



TOWN OF ESSEX
Inland Wetlands and Watercourses Commission

Executive Committee
Fred Szufnarowski, Chairman
Michael Furgueson, Vice Chair

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

Regular Members
Ernest Cook
Andre Roussel
David Kirsch

Alternate Members
Noreen Brennan- Rowe
Carolyn Field

November 10, 2022 Regular Meeting Minutes

The Essex Inland Wetlands and Watercourses Commission (EIWWC) conducted their regularly scheduled meeting on Thursday November 10, 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 welcomed members of the public to the November 10, 2022 EIWWC meeting. The EIWWC 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:	Absent Members:
Fred Szufnarowski, Chairman	Carolyn Field, Alternate
Michael Furgueson, Vice Chairman	
Ernest Cook	
Andre Roussel	
David Kirsch	
Noreen Brennan-Rowe, Alternate	

Staff:	
	Danielle Schumacher, Recording Clerk
	Carey Duques, Land Use Official
	Robert Doane Jr., PE- Wetlands Enforcement Officer
	Sylvia Rutkowska, Commission Attorney

Audience:	
	Aron Schumacher, PE- Doane Engineering
	Dan Lapman
	Fred DeCrescentis, Southwinds Association President
	Joe Wren, PE- Indigo Land Design
	Lara Luciani- Applicant IWWC #22-17
	Russ Lallier- Applicant IWWC #22-17
	Bob Norton, All Waste General Manager Associated with IWWC #22-17

1. Call to Order and Seating of Members

The meeting was called to order at 7:00 PM by Chairman Fred Szufnarowski.

Seated for the meeting were Chairman Fred Szufnarowski, Vice Chairman Michael Furgueson, David Kirsch, Andre Roussel, and Ernest Cook.

2. Approval of Minutes

• **October 11, 2022 Regular Meeting Minutes**

MOTION made by E Cook to approve the October 11, 2022 regular meeting minutes as amended;

- **Page 4** Exhibit D should read as follows: *Recordings, transcripts, and associated documents from all prior enforcement proceedings (11/2/20 and 2/2/21 show cause hearings), including but not limited to all order, photographs and site inspection reports.*
Exhibit G: add after R Doane, *with annotations*
Third paragraph after the exhibit list, "...Certified Soil Scientist, *Bob Russo*"
"They are requesting that the public hearing be left open to *allow Mr. Russo* be able to respond *as he was unable to attend the meeting*". The last sentence should say "They also included specs on the machine that was used *to remove the materials from the Birch Mill Pond, one aspect of the pending enforcement action.*"
- **Page 6** second full paragraph A. Roussel commented that any ~~digging~~ *filling above roots of more than over 2* includes runs the risk.... Add the sentence *The current plan calls for fill of 18" -24" on the down slope side. The area contains several American beech that area already stressed due to an infestation of Beech Leaf Disease.* Paragraph 7: F Szufnarowski *stated* that the Commission ~~has difficulty~~ *cannot granting* a permit for activity done on property not owned by the applicant *without consent.*
Last paragraph on page 6 should add *No mention of dredging was made at that time.*
- **Page 7** Forth paragraph "A Morin *read from the amended description of work and said 1 to 2 feet...He said that they* ~~We~~ cannot stress enough...." paragraph 7 last sentence should read "The area is growing more now even with the Association spraying for invasive *aquatic* species". Paragraph 8 "On November 5 2020 he was at the site with R Snarski ~~and~~ J Budrow and T McDonald....."
- Page 8 should read as follows:
Area of dredging 2800 square feet
Volume of dredging 4200 *cubic feet*
Area of spoil deposit 2860 *square feet*
Area of existing patio walls and stairs 1300 *square feet*
Third paragraph should read as follows: R Doane stated that *he has decades of experience in this regard and he knows what dug out areas look like.* Final paragraph on page 8 "...Association property that the association would need to *either* be part of the application for any remediation *or provide consent for the work on Association property.*"

