



TOWN OF ESSEX
Inland Wetlands and Watercourses Commission

Executive Committee
Fred Szufnarowski, Chairman
Andre Roussel, Vice Chair

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Regular Members
Ernest Cook
Michael Furgueson

Alternate Members
David Kirsch
Noreen Brennan- Rowe

Minutes- April 12, 2022 Regular Meeting

1. Call to Order and Seating of Members

The Essex Inland Wetlands and Watercourse Commission (EIWWC) conducted their regularly scheduled meeting on Tuesday April 12, 2022 at 7:00 p.m. The meeting was held both in person and via Zoom (link was provided to the public on the Town of Essex website).

EIWWC Chairman Fred Szufnarowski was chair and welcomed members of the public to the April 12, 2022 Essex Inland Wetlands and Watercourse Commission meeting. The Inland Wetlands and Watercourse Commission members and attendees announced themselves. Attendees from the public were asked to please identify themselves for the record prior to making any comments.

Attending Members:

Fred Szufnarowski-Chairman (via Zoom)
David-Kirsch-Alternate
Ernest Cook-Secretary
Noreen Brennan-Rowe-Alternate (via Zoom)
Michael Furgueson

Absent Members:

Andre Roussel- Vice Chair

Staff:

Danielle Sanso- Recording Clerk
Carey Duques- Land Use Official
Robert Doane Jr., P.E.- Wetlands Enforcement Officer

Audience: Sylvia Rutkowska- Attorney representing the EIWWC (via Zoom)

Matt Padelli – 18 Rosewood Lane Applicant
Jens Hupkau- 25 Heron Pond Applicant
Deborah Jimenez - 17 Main Street Applicant
Angela Cole- Representing 17 Main Street Applicant
Patricia Hurley- 15 Main Street
John Mikstay- 13 Main Street



The meeting was called to order at 7:00 by Chairman Fred Szufnarowski. Commission members F Szufnarowski, M Furgueson, E Cook, D Kirsch (Alternate), and N Brennan-Rowe (Alternate) were seated.

1. Approval of March 8, 2022 Regular Meeting Minutes

MOTION made by E Cook to approve the March 8, 2022 regular meeting minutes with the following amendments; Page 3 section 8 change “title” to “tidal”; **SECONDED** by D Kirsch; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

2. Public Comment

C Duques reported that there is a resident who was not able to come right at 7:00 that is interested in the 17 Main Street application. They had some questions and concerns about the willow tree at that location.

MOTION made by M Furgueson to move the public comment section to later in the meeting along with the update from the attorney; **SECONDED** by N Brennan-Rowe; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

3. Public Hearings

a. **Application No. 22-03- 25 Heron Pond Rd.** Application to remediate wetlands area that had been dammed with debris, stone, soils, etc. *Applicant/Owner: Jens Hupkau*

C Duques reported that applicant Jens Hupkau was not yet signed onto the Zoom call.

MOTION made by M Furgueson to move the public hearing to later in the meeting; **SECONDED** by E Cook; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

4. Receipt of Applications/New Business

a. **Application No. 22-04- 18 Rosewood Lane, Ivoryton** Proposal to install an above ground pool to be located within 100 feet of a wetlands. *Applicant/Owner: Matthew and Stacie Padelli*

Applicant Matthew Padelli was present for the meeting and explained the proposed project to the Commission. The application is for the installation of a 15' X 30' above ground pool in the open space that is currently grass in front of the house. The area faces the wood line and they will not be disturbing the natural vegetation. Once the pool is installed more natural vegetation will be planted. River rock will be installed around the pool to prevent any erosion. They would like to install a deck on the side of the pool.

Commission members reviewed the site plan that was provided.

C Duques said the closest the pool would be to the wetlands is approximately 26 feet.



R Doane said that he is familiar with the site and that this location for the pool makes sense. The stone wall is actually a retaining wall, which is approx. 4-feet-tall. The area towards the wetlands has been planted and he and C Duques had made sure the landscape plan has been implemented. He thinks most of the property is within the 100 foot upland review area.

D Kirsch asked if we need to worry about where the backwash water from the pool will go.

R Doane responded there is a recommendation for a condition to not allow emptying of pool water into the wetlands. He said there should be a designated area where the pool water should be drained to, perhaps containing river rock. He asked for clarification from the applicant.

The applicant responded that he was not familiar with the procedure.

M Furgueson commented on flushing of the filter and lowering the water level to winterize. He asked if the rock around the pool would be enough.

F Szufnarowski asked if R Doane would be willing to help the applicant with this.

R Doane asked the applicant for information from the pool company on the maintenance (including filter backwash, etc). The applicant said that he would be in contact with them to get this information.

C Duques commented that the property is mainly in the review area and the applicants are very aware of the wetlands due to past projects that they have completed.

R Doane said erosion and sedimentation controls such as silt fencing may be required during construction.

