

**INLAND WETLAND AND WATERCOURSES COMMISSION
REGULAR MEETING
MINUTES OF NOVEMBER 4, 2009 @ 7:00 P.M.
POMFRET TOWN HALL CONFERENCE ROOM**

OPEN REGULAR MEETING –D. St. Martin opened the regular meeting at 7:00 p.m.

ROLL CALL: Present – David St. Martin, Chairman; John Folsom, Secretary; Marshall Eaton, Member; James Rowley, Member; Nancy McMerriman, Member; John Bergendahl, Alternate; William Gould, Alternate; Ryan Brais, WEO; and Syl Pauley, Town Engineer. Absent: Paul Safin, Vice Chairman; Joseph Stoddard, Member; Nancy Fraser, Alternate; and Jamie Rabbitt, Designated Agent.

SEAT AN ALTERNATE AS NEEDED – John Bergendahl and William Gould were seated.

ITEMS TO BE ADDED TO AGENDA: New application from the Pomfret Recreation Park Development Committee.

PENDING APPLICATIONS:

1. **Roger Daigle, 193A Putnam Road**, remove previously stockpiled material; install deck on previously constructed bridge; install riprap slope protection in existing stream; and install tailings in eroded areas. This application is under Public Hearing and will continue on November 9, 2009, at 6:30 pm.

CITIZEN’S COMMENTS: Gregory Peservich asked to speak to the commission regarding a parcel of land he bought at 339 Mashamoquet Road. He is seeking permission to remove some invasive species from the property without the use of any heavy equipment. He will possibly use a small brush cutter and chain saw. He submitted a letter of intent to the commission regarding this. D. St. Martin said that we need to dig up the old application on the subdivision, see and review the prints, and then get back to Mr. Peservich regarding what he needs to do.

NEW APPLICATIONS:

1. **Pomfret Recreation Park Development Committee, c/o Walter McGinn**, addition of basketball courts, tennis courts and parking for the courts at the existing recreation park. Syl Pauley, NECCOG, spoke regarding this application. This is a proposed facility expansion between the baseball field and existing parking lot. There will be two tennis courts, two basketball courts, one multi-purpose practice field, and a small volleyball area using sand. Also proposed is 43 space gravel parking area to the west of the playing fields. This new parking area will be accessed through the existing parking lot. There is an alternative plan to this proposition. The only change from the original plan would be that one-third of the multi-purpose practice field would be used for parking, which would accommodate another 28 vehicles. There was discussion regarding parking space size, wetness in this proposed area, and drainage. S. Pauley is going to come back next month with additional information regarding the

drainage issue. W. McGinn stated that the surface for the courts is proposed to be asphalt at this time. J. Rivers spoke stating that the practice field area all comes down to the budget; the parking area could remain as it is today. When asked if there was a plan for lighting, he responded that there isn't a plan. After all the discussion, D. St. Martin stated that overall, he doesn't see this as impacting the wetlands. S. Pauley said he knew he would need more details for the commission and he will get them for the next meeting in December.

NON-FEE APPLICATIONS: None.

NOTICES OF VIOLATION/CEASE AND DESIST ORDERS:

1. **Roger Daigle, 193 Putnam Road**, Cease and Desist. 10/4/07 – Received new application 9/2/09. This is being dealt with on November 9, 2009, at a Special Meeting for the continuation of the Public Hearing. Leave on agenda for now.
2. **CT Real Estate Holdings, LLC, 195 Searles Road**, Cease and Desist in effect as of 3/16/05. Certificate of NOV placed on land records on 5/19/06. (gravel extraction) Actual date of permit is 11/07. New owner has made repairs to car path and is trying to do the right thing. He has a legitimate permit to remove gravel. He asked J. Rivers about the history of the property. Leave on agenda.
3. **JASD, Orchard Hill Road** - work in regulated area. NOV issued 11/4/05. Nothing new. Leave on agenda.

