



TOWN OF ESSEX
Inland Wetlands and Watercourses Commission

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

Executive Board
Fred Szufnarowski, Chairman
Andre Roussel, Vice Chair

Regular Members
Daniel Lapman
Ernest Cook
Jim Leo

Alternate Members
Beth Currie
Michael Furgueson

Unapproved

Minutes - Regular Meeting
Tuesday, December 10, 2019

1. Call to Order and Seating of Members

The regular Meeting of the Essex IWWC was conducted on December 10, 2019 in Room A of the Essex Town Hall at 7:00 p.m.

Attending Members:

Fred Szufnarowski
Daniel Lapman
Andre Roussel
Ernest Cook
Michael Furgueson, Alternate

Absent Members:

Jim Leo
Beth Currie

Staff

Joseph Budrow, Wetlands Enforcement Agent
Stella Caione, Recording Clerk

Audience – There were no audience members in attendance:

MOTION made by A Roussel to seat M Furgueson for J Leo; **SECONDED** by D Lapman; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 4/0/0. **Discussion:** No further discussion.



F Szufnarowski called the meeting to order at 7:00 p.m. Seated for the meeting were F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson.

2. Approval of Minutes

- November 12, 2019 Meeting Minutes

MOTION made by E Cook to approve November 12, 2019 regular meeting Minutes with the following amendments: 1) Page 1, under Audience; in the audience was B Lawrence on behalf of Bogaert Construction; 2) Page 3, under Gualazzi Application, last line of the last paragraph to read, “he will not be permitted to begin construction on the walls until approval of the extension of time”; **SECONDED** by D Lapman; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.

3. Public Comment

No public comment.

4. Public Hearing

No Public Hearing scheduled.

5. Regular Meeting

6. Receipt of New Applications

There are no new applications at this time.

7. Section 11 Approvals

- **Application No. 19A-8 – Rescon Realty, LLC, 78 Main Street, CTBK.** An application to clean out an existing DOT-installed swale that leads to a pond.

J Budrow reported that the State of CT had previously set up an underground culvert that outlets 40-50 feet from the pond at a headwall, and the associated swale was filled causing the two adjoining properties to be extremely mushy. A J Shea Construction asked for permission to sculpt out the swale and reestablish it so that water outlets to the pond. This is a proposal for a 10-foot wide swale sculpted to 3 feet deep that will outlet to the pond.



MOTION made by D Lapman to concur with the decision of the wetlands agent for **Application 19A-8, Rascon Realty LLC, 78 Main Street Centerbrook**, an application to clean out an existing DOT-installed swale that leads to a pond; **SECONDED** by M Furgueson; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.

- **Application No. 19A-9 – Major Construction, LLC, 15 Heron Pond Road.** An application to replace an existing a patio with a new stone terrace and perimeter walls to a point 40 feet from a pond. This request was previously approved, but had not been initiated prior to expiration of the approval.

MOTION made by E Cook to concur with the decision of the wetlands agent for **Application 19A-9, Major Construction, LLC, 15 Heron Pond Road**, an application to replace an existing a patio with a new stone terrace and perimeter walls to a point 40 feet from a pond; **SECONDED** by D. Lapman; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.

8. Other Business

- **Election of Officers**

MOTION made by D Lapman to nominate F Szufnarowski as IWWC Chair: **SECONDED** by E Cook; **Voting In Favor:** D Lapman, A Roussel, E Cook, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 4/0/0. **Discussion:** No further discussion.

MOTION made by D Lapman to nominate A Roussel as Vice Chair: **SECONDED** by E Cook; **Voting In Favor:** F Szufnarowski, D Lapman, E Cook, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 4/0/0. **Discussion:** No further discussion.

- **Approval of 2020 Meeting Calendar**

MOTION made by M Furgueson to approve the 2020 meeting calendar as submitted: **SECONDED** by E Cook; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.



F Szufnarowski commented on Steve Knauth's resignation from the IWWC whose term was to go to December 2020. S Knauth submitted a letter of resignation effective November 2019. The Selectman will look to replace the vacancy for this alternate position.

- **Pending Litigation: Appeal of Past Decision for 151 River Road**

As per the December 4, 2019 letter from Dzialo Pickett & Allen, PC related to the settlement agreement of George T and Julie A Papanier v. Town of Essex Inland Wetlands and Watercourses Commission concerning a revised planting plan which was approved by the IWWC in November 2019, the following procedural steps are necessary by the Commission subject to its discretion:

- 1) Commission approval of a motion to approve the Settlement agreement which references a revised planting plan approved by the Commission on November 12, 2019.
- 2) Commission approval of a motion to consent to the plaintiff's (Papaniers') Motion for Permission to Withdraw Administrative Appeal.
- 3) The first action item is necessary as the Commission is the defendant in the above referenced appeal. Further, both action items are necessary as the plaintiff is any administrative appeal such as an appeal of a Wetlands Commission decision, is precluded by statute from simply withdraw or settle their appeal.

