



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 Kirsh  
Noreen Brennan- Rowe

**Minutes- February 8, 2022 Regular Meeting**

**1. Call to Order and Seating of Members**

The Essex Inland Wetlands and Watercourses Commission (IWWC) conducted their regularly scheduled meeting on Tuesday February 8, 2022 at 7:00 p.m. The meeting was held via Zoom and the link was provided to the public on the Town of Essex website.

EIWWC Chairman F Szufnarowski welcomed members of the public to the February 8, 2022 Essex IWWC meeting. The IWWC 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  
Andre Roussel- Vice Chair  
Michael Furgueson  
David Kirsh-Alternate  
Ernest Cook-Secretary  
Noreen Brennan-Rowe- Alternate

**Absent Members:**

None

**Staff:**

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

**Audience:**

Ariel Crohn- Applicant 46 Book Hill Rd  
Bob Nussbaum- Essex Land Trust  
Rich Snarski- Wetland Scientist, representing 95 Plains Road  
Jens Hupkau- Applicant 25 Heron Pond Rd

The meeting was called to order at 7:00 PM by Chairman F Szufnarowski. Commission members F Szufnarowski, A Roussel, M Furgueson, E Cook, and D Kirsh (alternate) were seated for the meeting.

**2. Approval of Minutes**

A. January 11, 2021 Regular Meeting Minutes

**MOTION** made by A Roussel to approve the January 11, 2022 regular meeting minutes with the following amendments; Page 3, first paragraph second sentence should read C Duques replied that it had not and that she should share it **tomorrow** with Fred DeCrescentis who is the



president. Eighth paragraph word “**state**” should be capitalized; Page 4, first paragraph sixth sentence should read “As of today they **added** areas off of the property and **are** trying....” Seventh sentence should read “This area is relatively flat and a larger rain garden **could be put** there. Eighth sentence should read As for the other items on R Doane’s review, he said **that the applicant** had submitted a response letter that stated that **the applicant** has addressed.... Fourth paragraph 2. Should read **Hay bales should be on downhill side of silt fence; this is not indicated on the plan.** Seventh paragraph should start **G Fedus** said that they will.... Eighth paragraph should read G Fedus said that R Doane and **he** have a difference of opinions on what ratio of crushed stone and sand/soil mixes **is appropriate**; Page 5, First paragraph second sentence should read R Doane commented that 30% **ratio** is ok. Fourth paragraph second sentence add a comma after Nathaniel. Sixth paragraph should read as follows **He said that he is concerned about the actual watershed going to the rain gardens because the watershed extends beyond the property lines and the watershed used in the calculations stopped at the property lines. The larger watershed will overwhelm the rain gardens, and this is what we had been working on. When he realized that this watershed was computed to the property boundary line, he checked the watershed to the stream crossing and that watershed also was stopped at the property line when it actually extends and includes a pond and the contributing area. The additional drainage area for the stream crossing must be included in the calculations.** Eighth paragraph first sentence should read R Doane said that he and C Duques went up **to the pond above the property** and looked... Tenth paragraph delete “make the”; Page 6 Fourth paragraph second sentence should read They had come up with **a flow of 3 CFS** (Cubic Feet Per Second) in the pipe analysis. **The pipe has** a capacity of...; Page 7 paragraph 2 second sentence should read If ledge isn’t **encountered, there will be a man-made** retaining wall. Fourth paragraph should read M Furgueson **stated that what he hears** A Roussel saying is that here are technical engineering issues **outstanding** but we have an applicant.... Paragraph eight should read F Szufnarowski asked **for** a motion to...; Page 8 Paragraph ten should read 8. The permit includes **assessment by WEO** of additional work in the upland area **including the diversion of water coming from adjacent properties.**; Page 9 First paragraph second sentence should read He asked if they could continue **the application** and C Duques... Second paragraph second sentence should read He said **he anticipates proposing** some conditions that are a little unusual given what **he** saw on the site walk. Sixth paragraph second sentence should read He said there was a lot of ambiguity about the trees **within the wetlands area**, especially the ones along Plains Road. Third sentence **He stated that** he heard **two** different... Tenth paragraph second sentence should read ...federal government as a perfect **plant** for tougher places and replacing it with **other native** plants. When **he** got there... Fourth sentence ...increase diversity was **not initially apparent to him**; Page 10 First paragraph first sentence He said that N Needleman was there **during the site walk** and made... Second sentence should read He thinks that everyone would look at it and agree that the invasives **are** pulling down the native growth. Second paragraph first sentence should start He was surprised that **the wetlands are** as small...Fifth sentence should read He said the reason he wanted to **make these statements now** was so that...Third paragraph second sentence ...within a year he would **expect** it would turn into lawn and weeds eventually. Sixth paragraph second sentence should read We need to make sure the right **inferences** are being drawn.... Eighth paragraph second sentence ...highway method **then** it is reasonable to go forward on it. Ninth paragraph first sentence should read ...wildlife habitat) **or** if it is purely for the property owner’s whim, we would be hard pressed not to deny **such application**. Page 11 second paragraph first sentence should read F Szufnarowski said that **another function of the wetland site** is water conveyance. Second sentence should read He said **the IWWC looks** at function and values and **determines if it** is positive for the site. Tenth paragraph third sentence He has worked with us **first** as an alternate and **then a** very active member...



