

**INLAND WETLANDS & WATERCOURSES COMMISSION
SPECIAL MEETING AND HEARING
MINUTES OF AUGUST 17, 2011
POMFRET TOWN HALL**

OPEN SPECIAL MEETING: J. Folsom opened the special meeting at 7:00 p.m.

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

PENDING APPLICATIONS:

- 1. Roger Daigle, 193 Putnam Road,** re-stabilization of a previously disturbed stream northerly of Putnam Road (Route 44) in Pomfret. Mr. Daigle brought Marcel Dessert with him. Mr. Dessert will be doing the work for Mr. Daigle. Mr. Dessert has looked over the plan but would like the commission's opinion of the plan. D. St. Martin said there was a question at the last meeting as to whether the application would be modified. No new modification. Jamie then said that the plans dated 12/2/09 show a bridge. He then read a report dated 8/17/11 regarding the Daigle stream channel restoration along with attached conditions of approval. He said that Mr. Daigle wants to cross to get wood on the northerly side but it is mostly wet on the northerly side. D. St. Martin asked about invasives on that side. Jamie said that KWP's plan addressed that issue – where material that was previously side-cast is now full of knotweed. J. Folsom asked whether the dirt path was passable by a tractor during low flow. Jamie said yes, but some erosion has occurred. J. Folsom then asked if the crosshatched area on the plan (south side) was going to be left to revert back to woods. Jamie said they're going to allow the saplings to grow, but they could bush hog the invasives. D. St. Martin then questioned #5 on the conditions of approval because there was already an agreement in place that the work would be done during a specific time period. He then said that he'd like to add two more conditions to the list as follows: #7- invasive species on north side of stream can be removed as part of this permit as agreed to between applicant and Staff; and #8 – check dam construction can be reviewed during construction regarding number and location upon agreement between Staff and applicant. Jamie then addressed #5 stating that if the commission acts favorably and if bad weather hits, they would need a good three weeks for material to come up (hydro-seed versus hand seed). Mr. Dessert then stated that there is not much light in that area. W. Gould said they should review the materials to be

used. Jamie then mentioned that we now have the opportunity for 10-day weather forecasts to be aware of upcoming weather issues. At this point, D. St. Martin made a motion to approve the application with the 6 original conditional of approval from Jamie and the two additional ones David added. J. Bergendahl seconded the motion. J. Folsom then questioned #4 about removing the existing abutments. He thought there would be more damage by removing them instead of leaving them in place. Jamie said we can anticipate but not control Mother Nature. Mr. Daigle will do the restoration and nature will take its course. D. St. Martin then asked how much work needs to be done. Mr. Dessert said he has a problem with the plan regarding the rise. D. St. Martin said KWP did the plan for the applicant showing the elevation rise. Jamie said it needs about 1-2 feet of ramping up. W. Gould thought it might need at least 3 feet. D. St. Martin said he thought the commission should modify #4 of the conditions of approval. W. Gould asked if Mr. Daigle decides he wants to deck the bridge in a year or so, would he need to come back to the commission. Jamie said yes, it would be another application. W. Gould said he was questioning installing the ramp. Jamie said they should leave the abutments and not build approaches at this time. J. Bergendahl said he would want more detail to puts ramps in. He thinks the abutments should remain but there should be no ramps at this time. J. Folsom asked if there were any more questions. The motion was then approved unanimously as amended with the following conditions: 1) the applicant shall complete all work associated with the project by October 15, 2011. The permit shall be valid until November 1, 2011; 2) the applicant shall post a \$9,000 surety with the Town of Pomfret to insure compliance with the approval. Inspection fees of \$1,000 shall be posted. If the cost to review and inspect exceeds the initial \$1,000 deposit, funds may be withdrawn from the \$9,000 surety in order to reimburse the town for costs incurred on the project; 3) a preconstruction meeting is held with town staff (Town Planner) prior to any construction and grading activity on the site. The surety shall be submitted to the Town prior to the preconstruction meeting; 4) the existing abutments shall be allowed to remain during the reconfiguration of the stream channel but no ramps or decking; 5) Staff shall determine the need for an erosion control mat/fabric based on the time of year in which vegetation is planned to be installed/planted; 6) the applicant shall pay all costs associated with the review and process of their application; 7) invasive species on north side of stream can be removed as part of this permit as agreed to between applicant and Staff; and 8) check dam construction can be reviewed during construction regarding number and location upon agreement between Town Staff and applicant.

