

INLAND WETLANDS & WATERCOURSES COMMISSION

March 4, 2020 Meeting Minutes

These minutes are not official until approved at a subsequent meeting.

Commission Members Present: Bob Crochetiere, Mary Jane Perrier, Richard Pease, James Guthrie, Darry Ruiter, Roy Zettlemyer, and Jonathan Savino

Commission Members Absent: Lacinda VanGieson, Jay Farrelly, and Patrick Roy (Alternate)

Town Staff Present: Jennifer Rodriguez (Zoning and Wetland Agent)

I. Call to Order

Chairman Crochetiere called the meeting to order at 7:04 pm.

II. Roll Call

Roll call was taken.

III. Approval of Minutes from the February 19, 2020 Special Meeting

Chairman Crochetiere pointed out an error in the February 19, 2020 minutes. Under Section IV.A, Public Hearings, in the last sentence of the last motion, the words “*and holders*” were omitted after the word “Deed” and should be added to the sentence, to read as follows: “*The said conditions from hereto and thereafter will be binding and compliant on the Deed **and holders** and their heirs at that time.*”

It was **MOVED** (Savino) and **SECONDED** (Guthrie) and **PASSED** (Unanimous, 7-0) that the Inland Wetlands and Watercourses Commission approves the February 19, 2020 minutes *as corrected*.

IV. Public Hearings (none)

V. Reviews (none)

VI. Action on Closed Public Hearing Items

Ms. Rodriguez stated that Lucas Pond withdrew their application. The public hearing is formally closed for this application, and they would have to re-apply.

VII. Old Business

A. Discussion with Commission and Staff

- * Chairman Crochetiere asked how conditions of approval get filed on the town record and who will police every condition. Ms. Rodriguez responded that the approval letter with the conditions gets added to the final set of plans before it gets filed in the Town Clerk’s office; the approval letter gets filed in the Clerk’s office; and a hard

copy is kept in the Building Office. If it was a condition of Water Pollution Control, then they would enforce it. If it was a condition by the Town Engineering consultant, then he would enforce it. If it was something that was prior to a building permit, then the Building Official would not issue a permit before that was taken care of. For the most part, it's the Building Department, because before you issue a permit or if the condition is something prior to the final CO, those things are both in the Building Department.

Chairman Crochetiere said he has never seen any reports saying conditions had been met or any type of oversight providing feedback. Ms. Rodriguez replied that she doesn't think staff has ever provided any reports to any of the commissions. She added that just because you don't know about it doesn't mean there is no oversight. There is no set form for the conditions to be converted into a checklist. She went on to explain the process she and staff used for the many conditions for Montgomery Mill. Mr. Pease pointed out that the town doesn't actually issue a wetland permit—we issue an approval letter. Ms. Rodriguez commented that the commission's approval, which is typed into a letter, *is* the permit. Mr. Savino suggested letting the commission know at the next meeting if the conditions have been met. Chairman Crochetiere asked before their bond is released, can someone state to the commission that it's okay to release the bond and that all conditions have been met? Ms. Rodriguez replied yes. She said that for Planning and Zoning Mr. Steele would write a letter stating that the Erosion and Sediment Control bond could be released.

- * Mr. Pease commented that there was something he saw from the North Central Conservation District. There was a question about the buffer, and they were talking about some confusion between the 80 feet and the 40 feet, and the applicant came back and said that 40 feet was appropriate for wetlands but North Central said according to our regulations it should have been 80 feet not 40 feet. He wondered if that was ever resolved. Ms. Rodriguez responded that it is 40 feet from a soil and 80 feet from top of bank of a watercourse. She said she would have to read through the minutes, but maybe they were trying to say that the pond was a wetland versus a true watercourse.
- * Ms. Perrier said she did not like feeling so rushed, getting the applications right before the meetings, and wondered if applications had to be in the Friday before a meeting. Ms. Rodriguez pointed out that there are statutory requirements, and there is also your preference. She reiterated that if your preference is that you don't want to decide on anything because you're just getting it, or if you feel like you have to get more information, you can say you don't want to decide now. It should be the practice of the commission to not get frantic about the timing.
- * Ms. Rodriguez explained briefly what the Plan of Conservation and Development (POCD) is and how it has to be updated every 10 years.

- * Mr. Pease asked about the placards/signs. Ms. Rodriguez replied that they have them but they've never required them, although they are required for All Sports Village. They don't have any Best Practice or Policy developed, so the commission is welcome to do that. She added that she thinks it should be on a case by case basis because every project is going to be different. Mr. Pease asked where do you put these things? What is a conservation area? Ms. Rodriguez said that they chose natural resource area because it was inclusive of a lot of different kinds of areas that you might want to draw attention to, especially to a maintenance or landscaping person. Mr. Pease asked if we have any easements that are documented anywhere. Ms. Rodriguez replied that there is no list, but there are plenty of easements. For most of the land where they are required, it's not on any map unless you go to the Clerk's office and you look property by property. Northwind Estates (Meg Way, Cody Way, Acorn) are all on there on the map. Mr. Pease said that would be a good place to start with a placard, with the ones we know are documented easements.