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

### 3. Public Comment

Applicant J Hupkau from 25 Heron Pond Road was present for the meeting. C Duques stated that this is in regards to a violation that she had spoken to R Doane and R Nussbaum about.

J Hupkau reported that he had talked to C Duques this afternoon and had submitted the draft paperwork as well as dropped off a final copy in the mailbox at the Town Hall this evening. He said that they had discussed removing the blockage to restore the flow of the water to the way it was before the waterway had been dammed. Mr. Hupkau stated that it is a relatively minor amount of work and upon approval work would be done sometime in the Spring.

A Roussel said that it seems like it would be appropriate to receive copies of the application and talk about it at the March meeting once they had all of the artifacts in front of them.

F Szufnarowski asked if the application could be received tonight and then talked about at the March 8<sup>th</sup> meeting. C Duques reported that she does not have the physical copy of the application and only has a draft version. She will put it on the agenda to receive at the March 8<sup>th</sup> meeting so she can review the application that was submitted in the mailbox. She will provide comments for the March meeting.

A Roussel commented that because it was a restoration, he didn't think it would have to go through two meetings. It would go back to R Doane and her to supervise. He said they should get the information out to everyone and at the next meeting follow the appropriate path. It would either be a restoration that doesn't require a normal permit, or they may be able to act on it right away. He stated that restorations are different than someone proposing changing a wetland or upland review area, and that Land Use could verify with Counsel if needed.

### 4. Update from Attorney Regarding Pending Litigation

C Duques reported that she had talked to the attorney and had sent an email with confidential information to the Commission members. This means that they would not be able to discuss the information without going into executive session, and at this point, there was nothing further to add beyond what had been distributed.

### 5. Public Hearings

None scheduled

### 6. Old Business/Action Items

- A. **Application No. 21-21- 95 Plains Road, Essex.** Proposal for wetlands remediation of invasive species and improvement plantings in uplands and wetlands. *Applicant: Dan Needleman*  
*Applicant/Owner: Plains Road Essex, LLC (Received December 14, 2021; Site walk scheduled for January 7, 2022; Discussion continued to January 11, 2022)*

N Brennan-Rowe read the details of the application to the members of the Commission.

Wetland Scientist R Snarski was in attendance to represent the applicant. C Duques shared her screen with the plans for the site.

A Roussel thanked R Snarski for attending and hosting the Commission at the site walk along with N Needleman and D Needleman. He stated that at the site walk R Snarski commented that trees over 4 inches would not be removed. N Needleman, who had arrived after the start of the site walk, made the remark that all of the trees along the road were going to come down. He said



the trees that N Needleman had pointed to (mature trees) were along the side of the road and weren't actually in the wetland. He pointed at two that were damaged in the setback from the road that the State highway department manages.

R Snarski said that in his report he was referring to the red maple trees that are in the wetland and also in the meadow area. He said he did not refer to the trees that they had been discussing.

A Roussel said that because they were not actually in the wetlands as long as erosion controls are in place to protect the resource the work was reasonable. He said that two of the trees were very damaged, likely due to storms.

A Roussel went on to ask about the trees retained in the wetlands and if that was determined by stump diameter or DBH (Diameter at Breast Height).

R Snarski stated that it was DBH. He said that he was recommending that they cut out all of the Speckled Alder.

F Szufnarowski asked for confirmation that trees greater than 4 inches in the wetland would remain.

R Snarski said yes other than a few of the Speckled Alder.

A Roussel went on to say regarding the meadow the plan identified that they would remove the vegetation and pull out the roots so that they won't regenerate. He said that D Needleman had made the remark that after seeding he would mow it twice a year..

