



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
Ernest Cook
Jeffrey Lovelace, Conservation Liaison
Jim Hill, Zoning Liaison
Vacancy, Planning Liaison

Alternate Members

Andre Roussel
Beth Currie

Unapproved

Minutes - Regular Meeting
Tuesday, October 9, 2018

1. Call to Order and Seating of Members

The regular Meeting of the Essex IWWC was conducted on October 9, 2018 in Room A of the Essex Town Hall at 7:00 p.m.

Attending Members:

Fred Szufnarowski
Dan Lapman
Jim Leo
Jim Hill, Zoning Liaison
Steve Knauth
Ernest Cook
Beth Currie, Alternate seated for J Lovelace

Absent Members:

Jeffrey Lovelace
Andre Roussel

Staff

Stella Beaudoin, Recording Clerk

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

MOTION made by J Leo to seat B Currie for J Lovelace for this evening's meeting; **SECONDED** by D Lapman; **Voting In Favor:** F Szufnarowski, D Lapman, E Cook, J Leo, S Knauth, J Hill; **Opposed:** None; **Abstaining:** None; **Approved:** 6/0/0.



Discussion: No further discussion.

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

2. Approval of Minutes

MOTION made by J Hill to approve the September 11, 2018 regular meeting Minutes as presented;

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

Discussion: No further discussion.

3. Public Hearing

No Public Hearing scheduled.

4. Regular Meeting

No business under Regular Meeting.

5. Receipt of New Applications

There were no new applications.

6. Section 11 Approvals

There were no Section 11 approvals.

7. Other Business

- Requests to work after October 15, 2018.

Application 18-7, property located at 85 Main Street, Ivoryton

Pete Atkinson, who presented on behalf of **Application 18-7, property located at 85 Main Street, Ivoryton, CT** stated that the lot on the subject property is cleared and he has hired an excavator to begin work in a few weeks. P Atkinson stated that if the Board wishes he will install the silt fencing as shown on the plan and he noted that there will be no wide swaths of land that would be subject to erosion during construction.



F Szufnarowski stated that if a condition arises during construction that requires additional attention, the applicant is to work with the ZEO.

Motion by S Knauth to approve the extension of time to conduct activities during the nonpermitted months, as outlined in said Permit issued for Application 18-7 , Peter Atkinson, 85 Main Street, Ivoryton, CT with the following conditions; 1) reinforce the silt fence with haybale; 2) if a condition arises during construction that requires additional attention, the applicant will work with and will follow the advice of WEO as necessary; **SECONDED** by E Cook; **Voting In Favor:** F Szufnarowski, D Lapman, E Cook, J Leo, S Knauth, B Currie, J Hill; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

Discussion: No further discussion.

Application 18-4, Park Enterprises, LLC, property located at 21 Grove Street, Essex

Michael Ott, PE, LS, presented on behalf of Michael Picard requesting to conduct the activities included the regulated activity permit for **Application 18-4, Park Enterprises, LLC, 21 Grove Street, Essex**, to install sedimentation and erosion control, clear the trees and demolish the three existing structures to include the house, the barn and the shed. Topsoil and grass seed will be installed in the area of the three structures after demolition.

John Senning, Esq. presented on behalf of Robert Ward and Susan Malan, abutting property owners to the subject property. J Senning stated that there are no procedures in the regulations for extension of an IWWC permit and he stated that there has been no notification sent out to the property abutters of the intent to seek extension. J Senning stated that he submitted a written request to the ZEO requesting notification of modification of the Permit #18-4 that was granted in connection with the subject property. J Senning stated that as related to the removal of any trees, a bond was to be posted and he stated that he has no knowledge as to whether the bond requirement has been complied with.

Attorney Senning presented a Memorandum in Opposition to Request for Extension of Permitted Activity Period dated October 9, 2018. J Senning asked the Commission to reconsider the granting of an extension of time to conduct work in the regulated area during the nonpermitted months for Permit 18-4, Park Enterprises, LLC. J Senning asked that a protocol be established to secure the premises.

F Szufnarowski explained that by requesting an extension, the applicant is complying with a condition of the permit. F Szufnarowski noted that it is within the purview of the IWWC to be sure proper measures are being taken protect the areas within their jurisdiction.



S Malan stated that she contacted the Essex WEO on October 3, 2018 with concerns related to compliance with the work proposed on the subject property and the WEO sent out a letter to the property abutters on October 3, 2018 informing of the request for extension of Application 18-4.

J Senning stated that procedure was not followed and if it is a standard policy of the IWWC that October 15th is a cut off, it is incumbent upon the Commission to articulate a better protocol to protect the wetlands.

F Szufnarowski stated that it is not within the purview of the IWWC to manage the construction however it is the task of the IWWC to protect the resource. The applicant will be instructed to install erosion and sedimentation control measures reinforced with hay bales so as to mitigate disturbance.

S Malan stated that trees are unnecessarily being taken down in order to remove the structures.

Please refer to the file located in the Land Use Office for correspondence and documentation to include letters from Michael Ott, P.E., Joseph Budrow, WEO and Attorney John Senning, Memorandum in Opposition to Request for Extension of Permitted Activity Period.