MOTION made by M Furgueson to schedule Application No. 22-04- 18 Rosewood Lane, Ivoryton for the May 10, 2022 regular meeting. Per Section 7 of the Inland Wetlands and Watercourses Regulations: based on the information presented in this application and the accompanying documents, and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity and does not appear to have a significant impact or major effect, as defined in Section 2.2 of the regulations on a wetlands or watercourse.

SECONDED by E Cook; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0.

Discussion: No Discussion

5. Public Hearing

IWWC Application No. 22-03- 25 Heron Pond Rd. Application to remediate wetlands area that had been dammed with debris, stone, soils, etc. *Applicant/Owner: Jens Hupkau.*

F Szufnarowski read the information about the application to the Commission. He reported that events that have transpired since the last meeting and that the Land Use Official and Wetlands Enforcement Officer would update the IWWC on the current status.



C Duques started by saying the Commission had received the application at the March meeting. The application was for remediation of wetlands to correct work that had been completed without a permit. The work had been brought to the Commission's attention by the Essex Land Trust. The unpermitted work including damming up the stream with various debris and creation of a path over the stream. The main focus is to remediate the wetlands and return the stream back to its original state. The Commission had been in contact with their Attorney to talk about whether or not they needed to pursue a cease and desist or cease and correct.

Immediately after the March meeting R Snarski went out to the property because they were concerned that amphibians would be laying eggs in the area. He did not find evidence of eggs at the time but recommended the dam be removed as soon as possible.

The property owner was willing to remove the dam (earthen material) and completed the work over a weekend. C Duques and R Doane inspected the area the following Wednesday. The stream is flowing, and all material has been properly disposed of.

C Duques said that upon completion the Essex Land Trust was notified and went out for a site inspection. They initially had concerns but upon seeing the work that was done they no longer had concerns. C Duques said that she followed up with B Nussbaum from the land trust and he does not feel any additional work is needed.

R Doane added that he would like to point out that everything was resolved within 2 weeks. He said the R Snarski billed for an hour of work which is approximately \$140. He asked if the Commission absorbs that cost or does the applicant pay for it.

Jens said that he thinks that C Duques did a good job summarizing the situation. A lot of the debris was washed down during the 2 big rainstorms last year (which contributed to the blockage). When cleaning up the property he moved the dam not realizing the implications of this process. C Duques shared information about the rules that he had not known before. They were able to clear the blockage and restore the area to what it was before or better.

C Duques read a letter from B Nussbaum into the record (exhibit 1) dated March 30, 2022.

MOTION made by D Kirsch to close the public hearing for Application No. 22-03- 25 Heron Pond Rd; **SECONDED** by M Furgueson; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

6. Old Business/Action Items

a. **IWWC Application No. 22-03- 25 Heron Pond Rd.** Application to remediate wetlands area that had been dammed with debris, stone, soils, etc. *Applicant/Owner: Jens Hupkau*

F Szufnarowski said that the commission would be issuing an after-the-fact permit for all of the activity done in a regulated area.

MOTION made by M Furgueson:



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 completed activity is a regulated activity an after-the-fact involving a significant 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 an after the fact 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:

- The property owner will reimburse the Town of Essex for fees incurred from the Soil Scientist in relation to this application, not to exceed \$200.

SECONDED by N Brennan-Rowe; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

7. Public Comment

Patricia Hurley of 15 Main Street Ivoryton was present at the meeting. She said that her property abuts #17 Main Street Ivoryton and the tree in contention is partly on her property. Deborah had indicated that she wanted to remove dead trees at the waterside but she has current photos of the tree and that it is not dead. There are 2 trees with trunks on her property that have a branch leaning onto Deborah's property. She would like to have the trees looked at by the Tree Warden to see what can be saved and what can't be. She said that it is a beautiful natural habitat for nesting birds but is willing to sacrifice any part of the tree that isn't viable. She is concerned about the ecology of that area.

John Mikstay of 13 Main Street spoke next. He said that there are two trees and they are curious what they want to remove. The tree is all alive and there are beavers that use it and are chewing on it. He said that in Patty's part of the tree that crosses from east to west there is some new woodpecker activity that wasn't there in the last few years. There is another tree that crosses from west to east that is all on Deborah's property with branches and debris that beavers have chewed. There is a new beaver lodge about 50 feet out into the water. He recommends that whoever does the tree work is very careful not to disturb the habitat.

8. Receipt of Applications/New Business

- a. **Application No. 22-05- 17 Main Street Ivoryton** Proposal to remove dead trees located at the edge of Falls River. *Applicant/Owner: Deborah L. Jimenez*

F Szufnarowski read the information for the application to the Commission.

Angela Cole was present to represent the applicant along with applicant Deborah Jimenez.