JURISDICTIONAL RULINGS:

PRIOR APPLICATIONS WITH CONDITIONS:

1. **Town of Pomfret, Grosvenor Road**, remove old culverts and replace with two new ones. S. Pauley handed out letters and photographs describing what he found on a site visit on 10/17/09 of the completed project on Grosvenor Road. He thought the contractor that the Town hired did an admirable job. There were two issues he looked into. The first was the flared end of both ends of pipe. From an engineering point of view, he felt that the flared end being used on the outlet end of the pipe would only be a cosmetic touch with no operational value. The steepness of the slope combined with skew angle of pipe going across the road (had a shallow angle); chose not to put in flared end and used cascading/step arrangement of stones. There is no problem with flared end not being installed there. D. St. Martin then said that there was supposed to be a plunge pool. S. Pauley then said that in a heavy storm event, there will be some cascading; at the end of outlet and pipe there is a 10-12' horizontal spread and a 6-7'; vertical drop to the stream bed. He said that although this is not a plunge pool, it is adequate. The other issue is the usage of the 24" pipe. Originally, G. Postemski and S. Pauley discussed this issue and chose to go with more expensive way for less disturbance of private driveway on neighbor's property. A decision was made by other and not by Syl. D. St. Martin asked why it wasn't on the print if it was intended all along. S. Pauley said that it wasn't intended all along; there was concern of impacted the neighbor. J. Rivers then said that his understanding was there was other discussion of G. Postemski with the owner regarding doing the pipe as originally planned and came to an agreement; the

decision was made in the field. D. St. Martin then said that he has two concerns. The first was that the design was modified, and the second is that there is a tree with exposed roots on the slope that could fall over to water overflow and erosion of the bank. J. Rivers said that there was discussion with the planner and it was decided to leave the dead trees as is and that is possibly why they left that tree. S. Pauley will go out and take a look at this. D. St. Martin then said that there are two issues with the project: the first is that there are engineering issues because there are two major deviations from the original design prints. Prior to making a decision and as an action going forward on this, the commission is looking for a recommendation from S. Pauley that he is satisfied that the alterations with the design and that it won't seriously impact what the original proposal was. Secondly, from a commission and a taxpayer's perspective, we spent good money to hire you (engineer) for the print for the storm drainage upgrade, and then the highway foreman went and did something completely different without consulting the Town. Consultation with the Town didn't happen until the project was about 90% complete and there was no opportunity to make modifications to it. At the Public Hearing, this was deemed a significant impact and approved with conditions. It seems like that was thrown out and they did what they pleased. This is not the first time the Town has not followed the plans. J. Folsom then said that it's not only just this commission. If it stays in the commission it's one thing. But there was an issue on Wolf Den Road where it went outside the commission because people called the DEP and the Army Corps of Engineers, which ended up costing the Town \$35,000 in cash to rectify the situation. D. St. Martin then said that's our concern because if it was to happen with a private land owner and there was a NOV, they could come in and say, "Well, the Town can do it." It puts us in a tough spot. We made sure we did everything we could do to make sure the Town followed the plan, short of holding their hand. The foreman didn't bother to call Staff before the construction started, which would have been a good time to make modifications to the plan and the commission would've been willing to accept them. J. Rivers then responded that this plan was substantially followed and I don't want to down-play anything, but this was not done willy-nilly. There was discussion with the planner and I'm not sure how he gets involved in these issues basically making engineering suggestions. There were a number of discussions with planner/acting as engineer about the 48" pipe and the foreman's concerns with it even before the approval. We didn't just do it. There was discussion with the engineer also regarding the routing of the pipe. In defense of the foreman, he didn't see this as a major change. He was doing what he does every day. D. St. Martin then said that he doesn't think the commission has a problem in theory with that you guys did. Our problem was had he identified the changes he was looking to do and consulted staff, in advance of doing the work, and the commission could've been notified. J. Rivers then said that he doesn't know what or when J. Rabbitt was contacted, but the changes were no surprise. He knew the foreman was concerned about this issue. D. St. Martin then said that even after post approval, a pre-construction meeting in the field would've helped. The engineer and foreman could've talked about the major components of the project and agreed or come to an understanding of what the final project would look like. Then we would've had information from our engineer that said we met out there