Motion by S Knauth to approve the extension of time to conduct activities during the nonpermitted months, as outlined in said Permit issued for **Application 18-4, Park Enterprises, LLC, 21 Grove Street, Essex, CT** for cutting of trees, but not grubbing the root systems, and for the demolition of the three existing structures to include the house, the barn and the shed, with following conditions: 1) install erosion and sedimentation control measures reinforced with hay bales so as to mitigate disturbance; 2) after demolition, grass will be planted and if it does not take, additional measures as necessary and as determined by the WEO; 3) if a condition arises during construction that requires additional attention, the applicant will work with and will follow the advice of WEO as necessary; **SECONDED** by J Leo; **Voting In Favor:** F Szufnarowski, D Lapman, E Cook, J Leo, S Knauth, B Currie, J Hill; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

Discussion: The Commission is allowing the work to be conducted from October 15, 2018 to March 15, 2019 for demolition and for cutting trees.

Dry Hydrant Installation

Aaron Schumacker Chief Essex Fire Department and Paul Fazzino, former Chief Essex Fire Department presented and distributed informational materials related to dry hydrant installation and a bridge-mount dry device. Hydrant capacity in certain areas of Town is limited including



Ivoryton. In the past the Fire Department was able to draw water from the pond behind the Ivoryton Congregational church and the impoundment along Main Street just downstream of Walnut Street. The pond behind the church has silted in and the dam forming the impoundment along Main Street washed out during the June 1982 flood – creating the need for additional water sources.

P Fazzino stated that this is a device that mounts on a bridge and sits out of the water, however it does not disturb or restrict the waterway. There are three state-owned bridges in Ivoryton: one on Main Street at the intersection of Comstock Avenue, one on Ivory Street and the new bridge at the bottom of Walnut Street. P Fazzino stated that this device will clamp onto the bridge and will be painted green which will serve to conceal the device and he noted that this device will not interfere with any of the watercourses.

P Fazzino stated that he will contact the CT Department of Transportation for permission to install and mount their structure at the state-owned bridge site in Ivoryton. P Fazzino stated that the DEEP fully supports these structures which are fabricated out of a 6" PVC pipe that clamps onto a swivel. There is a fitting on the device that can be adapted to the hoses on the fire truck. P Fazzino stated that there is no excavation and no disturbance involved with this installation.

Motion by S Knauth to support the Dry Hydrant Installations in Ivoryton, CT; **SECONDED** by D Lapman; **Voting In Favor:** F Szufnarowski, D Lapman, E Cook, J Leo, S Knauth, B Currie, J Hill; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

Discussion: No further discussion.

8. Correspondence and Invoices

There was no correspondence and there were no invoices.

9. Reports:

a. Wetlands Official

J Budrow was absent – no report.

b. Chairperson, Fred Szufnarowski reported on jurisdiction and tidal waters. When the question of jurisdiction came up over tidal waterways, the IWWC discussed working with neighboring IWWC's to address jurisdiction issues. F Szufnarowski stated that the IWWC may not be able to change the interpretation of the Court, but the Commission may be



able to influence the definition of jurisdictional boundaries in the state statutes related to wetlands. F Szufnarowski encouraged commissioners to review the draft that he distributed and consider embarking on an action plan.

F Szufnarowski distributed the following document to members at this evening's meeting:

Jurisdiction and Tidal Waters

At the September 11, 2018 IWWC meeting Steve Knauth expressed the sentiment of many Commissioners that we work with neighboring IWWCs on the jurisdiction issue. We may not be able to change the interpretation of the court, but we may be able to influence the definition of jurisdictional boundaries in the state statutes related to wetlands. There are some interpretations that take Essex out to the middle of the river.

A major concern is the court's interpretation "awards" shoreline property owners considerably less oversight on their actions in the upland review area which may be contrary to the intent of the protective acts for wetlands and watercourses. For example, a Town resident with a brook running through their property that discharges into the Connecticut River will undergo a stricter review process than an owner abutting the Connecticut River and whose actions in the upland review area discharge directly into the River. It seems unlikely that this was the intent of the authors of the protective legislation framing the IWWC template.

There are other examples where municipalities and the state share jurisdiction of state waterways. Essex has sufficient jurisdiction over tidal waters to send a police boat out to patrol, and has a harbor commission in place.

A first step will be to identify IWWCs in other municipalities dealing with the above issue and get their perspective.

- c. **Planning Commission Representative** – Vacant. No report.
- d. **Conservation Commission Representative, Jeffrey Lovelace** – Absent. No report.
- e. **Zoning Commission Representative, Jim Hill** reported that the Zoning Commission is aware of the IWWC jurisdictional issues.

10. Adjournment



MOTION made by S Knauth to adjourn at 7:53p.m. to the next regularly scheduled IWWC meeting to be held on Tuesday, November 13, 2018 at the Essex Town Hall, 2nd Floor Conference Room A, 29 West Avenue; **MOTION SECONDED** by D Lapman; **Voting In Favor:** F Szufnarowski, D Lapman, E Cook, J Leo, S Knauth, B Currie, J Hill; **Opposed:** None; **Abstaining:** None; **Approved:** 7/0/0.

Stella C. Beaudoin
Recording Clerk