Angela Cole spoke saying that several months ago they contacted the Commission about the removal of trees. There are branches coming down in the water and they are a danger to anyone down there. The proposal is to completely take out the tree that is completely on Debbie's property and at a minimum get the branches out of the water from the other one. She said new beaver activity over the winter is making the branches even more precarious.



C Duques passed out a GIS image of the property and the location of the Willows that are proposed to be removed. She said the trunk appears to be on 15 Main Street's property. There are 2 trees, one that is leaning over from 15 onto 17 where there is a lot of dead wood and material. She passed around photos of the property. She said most of the trunk is on the neighbor's property with branches falling over onto the applicant's property. The shoreline is essentially not usable with all of the limbs down. She said that she tried to contact the Tree Warden to find viability of the tree.

M Furgueson asked R Doane about his knowledge of trees and foliage along a riverbank or pond.

R Doane said that after his initial site visit, he felt that limbs could be cut but that both stumps should not be removed. He said the root structure in willows is extensive and that when you cut off the stump it continues to sprout. It is important to leave the stump there to stabilize the bank, there is not a lot of water rushing by but there is some.

M Furgueson commented that even if you cut it back that this type of tree this would not be the death of the tree.

F Szufnarowski stated that typically if you are going to be doing work and it involves your neighbors you would include a letter from them agreeing to the work. This creates an awkward position because the Commission does not deal with enforcing property issues. He said a site walk might be of interest with the tree warden included. E Cook agreed.

MOTION made by E Cook to schedule a site walk for April 26, 2022 at 5:00 with the Tree Warden; **SECONDED** by M Furgueson; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

MOTION made by N Brennan-Rowe to schedule Application No. 22-05- 17 Main Street Ivoryton for the May 10, 2022 regular meeting.

- Per section 7 of the Inland Wetlands and Watercourses regulations: based on the information presented in this application and the accompanying documents, and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity and does not appear to have a significant impact or major effect, as defined in Section 2.2 of the regulations on a wetlands or watercourse.

SECONDED by E Cook; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

9. Executive Session

MOTION made by D Kirsch to enter Executive Session at 8:32 p.m.; **SECONDED** by M Furgueson; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion



MOTION made by E Cook to end the Executive Session at 9:04 p.m.; **SECONDED** by M Furgueson; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

10. Section 12 Action by Duly Authorized Agent

None

11. Other Business

a. Board Elections

F Szufnarowski started by saying that at December meeting he proposed keeping the current slate of officers until April. He said that A Roussel has made it clear that he would like to step down from his position of Vice Chair and would like to be an alternate member.

F Szufnarowski said that he has been Chairman for well over 5 years the Commission has made a lot of progress. He said that as early as the December elections he would like to have a new Chair and that he will serve out his term as a regular member. M Furgueson has expressed an interest and has been taking courses. He would like to nominate him to serve out as Vice Chair and that at the December elections he would be good nominee for Chair.

MOTION made by F Szufnarowski to nominate M Furgueson as Vice Chair; **SECONDED** by E Cook; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

12. Correspondence and Invoices

None

13. Reports:

a. Land Use Official

C Duques reported that at the 95 Plains Road project they would like to remove the section of the woodchip berm from Westbrook Road to the silt fence. This is in the upland review area and the purpose would be to seed it more evenly without a big wall breaking up the 2 areas. She said the need for the berm has been alleviated by the work that has already been completed and that it would be seeded with R Snarski’s wetland wildflower mix.

b. Wetlands Enforcement Officer

R Doane said that he and C Duques had met with Pete Decker at the Witch Hazel building regarding doing work in the wetland area you can see from Main Street. He wants to clean the area out as it is full of sediment and the outlet structure needs some work. This is essentially a restoration, and he has hired R Snarski. They will be coming in with a full application for the restoration and for the repair of outlet structure. The work would be outside of the contaminated area not inside the ELUR (perpetual easement).

He also said that they were supposed to do soil testing on the Foster Lane project, but he has not been advised that they have done any.

c. Chairperson



F Szufnarowski said that he would like to thank M Furgueson for stepping up to the Vice Chair role and all the Commissioners for doing a good job. He said that this is the strongest Commission as far as knowing the process and regulations. He said that he had picked up a copy of Roberts Rules of Order dealing with parliamentary procedures. He would like to implement some specific practices asked about purchasing copies for everyone. C Duques said she would look into it.

14. Adjournment

MOTION made by M Furgueson to adjourn the meeting at 9:32 until the next regularly scheduled EIWWC meeting to be held on Tuesday May 10, 2022 at the Essex Town Hall, 2nd Floor Conference Room A, 29 West Avenue (alternate location via teleconference); **SECONDED** by D Kirsch; **Voting In Favor:** F Szufnarowski, E Cook, M Furgueson, N Brennan-Rowe, D Kirsch; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No Discussion

Respectfully Submitted,



Danielle Sanso
Recording Clerk

