe remains on Mr. Kolp's property, there could be the installation of vegetative buffer to absorb the water. However, if the pipe is placed on Mr. Picard's property, it will outlet directly into the cove.

Mr. Metcalf indicated that Mr. Kolp installed a roof leader and there was a pipe extension involved with that installation.

Mr. Picard stated that he would rather not have the burden of remediating this situation. The pipe does not only drain, but also protrudes onto Mr. Picard's property. There is a series of drainage issues deriving from Mallard Point.

Mr. Metcalf reiterated that he and Mr. Picard are looking for some advice from the Commissioners this evening.

Mr. Knauth noted that environmentally it would be in the best interest to situate the pipe on Mr. Kolp's property and go through a buffer.

Mr. Szufnarowski noted that per Mr. Metcalf's research, the runoff is collecting from abutting properties which indicates that the run off is coming from a wooded area which serves as a filter.

Mr. Metcalf stated that the drainage portion from Mallard Point runs from the asphalt, etc and comes down Pentway, collecting from neighboring properties which is filtered from adjacent wooded areas. Mr. Metcalf noted that there is a six inch pipe on Mr. Kolp's property and Mr. Metcalf does not have the authority to tell Mr. Kolp that he has to dig it up and install a 12 inch pipe.

Mr. Corson stated that if there is drainage coming from Mallard Point, a 12 inch pipe will be necessary to handle that drainage.

Mr. Metcalf stated that Mr. Picard's property is at that end of the drainage and he is being dumped on from all of the other properties. Mr. Picard has had to re-seed and re-grade his property several times due to the run off.

Mr. Corson noted that even if Mr. Picard wished to remediate the drainage situation, the system is not on his property.

Mr. Picard stated that the neighbors will allow him to rectify the problem and assume the expense to do so.

Mr. Corson noted that with a 6 inch pipe involved, the issue will not be rectified. As such, there is not much the Commission can recommend for remediation .

Mr. Metcalf stated that the issue can be resolved with some grade on the Pentway property. Mr. Metcalf would then back up another pipe to the existing six inch pipe. The Pentway is owned by Chuck Zinzer.

Mr. Knauth stated that the other issue is that Mr. Picard wants to proceed with the landscaping of his property.

Mr. Picard stated that with grading in place a good deal of the water will filter to a different location. In a heavy rain event, the water is missing the existing 6 inch drain. Mr. Kolp constructed a driveway from the Pentway and installed a septic system. Mr. Metcalf stated that the septic design plan showed the property as lawn area which may have been before the driveway was installed as the plan did not reflect the driveway.

Commission members agreed to conduct a site walk on August 23, 2011 at 6:00 p.m. Commissioners and interested parties will park on Mallard Point Road and walk down to the Pentway.

New Business

No new business.

Approval of Minutes:

Regular Meeting, July 12, 2011

Page 1 under Old Business, fifth paragraph, add to the end of the paragraph: "*applicant and zoning enforcement officer said that it was not feasible.*"

Page 4 second paragraph, first line to read "...also presented the *property rights* issue to the selectmen."

Page 4 under New Business, last paragraph: "Mr. Dayharsh stated that this proposal will not alter the wetlands, however the impervious area will be increased *by paving the gravel parking area.*"

Motion made by Dan Lapman to approve the Minutes from the July 12, 2011 meeting as amended

Motion seconded by Barbara Zernike and passed unanimously.

Correspondence and Invoices

No correspondence.

Reports

Wetland Agent: No report.

Chairperson Daniel Lapman. Charles Corson received an issue of Land and Water in which there is an article on the elimination of algae. It was noted in the article that although green algae is not bad, the blue green algae has a toxin in it which is known to cause Alzheimer's, Lou Gehrig's disease and several other serious and fatal diseases.

Planning Commission Representative Claire Tiernan: No report.

Conservation Commission Representative Goody LeLash: No report.

Zoning Commission Representative Larry Shipman. No report.

Motion made by Dan Lapman to adjourn.

Motion seconded by Barbara Zernike and passed unanimously.

The regularly scheduled meeting of the Essex IWWC adjourned at 8:40 p.m.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary

The next regularly scheduled meeting of the Essex Inland Wetlands and Watercourses Commission will occur on September 13, 2011.