2. **Claudia & William Abbott, 439 Brayman Hollow Road**, stabilization of peninsula after loss of four trees during 12/26/10 wind storm. Preservation of residential shoreline. J. Folsom asked if there were any question regarding this application. D. St. Martin said he had a comment and a question; that after reviewing the pictures of

the damage and the work done to restore the area, he felt the work was exceptionally done. He then said that the storm was in December, but the work wasn't done until June. He asked Mr. Abbott why he didn't come to the commission for a permit. Mr. Abbott said he felt it was an exempt or "as of right" issue and felt he didn't need a permit. He felt that it was considered incidental. He said that he fixed it as soon as possible for maintenance and enjoyment of the property. He then said, for future consideration, the definition in the regulations doesn't contain any quantitative numbers and what might not be considered included. D. St. Martin then told Mr. Abbott that the commission has a limited ability to modify the regulations as a good portion is taken straight from the DEP. He then made a motion to approve the application as submitted as all work is completed, the site is stable and no conditions are needed. J. Bergendahl seconded the motion. J. Folsom asked Mr. Abbott if the grass was up yet. Mr. Abbott said it was. The motion was then approved unanimously with one abstention.

J. Folsom then closed the special meeting at 7:46 p.m.

J. Folsom opened the special hearing at 7:47 p.m.

SPECIAL HEARING:

- 1. John Casey, 26 Killing Road,** hearing for a Cease and Desist; water crossing without a permit. Mr. Casey said they put in an agricultural crossing. He then wanted to know who was on his property – he was upset that Ryan walked his property without his permission. J. Folsom then explained to the Casey's that the commission has to offer them an opportunity within 10 days of the cease and desist being issued to come to a hearing before the commission to discuss the issue. J. Casey then said that there is water everywhere but they did not destroy the wetland. He said the DEP regulations state that agricultural use is exempt. Jamie then said that the individual landowner doesn't get to decide if the agricultural use is exempt or not. He then mentioned to Mr. Casey that he had come in and asked about this issue months ago. Mr. Casey felt he was exempt. Jamie then said that if it had not been deemed a significant activity, the commission would have evaluated his request. He said they didn't follow BMP and once the violation is issued, a hearing has to be held within 10 days. Mr. Casey said he still felt they were exempt. Mrs. Casey then said that what has been done is all they're going to do. Mr. Casey then wanted to know where they're going to go from here. Jamie said the NOV will remain in effect. The Casey's should apply for an "after the fact" permit to validate the work that has already been done. J. Folsom then asked the Casey's if it would be their intent to file a permit now. J. Casey said he bought that property to preserve the corner. J. Folsom again asked if they would file an application or not. Mr. & Mrs. Casey said they

would think about it. J. Folsom then told the Casey's that their culvert wouldn't be taken away. Mrs. Casey then asked a question regarding hiring someone to push the autumn olive under. Jamie told her that she should put that item and the things they wish to do on the application. Mrs. Casey said they only did it to let the cows cross. J. Folsom then said to put it in the form of an application. At this point. Tim Morrarty said that it sounded like they would get in trouble just for cutting brush. D. St. Martin explained the different situations. Tim then said he feels this commission is very unfriendly and they seem at odds against the applicant. What right do you have to just walk onto another person's property? Mrs. Casey thought common courtesy should be used. J. Folsom then said they should get their application in before the 9/7/11 meeting. Mrs. Casey complained about previous minutes of meetings not being forwarded to them when their names were in the minutes. D. St. Martin then made a motion to continue the NOV. W. Gould seconded the motion and mentioned that the application needs to be in prior to 9/7/11. D. St. Martin reminded the Casey's that their application will only be accepted in September. The motion was approved unanimously.

ADJOURNMENT: D. St. Martin made a motion to adjourn. J. Bergendahl seconded the motion and it was approved unanimously. Meeting adjourned at 8:15 p.m.

Respectfully submitted,

Lynn L. Krajewski, Clerk

Date Approved: _____