More specifically, the CT Rules of Practice S14-17B states that "no appeal...shall be withdrawn an no settlement between the parties to any such appeal shall be effective unless and until a hearing has been held before the Superior Court and such court has approved such proposed withdrawal or settlement." Said court hearing is generally required to allow the public to comment and/or object to the proposed settlement agreement. During said hearing the court also inquires whether the parties (i.e., the omission in this case) voluntarily consent/approve the settlement agreement and withdrawal.

Further S14-17, "no [wetlands commission] decision that is appealed...shall be modified by settlement...unless the terms of the settlement...have been approved at a public meeting of the wetlands commission...the proposed settlement agreement shall be identified on the agenda of such meeting...and the reasons for such approval shall be stated on the record during the public meeting of such agency"

Attorney Sylvia Rutkowska indicated in her letter that the IWWC acted on the substantive portion of the Settlement Agreement, the revised planting plan at the November meeting therefore only the formality of the approval of the full Settlement Agreement and the Motion to Withdraw are necessary this evening.



Vote to accept the Settlement Agreement

MOTION made by A Roussel to approve the Settlement Agreement re George T and Julie A Papanier v. Town of Essex Inland Wetlands and Watercourses Commission docket # MMX-CV19-6026166-S appeal of approval of solar panel arrays, as provided as signed on October 16, 2019; **SECONDED** by M Furgueson; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.

Vote to approve the withdrawal of the Appeal

MOTION made by A Roussel to approve the withdrawal of the administrative appeal on behalf of George T and Julie A Papanier v Town of Essex and the IWWC; **SECONDED** by M Furgueson; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.

9. Correspondence and Invoices

There was no correspondence and no invoices.

10. Reports

a. Wetlands Official – Joseph Budrow

E Cook reported on the 42nd Annual CACIWC Conference which occurred on November 23, 2019. Katie Dykes DEEP Commissioner was the keynote speaker. Some of the key topics included:

- State of CT commemorating 50 years of inland wetlands protection in the State;
- Discussion on space technology and how it has evolved, allowing awareness of what is going on with our earth and identifying wetlands;
- Discussion on switching to electric heat pumps rather than natural gas or oil fueled by wind power, solar and nuclear and oil;
- Discussion on the US States that are gathering power to override negative conservation changes being made in Washington DC.

Session 1 Complex Applications

- Applications that require more expertise services that may be charged to the applicant;
- Site monitoring may be charged to applicant;
- Affordable housing in accordance with wetlands guidelines.

Session 2 Questions & Answers



- For every application commissions should consider prudent alternatives when reviewing applications to include storm water runoff cease and desist orders;
- Clear cutting every tree to be saved must be marked and recorded on the plan.

Session 3 Sea Level Rise

- Sea Level Rise affecting marsh lands, marsh migration and inland wetlands. Further information may be found at CT.eco.edu which monitors the effect of sea level rise on marsh areas.

- Wetland Regulations Update

J Budrow reported that he revised the current regulations to incorporate language from the State of CT regulations. Further work will be required to clarify certain definitions. J Budrow indicated that he hopes to have the regs updated by May 2020. E. Cook and A. Roussel volunteered to help update the regulations.

- Official Wetlands Map Update

The Town's wetlands map was last updated in 1976 and is out of date. Current technology makes it possible to incorporate a digital version of the wetlands map onto the Town's GIS mapping. J Budrow suggested that the Commission put forward RFP for a soil scientist to update the wetlands map. J Budrow will inquire into the cost to update the map. M. Furgueson suggested exploring whether a regional approach to updating the wetlands map would offer any economy of scale savings.

b. Chairperson - Fred Szufnarowski

F Szufnarowski referenced a November 22, 2019 letter from CT River Coastal Conservation District to N Needleman seeking support from the Town in FY 21. Brief discussion ensued. F Szufnarowski suggested that members look into it and further discuss at the January or February 2020 IWWC meeting.

F Szufnarowski shared photos of the bridge over the Falls River on Ivory Street and commented on a new type of dry hydrant installation that swivels into the water. F Szufnarowski spoke with former Fire Marshal, Paul Fazzino related to this installation. F Szufnarowski noted that this is considered a non-regulated activity and moving forward he would like the IWWC to work with the fire department to do it smarter so it remains functional. F Szufnarowski referenced a previous



installation of a dry hydrant at the pond adjacent to the former Middlesex Hospital Clinic on Route 153 in Essex that is no longer functional.

11. Adjournment

MOTION made by D. Lapman to adjourn at 8:14p.m. to the next regularly scheduled IWWC meeting to be held on Tuesday, January 14, 2019 at the Essex Town Hall, 2nd Floor Conference Room A, 29 West Avenue; **SECONDED** by E Cook; **Voting In Favor:** F Szufnarowski, D Lapman, A Roussel, E Cook, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.

Respectfully submitted,
Stella Caione, Recording Clerk