B. Action Items (none)

VIII. New Business

A. Public Input (none)

B. Receive New Applications (none)

C. Informal Discussions

i. Application packet revision

Ms. Rodriguez said that she made copies of the proposed application revisions and met with Mr. Pease, who had some new suggestions that are not reflected on these copies. The last time the commission discussed this, the agreement was that number I did not need to include all the different types of permitted operations and uses, so those were stricken, and in lieu of that the language that was incorporated into number I was *...per Section 22a-40. Permitted operations and uses of the Connecticut General Statutes as may be amended.* Ms. Rodriguez went on to discuss the proposed changes, stating that the lines that are stricken would be deleted and the items in brackets would be added in. She checked 22a-40 in the state statutes and it does incorporate everything that was in sections A and B, the stricken parts. The thinking was that this would be something the commission would be comfortable just referring to rather than having all of the verbiage there. Mr. Pease said he did not see in the statute sections C, D, and E, which were crossed out. Ms. Rodriguez said she would have to look, that she only confirmed that A and B were in there. She said in terms of 22a-40, A and B are in that section, and C, D, and E may be somewhere else in the statutes but her guess is that it just reflects what is in the regulations. She said she does not see that language in the regulations in or near those sections, so she is guessing that

that was some legal information that the commission added. Ms. Rodriguez asked Mr. Pease if he had seen C, D, or E in the regs. He responded that there is probably generic language like C that talks about the effect or alteration of a wetland or watercourse, but if you look at D, it's pretty specific to activity existing as of the effective date of the regulations, "*July 1, 1974, or whichever date is earlier...*," so he's not sure where that came from. It's probably some historical language that has been in there forever. Ms. Rodriguez noted that that's the part that makes her a little nervous; she feels like that should definitely be in the regulations, or referred to in the application, but not standing on its own. Mr. Pease feels D makes sense because if it's state property, then we don't have jurisdiction. He said this is saying that if the activity existed before the regs, then you don't need a permit. Ms. Rodriguez commented that she thinks she looked up that date and it was in the statutes somewhere because of the Clean Water Act. She reiterated that she finds issue with putting something in one of your documents that could be considered as a requirement that you don't have in your regs, that is more restrictive than what's in your regs. She's more concerned whether to make sure they get something like that into the regs if she can't find it than she is concerned with it being on the application. There was a discussion on whether to leave C, D, and E in. The consensus was to keep those sections in for now.

There was a discussion about the next sections, II and III, and the wording that a permit "*may be required*" and "*is required.*" Ms. Rodriguez pointed out that in sections III A and B, the two parts that are stricken are being deleted because that verbiage was not in the regulation. Ms. Perrier asked if III C is in the regulations. Ms. Rodriguez looked and responded that she did not see that in the regs, so that probably also needs to be taken out. She went on to say that A and B are in upland areas, and C is in the wetland or watercourse. She said she does not see it in the regs, but if the commission thinks it's good, clarifying language, we can leave it in; if not, we can strike it. The consensus was that III C should stay in. At the bottom of page 3, under "If number II has been checked," it was agreed to leave it as is to read "*the agency will make a determination of permit need.*"

Ms. Rodriguez said she included a section on the fees, pages 5 and 6 (which she refers to as Part 2), which is not part of the permit and is usually handed out with the application. It is actual regulation, and it will need a public hearing. To make changes on what was previously discussed, on the application, there is no need for a public hearing. In Part 2, the two highlighted sections regarding a waiver of fees, 18.3 and 18.5, conflict. Also, at the bottom of page 5, "*to be made out to 'Town of Windsor Locks' as a separate check,*" should be taken out since this is no longer a requirement. This is part of the regulations and would have to be part of a public hearing.

