



TOWN OF ESSEX
Inland Wetlands and Watercourses Commission

Officers
Michael Fergusson, Chairman
David Kirsch, Vice Chair

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

Regular Members
Ernest Cook
Fred Szufnarowski
Noreen Brennan-Rowe

Alternate Members
Carolyn Field
Lisa Krall

DRAFT
May 9, 2023 Regular Meeting Minutes

Attending Members:	Absent Members:
Michael Fergusson, Chairman	Fred Szufnarowski
Ernest Cook	
David Kirsch	
Noreen-Brennan-Rowe	
Carolyn Field, Alternate	
Lisa Krall, Alternate	

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

Audience:	
	Steven Schneider, 9 River Road
	Anne Kingston, 9 River Road
	Colette Harron, 21 River Road- via zoom
	Peter Harron, 21 River Road- via zoom
	Ryan Welch, Public Works Director
	Bob Nussbaum- Essex Land Trust Vice President

1. Call to Order and Seating of Members

The meeting was called to order at 7:00 PM by Chairman Michael Fergusson.

Members seated for the meeting were Chairman Michael Fergusson, Vice Chairman David Kirsch, Ernest Cook, Noreen Brennan-Rowe, and Lisa Krall (alternate).

2. **Approval of Minutes**

a. **April 11, 2023 Regular Meeting Minutes**

MOTION made by E Cook to approve the minutes from the April 11, 2023 regular meeting as submitted; **SECONDED** by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and L Krall; **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 52 West Avenue, Essex** Installation of a patio within 100 feet of a wetlands without a permit. *Property Owner: The Paul Foundation/Applicant: Town of Essex*

Ryan Welch was present, on the behalf of the Town of Essex. He said that a narrative was included in the packet for the meeting that outlined the details of what had occurred.

C Duques said that there had been an email exchange between Geoff Paul (of the Paul Foundation) Ryan and she that she had skimmed the email and missed that the Town had planned to start work so had not commented. She did not observe erosion at the site as a result of the work that has been completed. C Duques said that the project is minor but is still work within the 100 foot upland review area.

She went on to say that R Welch has been very cooperative and came to the town hall to fill out an application immediately after speaking to her.

MOTION made by N Brennan-Rowe to declare that terms of the cease and correct for 52 West Avenue, Essex have been satisfied. The commission will wave all penalty fees associated; **SECONDED** by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and L Krall; **Opposed:** None, **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

Review and discussion occurred of IWWC Application #23-04 for work within 100 feet of the wetlands at 52 West Avenue, Essex.

MOTION made by N Brennan-Rowe for the Essex Inland Wetlands and Watercourses Commission to allow the Wetlands Agent to handle Application No. 23-04; **SECONDED** by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and L Krall; **Opposed:** None, **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

5. **Unfinished Business/Action Items**

a. **IWWC Application No. 23-03 Kayak/Canoe launch between 15 and 19 Falls River Drive, Ivoryton-** Proposal to improve existing kayak/canoe launch including installation of a floating platform on the edge of Mill Pond located

within the 100 feet of a wetlands. *Applicant/Owner: Essex Land Trust (Received and continued from April 11, 2023)*

Bob Nussbaum was present on the behalf of the Essex Land Trust. He said there was one question about the removal of the stump located at the area of the proposed kayak/canoe launch. There is quite a bit of room to work in the area and they want to observe how the flow works and make sure that everyone is able to get into the water. From there they can adjust to make sure that everyone is accommodated.

MOTION made by D Kirsch 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 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

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

6. Receipt of Applications/New Business

- a. **IWWC Application No. 23-05 66 Dennison Road, Essex-** Proposal to replace the current stairway with a 13.5X24 composite deck located within the 100 feet of a wetland. *Applicant/Owner: Stephanie Gatto*

C Duques said that this project proposes no detrimental impact to the wetlands. The only thing that she will add is that sedimentation and erosion controls should be installed as necessary.

MOTION made by N Brennan-Rowe for the Essex Inland Wetlands and Watercourses Commission to allow the Wetlands Agent to handle Application No. 23-05; **SECONDED** by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and L Krall; **Opposed:** None, **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

7. Section 12 Action by Duly Authorized Agent

None

8. Other Business

R Welch said that they are working on getting quotes from contractors for the sidewalk project and that they probably will not start work until July. They need to obtain a permit from DEEP for the work but are hoping to be able to get a general permit, which takes less time.

R Doane said that Cross Island Provisions has pulled their zoning permit for the work on Plains Road. They are in the process of getting pricing and deciding if they are going to move forward.

9. Correspondence and Invoices

None

10. Reports

a. Wetlands Official

C Duques said that she had received a report about activity that had occurred earlier in the day off of River Road on Falls River. There were 2 men who were weed whacking vegetation off of the peninsula (over ½ an acre of land) which belongs to 9 River Road. This area is overgrown with Japanese Knotweed occupying 80-90%. She found that the work had been paid for by Colette and Peter Harron.

She went on to say that she is bringing this to the attention of the commission. The IWWC regulations allow for maintenance of a person's property. She did not notice any erosion that has occurred as a result of the work (the same area had been cut approximately 3 weeks prior).

R Doane provided a survey of 9 River Road when the house was originally built that showed the wetland line running along the high ground. The peninsula in question was formerly part of a pond, which is no longer there due to the dam that

broke in the 80s. He said that the best thing to do would be to find out if there are actually any wetland soils there.

S Rutkowska clarified the regulations, saying that the commission needs to be advised and be able to ask questions about any maintenance activity within the upland review area. She said that an application should be filed one time that describes the work that will be done, and the commission can decide if there can be an exemption.

Anne Kingston of 9 River Road explained that she did not know the work was occurring but had talked with the Harrons about cleaning up the area including possibly dredging it. She stated that the area cannot be seen from her house but know that it is very overgrown and feels bad because the Harrons look directly at the area. Anne said she does not object to the work that was done and is ok if a permit application is filed. Anne said she will follow up with the Harrons about next steps.

Colette and Peter Harron of 21 River Road spoke. They said that this work has been done yearly in the past and asked if they would need to fill out an application for a permit. They said that R Snarski came to look at the property and advised that the only way to remove it was to cut it down and that they had no documentation from him on this.

C Duques said that they need to work with the property owners to determine if this area is considered a wetland. Only the property owner is allowed to submit a permit. C Duques will plan to send a notice of violation (NOV) to both the property owner and the Harrons who conducted the activity. The NOV will outline the work that occurred, violations of the wetlands regulations and next steps which include hiring a Soil Scientist to understand the wetlands location and the 100 foot upland review area, and submittal of a wetlands application.

b. Chairperson
None

11. Update from Attorney Regarding Pending Litigation

MOTION made by D Kirsch to enter into executive session at 7:51 PM; **SECONDED** by N Brennan-Rowe; **SECONDED** by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and L Krall; **Opposed:** None, **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

MOTION made by D Kirsch to end the executive session at 8:35 PM; **SECONDED** by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and L Krall; **Opposed:** None, **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

12. Adjournment

MOTION made by E Cook to adjourn the meeting at 8:35 PM until the next regularly scheduled EIWWC meeting to be held on Tuesday June 13, 2023 at the Essex Town Hall, 2nd Floor Conference Room A, 29 West Avenue (alternate location via teleconference);

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

Respectfully Submitted,

Danielle Schumacher

Recording Clerk