



TOWN OF ESSEX
Inland Wetlands and Watercourses Commission

Officers
Michael Furgueson, Chairman
David Kirsch, Vice Chair

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Regular Members
Ernest Cook
Noreen Brennan-Rowe
Carolyn Field
Alternate Members
Lisa Krall
Kathleen Sullivan Sealey

September 12, 2023 Regular Meeting Minutes

Attending Members:	Absent Members:
Michael Furgueson, Chairman (Via Zoom)	
David Kirsch, Vice Chairman	
Ernest Cook	
Noreen Brennan-Rowe	
Carolyn Field	
Lisa Krall, Alternate	
Kathleen Sullivan Sealey, Alternate	

Staff:	
	Danielle Schumacher, Recording Clerk
	Carey Duques, Land Use Official
	Sylvia Rutkowska, Commission Attorney (Via Zoom)

Audience:	
	Frank Perrotti- 46 Main Street Ivoryton
	Larry Athay- 92 Ingham Hill Road Essex
	Sherry Athay- 92 Ingham Hill Road Essex
	Michael D'Occhio- 1 Johnnycake Lane Ivoryton
	Colette Harron- 21 River Road Essex
	Peter Harron- 21 River Road Essex
	Steven Schneider- 9 River Road Essex

1. Call to Order and Seating of Members

The meeting was called to order at 7:05 PM by Chairman Michael Furgueson.

Seated for the meeting were Chairman Michael Furgueson (via zoom), Vice Chairman David Kirsch, Ernest Cook, Noreen Brennan-Rowe, and Carolyn Field.

2. Approval of Minutes

a. August 8, 2023 Regular Meeting Minutes

MOTION made by E Cook to approve the minutes from the August 8, 2023 Regular Meeting with the following amendments:

- Page 3&4- Change September 12 to September 13
- Page 5- 2nd paragraph change bit to pit

SECONDED by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

3. Public Comment

No public comment.

4. Public Hearings

- a. **Cease and Desist Show Cause Hearing 46 Main Street and 1 Johnnycake Lane, Ivoryton**
Cutting of vegetation in a wetlands and filling of a stream with soil and removal of vegetation within 100 foot of a wetlands without a permit. *Property Owner: Spartan Associates, LLC and Michael and Kalyn D'Occhio (Continued from June 13, July 11, August 8, 2023)*

Frank Perotti, owner of 46 Main Street, spoke to the commission. He said that they have abandoned the attempt to use Angus MacDonald's office and have contracted with Gates Surveying. As of today, the wetlands flags have been field located. They have obtained the topography of the site and are currently drawing the map which should be in the hands of the engineers by the end of the week. They will be presenting the map with the remediation plan at the October meeting.

C Duques gave a brief overview of what has opened so far. She said that the work done without a permit was originally discovered in June of this year. The cease and desist was issued on June 13. Sedimentation and erosion controls were placed on the site and have been maintained. The stream does need some sort of restoration in terms of plantings and the course of the stream. It is critical that this happens as we are going into the no work period.

M Furgueson commented that the commission does have the ability to grant permission to work during that period based on the scope of the project. He said that he expects that the plan being submitted next month will be supported by some sort of expertise.

F Perotti said that he is working with a soil scientist along with reaching out to the Connecticut Invasive Plant Council.

C Duques said that they need written documentation from Mr. Sipperly on the flagging that was done.

M Furgueson asked if the commission wanted to continue or close the cease and desist.

C Duques asked if the commission would like to set a date that the plans need to be submitted by.

S Rutkowska said that she recommends a deadline for the filing of the application.

M Furgueson said that a deadline of Monday October 2, 2023 gives enough time to review and give feedback.

MOTION made by D Kirsch to modify the cease and desist for 46 Main Street and 1 Johnnycake Lane Ivoryton to include a deadline of October 2, 2023 for the submission of an expert planting and restoration plan; **SECONDED** by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

5. Unfinished Business/Action Items

- a. **Cease and Desist Show Cause Hearing 46 Main Street and 1 Johnnycake Lane, Ivoryton**
Cutting of vegetation in a wetlands and filling of a stream with soil and removal of vegetation

within 100 foot of a wetlands without a permit. *Property Owner: Spartan Associates, LLC and Michael and Kalyn D'Occhio (Continued from June 13, July 11, August 8, 2023)*

Addressed above.

- b. **IWWC Application 23-11 9 River Road Essex** Proposal to remove and treat the invasive plant Japanese Knotweed located within a wetlands *Property Owner: Anne Kingston and Steven Schneider (Continued from July 11 and August 8, 2023)*

Property owner Steven Schneider along with neighbors Colette and Peter Harron of 21 River Road were present at the meeting.

S Schneider said the application is for the treatment of Japanese Knotweed on about ½ acre of land. The work would be done by All Habitat using aquatic approved herbicides and hand trimming/mulching over a term of 3 years. Work would need to be done during the winter and they are hoping to start in September or October.

C Duques shared photos of the area saying that it has grown back significantly. It is about 90% knotweed from what she can see.

Steven explained mulching would be done by hand not machines. Spraying would be done by hand very carefully and they hope native vegetation would return on its own.