R Snarski said no. He had not put in his report which he should have that it gets mowed in September when the plants develop seed for reseeding. He said you want the seeds to be ripe and developed before you chop it up.

A Roussel said from a habitat point of view if you mow it twice a year it is just going to turn into lawn. The wetlands are much smaller than he had originally thought. He said if you wanted to develop a wetland habitat area this wouldn't be the place you would choose to do it; at an intersection of two busy roads being fed by street runoff. In terms of wetland value, using the US Highway Method, it really comes down to aesthetics at the primary value and conveyance of water. R. Snarski agreed.

He went on to say that if this wetland were at the very back of someone's property adjacent to timbered area, he wouldn't be in favor of cutting down Speckled Alder. It is a native species that is recommended by the USDA to stabilize a wetland. In this location the invasive species are pulling it down. He sees why the property owner wants it out and wants that area cut back. When he read R Snarski's report initially it appeared that he was calling for the removal of vegetation so that diversity could be created. He said that there is a fair amount of diversity in the wetland already and that it is a tiny little wetland for diversity to be a concern. What he had heard from N Needleman was that he wants to clean it up because it is a gateway to the Town, so it is really about aesthetics.

R Snarski said when he originally went to the property and looked at the wetlands he found there was very little herbaceous plant diversity because everything was being shaded out by the Speckled Alder. He said that he proposed to N Needleman that they replant the area with native flowering, aesthetically pleasing shrubs and a wildflower meadow for pollinators.



A Roussel said to recap the work is as much for aesthetics as anything in terms of remediation. The wetland is at the intersection of two busy roads receiving surface runoff from streets. It is not as though it is a critical habitat.

R Snarski said as far as the wetland function and values, using the Highway Methodology, it would rank low on pretty much all of the wetland functions. This is because of its size, that fact that there are roads on two sides, and that the wildlife habitat value is low.

A Roussel commented that when the project is complete the wetland would have a marginally higher value because of the diversity. He said that R Snarski had noted a 2-year review, submitting a report once a year. He does not think that the reports would necessarily have to go beyond 2 years, but he would think that the permit should go to 5 years. It would take multiple years for the plantings to establish and any maintenance or repairs to take hold.

A Roussel went on to say that this is a very visible site that a lot of people drive by. Other owners of wetlands might believe it is ok to go into the upland review area or wetland with equipment and level it. It is not the impression we want to leave on other property owners in the Town. He said he had a conversation with N Needleman and asked him about putting up a visible sign that said "Wetland Remediation in Progress".

R Snarski said that this project is not turning the wetland into a lawn. It will be a pollinator meadow that will also be aesthetically pleasing. He said a lot of work went into developing and creating the seed mix for planting.

A Roussel commented that R Snarski is a trusted voice and a resource for property owners in the Town. He said that N Needleman agreed to put a sign up. R Snarski said it would be nice to have a sign that explained what the wildflower meadow as part of a pollinator pathway is about.

F Szufnarowski asked about having monitoring report every year for a 5 year period and when the best time of the year to do this would be.

R Snarski said he would be going out probably in August to inventory all the species (both native and planted) and seeing how the shrubs survived. He would also be inventorying the native species that grew on their own as well as following up on exotic and invasive species. The report will address all these things and will include photographs and recommendations for any remedial measures.

F Szufnarowski asked when the best time to complete the remedial measures would be.

R Snarski replied that he goes by the site once or twice a week and if there was a problem he could bring it up to N Needleman, property owner.

R Doane said that the time of year would depend on what the repair was.

R Snarski said that he could complete the report earlier but some wildflowers would not have bloomed yet. He will aim for a report in July.

A Roussel asked if the report would be going to C Duques as the wetlands officer on this project and she responded yes.

**MOTION** made by A Roussel to approve application 21-21 for 95 Plains Road and issue a 5-year permit. 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 the 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 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation.
2. Should the applicant determine that the permitted activity will not be completed between March 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation, and subsequent years, the applicant agrees to appear before the Commission prior to October 15th and present a plan for the stabilization of the site during the months of no activity.
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. Trees along the immediate roadway are approved to be removed and trees in the wetlands 4 inches DBH or larger are not to be removed
6. Mowing plan shall be described by the wetland scientist; Mowing will occur once a year in September after the flower seeds have matured
7. Wetland Scientist will submit a report every August for 5 years and the owner shall take any remediation steps necessary for the plan to comply with the approved design planting plan
8. At the start of the work to be done, a sign will be placed at the intersection of Westbrook Road and Plains Road/Rt 153 facing the street that explains wetlands remediation in progress to show that this is a managed and approved project, final wording to be approved by Land Use Official. Upon completion of construction activity the owner shall be allowed to replace the sign with a new sign describing the pollinator garden and its environmental benefits.