- **Page 9** third paragraph first sentence replace are with *is*. Under Recommendations third bullet point should read Removal of *lower terrace* included in permit *application*. Final bullet should read *Monitor and manage* for invasive vegetation. Last sentence should add after manipulation, *due to risk of further damage*.
- **Page 10** Provision should be replaced with *Alternatives outlined in the report*
- **Page 11** last paragraph should read *the majority*
- **Page 12** Fifth paragraph substitute based on with *as to*. Ninth paragraph should read S Rutkowska asked *whether the applicant would agree to the condition of a bond established for that amount to cover the expenses of restoration and remediation. A Morin stated that he could not commit or agree at that time.*
- **Page 14** the Motion should read A Roussel to *affirm and revise the Order to include an order to restore pursuant to the planting plan submitted by Doane Engineering and approve the request for permission to work outside of the permitted work period...*
- **Page 15** second to last paragraph should read All of the property *in the proposed work area* is in the Industrial Zone. Last sentence of that paragraph should state *plastic bins and roll off containers*. Last paragraph second sentence should state *pervious*
- **Page 17** Second paragraph replace area with *plan*

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

- **October 17, 2022 Site Walk Meeting Minutes**

MOTION made by M Furgueson to approve the minutes from the October 17, 2022 site walk; **SECONDED** by A Roussel; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

3. Public Comment

None

4. Update from Attorney Regarding Pending Litigation

MOTION made by M Furgueson to move item 4 to later in the meeting in order to go to executive session; **SECONDED** E Cook; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

5. Public Hearings

- **IWWC Application No. 22-18 32 Birch Mill Trail, Essex.** Proposal to remove an unpermitted existing stone patio and relocate it further from the pond, but within the 100-foot upland review area. The unpermitted stone walkway, stairs, and walls are proposed

to remain within the upland review area. The proposal includes planting vegetation adjacent to the pond, located within the 100-foot upland review area. *Applicant/Owner: Terry Lynn McDonald* (Received September 28, 2022; Public hearing opened October 11, 2022)

Attorney S Rutkowska read an email from the applicant's Attorney A Morin dated November 10, 2022 requesting the Commission continue the public hearing for one month. He stated that he and his firm intend to withdraw as counsel to applicant T McDonald.

F DeCrescentis, president of Southwinds Association, spoke to the commission. He asked about the timeline for approving the application and if the trial set for December 19-20 is set to go forward.

S Rutkowska said the trial is scheduled to go forward. She said she expects they will file for a continuation based on the fact that counsel has filed to withdraw.

C Duques said that she will draft a memo with all of the timeline information for him so that he could have it for the Association meeting.

Exhibit L- Letter from F DeCrescentis (Southwinds Association) Dated November 10, 2022

MOTION made by A Roussel to grant an extension for the public hearing regarding IWWC application 22-18 to the December 13, 2022 meeting; **SECONDED** by Michael Furgueson; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- **Cease and Desist Show Cause Hearing 25 and 27 Industrial Park Road, Centerbrook-** Removal of trees within the 100-foot upland review area without approval.

C Duques spoke about the violation at 27 Industrial Park Road that was pointed out at last month's meeting and observed during the site walk. When they walked the site, they found that approximately 15-16 trees had been cut in the upland review area without a permit. There is a planting plan included in the application IWWC #22-17 that addresses her concerns.

Engineer J Wren said that the trees that were cut were in danger of falling on the natural gas filling stations. The watercourse in question is a hand dug straight linear bare bottom

ditch with really no function and value other than conveying storm water. The applicants are hoping to complete the plantings this season per the recommendation of R Snarski.

MOTION A Roussel to affirm the Cease and Desist Order for 27 Industrial Park Road Centerbrook and direct that the property owner execute the planting plan as proposed during the month of November 2022. The enforcement fee will be waved due to the cooperation of the applicant; **SECONDED** M Furgueson; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

6. Unfinished Business/Action Items

- **IWWC Application No. 22-18 32 Birch Mill Trail, Essex.** Proposal to remove an unpermitted existing stone patio and relocate it further from the pond, but within the 100-foot upland review area. The unpermitted stone walkway, stairs, and walls are proposed to remain within the upland review area. The proposal includes planting vegetation adjacent to the pond, located within the 100-foot upland review area. *Applicant/Owner: Terry Lynn McDonald* (Received September 28, 2022; Public hearing opened October 11, 2022)

Public hearing continued to the next regular meeting

- **IWWC Application No. 22-17 25 and 27 Industrial Park Road, Centerbrook.** Proposal to construct a 14-foot-wide access drive with culvert and crushed stone storage area for empty and clean trash/recycle containers and roll off dumpsters. *Applicant: Lara Luciani Owner: All Waste Incorporated c/o Russ Lallier* (Received September 13, 2022; Continued on October 11, 2022; Site walk held October 17, 2022)

J Wren, PE of Indigo Land Design spoke briefly about the changes made to the plans after last month's site walk. They have added a second rain garden at the east end of the parking area along with a planting plan with recommendations from R Snarski.