and we agree to revise these two major items and I'm OK with that. It seems a little back-handed to get this after the post inspection. J. Rivers recalled discussion with the foreman. He's not sure if J. Rabbitt ever got out there to see the foreman when he was doing the project. The foreman didn't just do it, he was communicating with J. Rivers and thought that foreman had conversations with and was trying to get J. Rabbitt out there. There could've been miscommunication between Staff and the foreman. J. Folsom then said to the engineer that if he foresaw from the get-go that the flared end might be decorative more than functional, even if J. Rabbitt disagreed with you, the plan should've been submitted to the commission without the flared end. Even if J. Rabbitt argued with removing the flared end, but the engineer is the one who has to sign it. S. Pauley then spoke up saying that as an engineer, he doesn't know what basis or qualification J. Rabbitt has to debate whether a flared end should be on there or not. J. Rivers then said that he thought that maybe more time and care should've been taken with the plans and review. M. Eaton then said that from his perspective, he'd be happy going forward if we could address the outlet in the area of the 24" pipe as it comes down through the trees and the bank and get some feed-back next month. D. St. Martin then said that he was fine with the other two items because they were engineering issues and they've been addressed. W. Gould made a comment regarding the outlet for the 24" pipe; maybe the tree we discussed earlier should be cut down with the roots left so the tree won't fall down and land on anything and do major damage. M. Eaton then said he had one more concern with regard to the road itself and asked if any guardrails are going up. J. Rivers said that definitely they are going up and will be up before winter because there's a 10' drop there. He then said that he's trying to learn and move forward and not be too defensive, but S. Pauley brought up a point and it's an ongoing point regarding what J. Rabbitt's role is and I wish he was here tonight but he's not. M. Eaton then said that he felt that this is not part of the discussion for this application. D. St. Martin then said that maybe we could do this as commission business. J. Rivers then said in the context of this application, we're taking direction from S. Pauley on a plan for erosion control and when we have a concern, should the solution come from the planner or engineer? D. St. Martin responded saying that it is an engineering concern, and that's why we asked Syl to look at it. J. Rivers then said OK, it makes sense to me. D. St. Martin then said that this should stay on the agenda until next month when we get a follow-up report on erosion control and how we're going to deal with that tree.

2. **Donna Gauthier, 2 Clapp Road**, single-family home. Letter was sent 7/1/09. There still has been no response regarding the letter that was sent. Leave on agenda.
3. **CT Audubon Society, Day Road**, new building 5/08. Nothing new.
4. **Sarantopoulous, 325 Wrights Crossing Road**, subdivision 5/07. Leave on agenda.
5. **Loos, Rebecca, 40 Modock Road**, 4-lot subdivision 6/07. Leave on agenda.
6. **Moon et. Al., Peter, 596 Pomfret Street**, single-family home 3/08. Nothing new.

SUBDIVISIONS APPROVED BY PLANNING AND ZONING: None

COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION: W. Gould had a question regarding seeing a garage going up on 244 near the golf course. D. St. Martin said that there is no wetland issue so it can just go up because there is no issue with us.

CITIZEN'S COMMENTS: None.

EXTENSIONS REQUESTED: None.

COMMISSION BUSINESS:

1. Updates and Report from WEO and Commission Members: R. Brais said that the Wolf Den Road property has the fence posts removed and that everything has been removed from the conservation easement. He said the violation has now been removed
2. Approval of the *October 7, 2009 Minutes*. M. Eaton made a motion to approve the minutes as amended. J. Rowley seconded the motion. It was approved unanimously. There was one abstention.
3. Report of billing, and bond releases. In responding to the letter from Carol Parke dated 10/14/09 regarding the engineer's bill, we sent a letter to the engineer and have received a letter back from Mr. Aubrey. We will have the clerk check to see if there is any duplicate billing and if not, how do you think we should handle this issue? The decision by the commission was to apologize for the delay but state that this is a valid charge and due to the Town. A copy of the engineer's paperwork and a choice of paying the bill or removing it from the bond amount will go to C. Parke.
4. Correspondence – D. St. Martin went over the small amount of mail received.
5. As needed – 2010 Meeting Schedule
J. Folsom made a motion to accept the 2010 meeting schedule. It was seconded by J. Bergendahl. The motion was approved unanimously.

D. St. Martin mentioned that the elections are coming up soon and that the members should think about running for chairman.

ADJOURNMENT – Motion to adjourn was made by M. Eaton. J. Bergendahl seconded. Motion was approved unanimously. Meeting was closed by the Chairman at 9:05 pm.

Respectfully submitted,

Lynn L. Krajewski, Clerk

Date Approved: _____