Ms. Rodriguez asked commission members if they would like to focus on Part 1, the application form, first. She asked how comfortable they are about the changes they just talked about on the application form and if there is a consensus. Mr. Pease had a question on Number I C. Number I is no permit required, but if you look at C, we're saying any activity on any property no matter what it is or where it is doesn't require a permit if it doesn't impact or alter the wetlands or watercourses. But how do you have an activity in a wetland that doesn't impact the wetland? If you're constructing in a wetland, would you ever not have an impact? It seems to be tied to that whole impact thing, which he can't get beyond. If there is no impact, then it's not regulated, but how can there be no impact? Ms. Rodriguez responded that she can't find a source for that to help explain the language, so that's part of her issue. Why is it in there? Ms. Rodriguez asked commission members if they are suggesting that C be taken out. She added that this is just the application, but it's not matching up with the regulation. Should this be in the permit application if it's not in the regs? After a lengthy discussion, it was decided to table any decision on part one, the application, until the next meeting.

ii. Text amendment for certificate of mailing

Ms. Rodriguez discussed her memo to the commission dated March 4, 2020 regarding a recommended text amendment. She stated that Section 9.3 of the IWWC regulations states that abutter notices must be sent by certified mail, return receipt requested, which conflicts with C.G.S 8-7d, which says proof of mailing can be by a certificate of mailing. Certified mail can be very costly if condominiums are involved. This would be an easy change in language and would require a public hearing. Ms. Rodriguez read the recommended language. She suggested if there is consensus to make that change tonight that the public hearing be scheduled for May because she has to send it to regional and state agencies, and the next meeting in April is less than 30 days. Mr. Pease pointed out that 8.6 also talks about certified mail and notifying adjacent towns within 500 feet. Ms. Rodriguez said that is correct, that is a statutory requirement. Mr. Pease added that regarding the sign, they have to do both. According to the statute, they don't need to do a sign, but according to our regulations, they need to do both a sign and a certificate. This statute just requires a certificate, no sign. Ms. Rodriguez said yes, that it empowers the town to require both if they want to, but once it's in your regs you have to.

The consensus was to change this to a certificate of mailing. Ms. Rodriguez explained the process: The commission would make a motion to set a public hearing for May 6 to review changes to Section 9.3 regarding certificate of mailing. Once the public hearing is set, she would bring her recommended text amendment to the Town Clerk's office and list "public hearing, May 6." Then she would send it to her state and regional agencies as statute requires, and then the hearing would be held on May 6. If it was approved, there is an appeal period.

She would make the change in a draft copy of the book, file it in the Clerk's office, and when the commission felt it was time, they would do a new printing to have a hard copy, and she would change it on the website.

Ms. Rodriguez reminded commission members that if they wanted to talk about the fees, they could make a motion tonight. She asked if the commission wanted an opportunity to grant a waiver for the fees, and if so, then in her opinion section 18.5 needs to come out. The consensus was to remove 18.5 from the regulations.

It was **MOVED** (Perrier) and **SECONDED** (Zettlemoyer) and **PASSED** (Unanimous, 7-0) that the Inland Wetlands and Watercourses Commission removes section 18.5 from the Wetlands regulations.

Ms. Rodriguez reminded the commission that the application revision does not need a public hearing.

It was **MOVED** (Savino) and **SECONDED** (Zettlemoyer) and **PASSED** (Unanimous, 7-0) that the Inland Wetlands and Watercourses Commission holds a public hearing on May 6, 2020, 7:00 pm, on removing section 18.5 from the Wetlands regulations; removing from Section 9.3 "*certified mail, return receipt requested,*" and adding "*proof of mailing shall be evidenced by a certificate of mailing;*" and removing from Section 18.3 "*To be made out to the 'Town of Windsor Locks' as a separate check.*"

D. Action Items (none)

IX. Communications and Bills

Chairman Crochetiere reminded commission members about the Environmental Impact Seminar next Wednesday, March 11 at 6:00. There is also an event put on by the Association of Wetland Scientists on March 13 in Southbury. The cost is \$80. On March 25 at Town Hall there is a good workshop for commission members because they talk about land use law.

OTHER

Mr. Ruitter pointed out an area of concern at Stonebrook that is now affecting a wetlands area. It's overflowing their plunge pool and eroding into a natural area and is carrying trash into the wetlands. Ms. Rodriguez asked if it is obvious that it's their fault or is it something that the town needs to stabilize? She said she will email the Town Engineer to go look at it. Mr. Ruitter added that there is another problem down near Copper Drive. There is 10 feet of a 36-inch corrugated steel drainage pipe hanging 10 or 12 feet in the air. It's been eroded underneath it, with 8 feet between the pipe and the bottom of the culvert. There is no way to get to it because there is a chain link fence that's in the northwest corner of the property. Mr. Ruitter said he wondered who was responsible. Ms. Rodriguez responded that she will email Mr. Steele to look at the drainage

and see if it's obvious what is causing what or who may be responsible. If Stonebrook has done something wrong or not maintained something that is required, then staff can ask them to fix it. If they have complied with their Planning and Zoning Commission permit, then the town has to fix it.

X. Adjournment

It was **MOVED** (Ruiter) and **SECONDED** (Perrier) and **PASSED** (Unanimous, 7-0) that the Inland Wetlands and Watercourses Commission adjourns the March 4, 2020 meeting at 8:59 pm.

Respectfully submitted,

Debbie Seymour
Recording Secretary