B Norton of All Waste noted that All Waste hires Transclean to clean the trucks.

A Roussel expressed concern about open containers having construction material and/or trash that would become point source of pollution during rain events. He asked for a procedure such as covering containers or keeping them inside the building.

B Norton stated he has no intent to have containers with any material in them on the area proposed to be cleared.

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 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 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.
3. 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
4. Inspection by the Wetland Enforcement Officer
5. Any full containers stored overnight will be secured with a waterproof cover
6. Removal cut brush and vegetation from the stream channel and properly disposing of it
7. Up to 72 hours maximum for storing full containers
8. The proposed crushed stone storage area shall remain pervious
9. Prohibiting any truck washing on the expanded area, lot 27 Industrial Park Road, Map 44 Lot 37-1

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

- **Cease and Desist Show Cause Hearing 25 and 27 Industrial Park Road, Centerbrook-** Removal of trees within the 100-foot upland review area without approval.

Action noted above

7. Receipt of Applications/New Business

- **IWWC Application No. 22-20 49 Plains Road, Essex-** Proposal to construct a 10,125 sq ft building and associated site improvements, which include parking lot, sanitary system, site utilities, storm drainage, etc. *Applicant: Robert Piagentini Owner: Piage Management Corp*

Aron Schumacher, PE from Doane Engineering was in attendance to represent applicant Robert Piagentini of Piage Management Corporation.

A Schumacher reviewed the proposed project which is an expansion of the current Boar's Head Distribution facility. The application includes:

- The installation of a 10,125 square foot building
- Storm drainage and utility work associated with the building
- Paving the existing gravel parking area
- Constructing a new sanitary system to serve both the new and existing building

C Duques recommends hiring a consulting engineer due to the stormwater calculations and commission members agreed.

MOTION made by A Roussel to schedule Application 22-20 for a public hearing on December 13, 2022. Based on the information presented in this application and the accompanying documents, and on the testimony given at this meeting, the Commission will schedule a public hearing for the following reasons (check all that apply):

- The Commission finds that a public hearing regarding such application would be in the public interest.

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

MOTION made by M Furgueson to retain an expert to review application 22-20; **SECONDED** by E Cook; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

8. Section 12 Action by Duly Authorized Agent

- **IWWC Application No. 22-19 5 Carol Drive, Ivoryton.** Request for placement of 8' X 10' shed within the upland review area. Approved by the Agent.

C Duques explained that the applicant proposed installation of an 8'X10' shed approximately 60 feet from a wetland. They are not proposing removing any trees to install the shed and it will be placed on gravel (no foundation).

MOTION made by A Roussel that the Essex Inland Wetlands and Watercourses Commission concurs with the decision of the wetlands agent with regard to Application No. 22-19 5 Carol Drive, Ivoryton. **SECONDED** by E Cook; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

9. **Other Business**

- **Discussion on Enforcement Fees**

C Duques said she and S Rutkowska will be meeting with N Needleman before year end to discuss enforcement fees.

10. **Correspondence and Invoices**

None

11. **Reports:**

- **Wetlands Official**

- **Update on Open Permits**

R Doane reported that the project at the Witch Hazel Works is complete and that everything went well.

- **Chairperson**

Chairman F Szufnarowski reminded commission members that the election of officers happens at the December meeting.

12. **Adjournment**

MOTION made by M Furgueson to enter into executive session 9:11 PM; **SECONDED** by A Roussel; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

MOTION made by A Roussel to end the executive session at 9:56 PM; **SECONDED** by D Kirsch; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

MOTION made by E Cook to adjourn the meeting at 9:57 PM until the next regularly scheduled EIWWC meeting to be held on Tuesday December 13, 2022 at the Essex Town Hall (alternate location via teleconference); **SECONDED** by D Kirsch; **Voting in Favor:** F Szufnarowski, M Furgueson, D Kirsch, A Roussel, and E Cook; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

Respectfully Submitted,



Recording Clerk