M Furgueson suggested that the commission should consider a longer period of time for the application in case there is lingering work associated. He recommended checking in with C Duques at certain points to give updates on how treatment is going.

MOTION made by N Brennan-Rowe based on the information presented in this application, the accompanying documents in the record, and on the testimony given at this meeting, 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 makes a Summary Ruling and grants a permit and gives permission for the applicant to proceed with the proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. In accordance with the Commission's Regulations section 11.8, the activity pursuant to said permit shall be for a period of 5 years from the permit's effective date with allowed activity occurring between March 15th and October 15th of the year of initiation.
2. The commission gives the applicant permission to continue activity during the No Work period between October 15 and March 15.
3. 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.
4. 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.
5. The applicant will intermittently check in with the Land Use Official and provide updates on the work being completed.

SECONDED by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- c. **IWWC Application 23-13 30 Bokum Road Essex** Proposal to install pond leveler to control water level and stop flooding from a beaver dam within a wetland. *Property Owner: LCS Essex Meadows (Continued from August 8, 2023)*

No one present to represent the application.

MOTION made by C Field based on the information presented in this application, the accompanying documents in the record, and on the testimony given at this meeting, 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 makes a Summary Ruling and grants a permit and gives permission for the applicant to proceed with the proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. In accordance with the Commission's Regulations section 11.8, the activity pursuant to said permit shall be for a period of 2 years from the permit's effective date with allowed activity occurring between March 15th and October 15th of the year of initiation.
2. Should the applicant determine that the permitted activity will not be completed between March 15th and October 15th of the year of initiation, the commission gives the applicant permission to continue activity during the No Work period between October 15 and March 15.
3. 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.
4. 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.

SECONDED by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- d. **IWWC Application 23-14 92 Ingham Hill Road Essex** Proposal to construct an addition on both sides of the home which is within 100 feet of a wetlands. *Property Owner: Lawrence and Sherri Athay (Continued from August 8, 2023)*

Property owners Lawrence "Larry" and Sherry Athay were present at the meeting.

C Duques said that she went out to the property today and identified where the silt fence would need to be installed (as close as possible to the construction area). She spoke to the property owner about proper installation which includes digging a trench and keying in the fence.

MOTION made by N Brennan-Rowe based on the information presented in this application, the accompanying documents in the record, and on the testimony given at this meeting, 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 makes a Summary Ruling and grants a permit and gives permission for the applicant to proceed with the proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. In accordance with the Commission's Regulations section 11.8, the activity pursuant to said permit shall be for a period of 2 years from the permit's effective date with allowed activity occurring between March 15th and October 15th of the year of initiation.
2. The commission gives the applicant permission to continue activity during the No Work period between October 15 and March 15.
3. 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.
4. 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.
5. Silt fence will be installed under the guidance of the Land Use Official.

SECONDED by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- e. **IWWC Modification of Application 23-12 8 Heron Pond Road Essex** Request to work beyond October 15, outside of the permitted work time.

C Duques said that this application was before the commission at the last meeting and the commission had authorized her as the agent to take action. The October 15 work deadline is fast approaching, and the applicants are requesting to work inside of the no work period.

MOTION made by D Kirsch to grant permission to continue activity during the No Work period between October 15 and March 15; **SECONDED** by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

6. Receipt of Applications/New Business

C Duques said that an application came in on September 8th for a new single-family home at 21 Herron Pond Road. There is a conservation easement at the rear of the property held by the Land Trust. Some of the proposed work would be done in the 100-foot upland review area.

MOTION made by D Kirsch to receive IWWC Application 23-15 21 Heron Pond Road, Essex and discussed the application at the October 10, 2023 meeting; **SECONDED** by C Field; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

7. Section 12 Action by Duly Authorized Agent

- a. **IWWC Application 23-12 8 Heron Pond Road Essex**
Agent approved.

8. Other Business

- a. **Discussion on GIS wetlands mapping**

C Duques that this is a project started by Joe Budrow who was her predecessor. They need to take the time to go through the wetlands maps parcel by parcel and scan to send to Map Geo. The goal is to start up the project again and figure out where we have left off.

N Brennan-Rowe asked about the brochure and poster previously discussed.

C Duques said that she would circulate them so they can be discussed at the next meeting.

9. Correspondence and Invoices

None

10. Reports:

a. Wetlands Official

C Duques said that the River Road sidewalk project is underway. She is going to talk to R Doane and Ryan tomorrow to make sure that the erosion and sedimentation controls are in place. Additional work is being done at the southern side of the bridge to repair erosion of the concrete wing-wall.

b. Update on Open Permits - Discussion on referrals

None

c. Chairperson

None

11. Update from Attorney Regarding Pending Litigation

S Rutkowska said that they are working on the brief.

12. Adjournment

MOTION made by D Kirsch to adjourn the meeting at 8:34 PM; **SECONDED** by N Brennan-Rowe;

Voting in Favor: M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, C Field; **Opposed:** None;

Abstaining: None; **Approved:** 5/0/0; **Discussion:** No Discussion

Respectfully Submitted,

Danielle Schumacher