**SECONDED** by M Furgueson; **Voting in Favor:** A Roussel, E Cook, D Kirsch, F Szufnarowski, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

#### **7. Receipt of Applications/New Business**

- A. **Application No. 22-01- 46 Book Hill Road, Essex.** Proposal to remove invasive Japanese Barberry along property line in upland review area and along wetlands boundary line.  
*Applicant/Owner: Ariel Crohn*

N Brennan-Rowe read the details of the application to the Commission.

Applicant A Crohn was present for the meeting. She said that they had purchased the property 3 years ago and have slowly been rehabilitating the 3.5 acres. The application is to remove the line of Japanese Barberry that runs along the back of the yard that abuts a stream. They want to be very thoughtful and are bringing it to the Commission to better understand the appropriate way to remove this invasive species.

F Szufnarowski remarked that the Commission appreciates that. He asked the other Commissioners if they had any questions.



A Roussel commented that according to the regulations that were just updated, the removal of standing dead trees and invasive vegetation is allowed in the upland review area provided that no stump removal or surface degradation occurs. This means that a certain amount of this is allowed. The Commission does have an interest since there is a stream nearby.

F Szufnarowski said that we have a cooperative applicant and as A Roussel had pointed out the applicant could have proceeded with the work without an application. To help move this along and expedite things he asked if the Commission would be comfortable having the Land Use Official handle the application. All Commission members agreed.

**MOTION** made by M Furgueson for the Essex Inland Wetlands and Watercourses Commission to allow our wetlands agent to handle Application No. 22-01 46 Book Hill Road. **SECONDED** by E Cook; **Voting in Favor:** A Roussel, E Cook, D Kirsch, F Szufnarowski, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

## 8. Section 12 Action by Duly Authorized Agent

C Duques said that she did have one item and asked for a motion to amend the agenda and add the application for Edgewood Avenue.

**MOTION** made by M Furgueson to add application 22-02 Edgewood Avenue to the agenda. **SECONDED** by E Cook; **Voting in Favor:** A Roussel, E Cook, D Kirsch, F Szufnarowski, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

C Duques shared her screen with the application and plans for Edgewood Avenue. She said that they had previously talked about the application in concept. She asked the Commission if they would allow her to handle it as the Duly Authorized Agent. The application is for a new single-family home at Edgewood Avenue that includes construction of a well and associated water and electrical services within 60 feet of the wetlands. She said that it was clearly a small lot and there would be minimal disturbance with erosion and sedimentation controls in place.

**MOTION** made by A Roussel for the Essex Inland Wetlands and Watercourses Commission to allow our wetlands agent to handle Application No. 22-02 Edgewood Avenue. **SECONDED** by E Cook; **Voting in Favor:** A Roussel, E Cook, D Kirsch, F Szufnarowski, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

## 9. Other Business

### A. DEEP Permit Application for pesticides at 1 Teal Lane

C Duques said that this is more for the Commission's information. It something that is handled by DEEP and outside the Commission's jurisdiction.

### B. Millrace Parking Area proposed project

C Duques shared screen with the plan. She said the purpose is for discussion to let them know that this is coming and to see if there were any immediate concerns that needed to be addressed in the application. The plan is to have a completed application to the Commission by the next meeting. At the intersection of Walnut and Main Street in Ivoryton there is a plan to have a parking area. It is her understanding that people currently park along the side of the street which creates a traffic issue. It is also not a safe spot. She said it will include a pull in area with 3 parking spots with one being a handicap spot. This would need to come before the Commission because of close proximity to the river.



E Cook asked if they would be putting in a curb cut.

R Doane said that he believes that they are going to put in a curb cut but that is subject to the grading established on the downgrade side of the sidewalk. He does not know if they will have to change it or not.

N Brennan-Rowe commented that it seems dangerous especially at night.

R Doane said that fortunately the area is closed at night. He said the problem is when people park on the street sometimes they overlap the sidewalk. He said that the grades work pretty well in this particular area. He said they would look at the lawn area and, if possible, move the proposed parking area it to a wider spot.

B Nussbaum said that there are a series of utility poles not shown on the map that need to be taken into consideration.

R Doane said that he will take all of these points into consideration and they will be back in a month. He said he will be representing the Town as the Town Engineer.

## 10. Correspondence and Invoices

### A. Invoices from Nathan Jacobson Re: Bokum Road

C Duques said that their packet included copies of 3 invoices from Nathan Jacobson Engineering. This was the third-party engineering firm that reviewed the project on Bokum Road. This is all of the invoices that will have received and will be passed along to applicant and property owner to pay that fee. She said that the current regulations call out a 150% fee revised (this is 100% of the cost plus an additional 50%). The revised regulations say cost plus 10% for outside consulting.

F Szufnarowski asked if we release the 10% when the project is complete or if it is a permanent charge.

C Duques said that from her understanding it would be a permanent charge because in the regulations it stated that it would cover any additional costs. She said it is best to be consistent and she does not know what was done in the past. She said this was different as they had not collected the fee ahead of time and did not get an estimate. The Town has paid the invoices and now needs to recoup the costs. In an ideal situation we would ask for 110% to have that wiggle room and that we might return some money if the Commission was amendable to just covering costs of the engineering firm.

F Szufnarowski said that the Town has already paid these invoices. Based on his experience with consulting work, when there are third party charges, typically they are marked up 10%. M Furgueson concurred.

**MOTION** made by M Furgueson to ensure that the Town marks up all external consulting fees that the IWWC incurs in relation to an application by 10%, that markup is not refundable **SECONDED** by E Cook; **Voting in Favor:** A Roussel, E Cook, D Kirsch, F Szufnarowski, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

**MOTION** made by A Roussel to approve the three invoices from Nathan Jacobson Engineering to be charged to the property owner/applicant for the Bokum Road project for the cost of the engineering services plus a non-refundable markup of 10% **SECONDED** by E Cook; **Voting in Favor:** A Roussel, E



Cook, D Kirsch, F Szufnarowski, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0;  
**Discussion:** No Discussion

## 11. **Reports:**

### A. **Wetlands Official**

#### a. Update on Open Permits

R Doane reported that he received a revised drainage area map from G Fedus for the 3 Foster Lane project. He is working with G Fedus following the conditions of the permit and that they are trying to get a final design for the site. He said that other permits are fairly inactive right now.

#### b. Review of the Revised Wetlands Application

C Duques reviewed the existing application and the revised application. The intent of the revised application is to breakout the request relating to the proposed impact to the wetlands and upland review area. She informed the Commission the fee schedule has to be approved by Board of Selectmen and she is hoping it will be discussed at their meeting on February 16. She said that the application form itself can be modified by the Commission. She is open to edits on the revised applications.

F Szufnarowski ask if this could be approved at the March 8 meeting. C Duques said yes.

R Doane asked if the application mentions the requirements of the state reporting form.

C Duques said no that that was good catch and she will add it. She said she will send the draft around and let everyone look at it.

F Szufnarowski asked if it was worth attaching the state form. C Duques said yes.

F Szufnarowski asked about the fee schedule and said that there was a question about the public hearing fee. He asked if other towns do this.

C Duques said that some do, and it was in our original fee structure. With the increase in fees, there's a question if a public hearing charge is needed.

### B. **Chairperson**

F Szufnarowski said that we have a proclamation from our Selectmen stating all of the things that D Lapman did for the Town and thanking him. The Selectmen are going to sign and approve it. It is up to the Commission to present it to D Lapman at our next meeting (depending on COVID situation either in person or online).

He said that C Duques had included the highway methodology workbook supplement. He said that we have been looking for someone to train the Commission on this and asked if R Snarski would be someone who could do this. R Doane said he would be happy to check with Snarski.

M Furgueson asked if there is there a way that any of these applications can be scored for the Commission members after the application comes in.

R Doane said the Commission has an excellent handle on the complexity of the application submitted. If it is a complicated application, we would defer to a wetland scientist to do the evaluation of the wetlands.

M Furgueson asked if it could be flagged for outside expertise when the application comes in.



R Doane said that it could be recommended when the staff report and application is received by the Commissioners.

**12. Adjournment**

**MOTION** made by Cook to adjourn at 9:07 PM until the next regularly scheduled IWWC meeting to be held on Tuesday, March 8, 2022 at the Essex Town Hall, 2<sup>nd</sup> Floor Conference Room A, 29 West Avenue (alternate location by teleconference); **SECONDED** M Furgueson; **Voting In Favor:** A Roussel, E Cook, D Kirsch, F Szufnarowski, M Furgueson; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0. **Discussion:** No further discussion.

Respectfully Submitted,



Danielle Sanso  
Recording Clerk

