

**INLAND WETLAND AND WATERCOURSES COMMISSION  
REGULAR MEETING  
MINUTES OF AUGUST 3, 2011 @ 7:00 P.M.  
POMFRET SENIOR CENTER**

**OPEN REGULAR MEETING:** J. Folsom opened the meeting at 7:00 p.m.

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

**SEAT AN ALTERNATE AS NEEDED** – J. Bergendahl was seated for the meeting.

**ITEMS TO BE ADDED TO AGENDA:**

1. **Janice L. Bosworth, 13 Day Road**, relocation of an existing house trailer on the property and associated land disturbance.
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.

P. Safin made a motion to move these two items under New Applications on the agenda. D. St. Martin seconded the motion and it was approved unanimously.

**PENDING APPLICATIONS:**

1. **Windham County 4-H Foundation, Inc., 326 Taft Pond Road**, application to install erosion and sedimentation control in response to commission letter dated 5/11/11. Before discussion, Jamie read a favorable draft motion for this application. “Motion to approve an application by the Windham County 4-H Foundation, Inc. at 326 Taft Pond Road to improve, restore and stabilize areas disturbed during an excavation and re-grading operation (rock removal) with the following conditions: 1) pre-construction meeting be held with site contractor and Town Staff. That the Report prepared by the soil conservation district is used as a guide to restoration efforts, notwithstanding the following; 2) that a minimum of three (3) water bars be installed (field located) along the old road and that no less than two (2) water bars are installed in the areas of rock removal; 3) that the areas disturbed along the old road are stabilized with conservation mix. IF sufficient organic material is not present the applicant shall place enough material to allow seed bedding/growth; 4) that all areas where topography was manipulated by the removal of earthen products are restored to a final grade that allows historic drainage patterns to remain; 5) \$2,000 surety is posted for E&S with additional \$500 posted for cost of construction meetings and inspection fees via Town Staff; and 6) that all work is completed in the late summer, fall growing season (2011)”. Jamie then said that the nature of the restoration will be better with staff in the field overseeing project. W. Gould made a comment that they did make a profit from the stone. D. St. Martin said that the E&S money is to remain until next year. He asked Jamie how long this project would take. Jamie said it would take 3-5 days. P. Safin asked if when they replace the vegetation, were they going to replace the Mt. Laurel they removed. Jamie said they are going to use conservation mix. P. Safin said that he would like someone to do a re-inspection of the site in 2012. D. St. Martin then made a motion to approve the application with the six conditions. P. Safin seconded the motion and it was approved unanimously.
2. **David and Sandra Flath, 280 Hampton Road**, in-law apartment, 2-car garage, and storage area. Jamie had prepared a favorable draft motion for this application attached to a letter he wrote to the commission. “Motion to approve an application by David and Sandra Flath for the construction of a

new residential structure at 280 Orchard Hill Road as shown on plans prepared by KWP dated 6/30/2011 (Septic System Design Plan) with the following conditions: 1) pre-construction meeting be held with site contractor and Town Staff; 2) that no grading and/or construction occurs within 50' of the wetlands area as shown on the plans (except as provided under condition 3 below); 3) that the wetlands area is identified (field staked) prior to construction/excavation activities at the site; 4) as an alternative, to be discussed at the pre-construction meeting, the foundation curtain drain and roof drains be redirected to the west side of the house and designed/graded in a manner to return surface water to existing wetlands area; 5) \$1,000 surety is posted for E&S with additional \$250 posted for cost of construction meetings and inspection fees; 6) a final "as built" shall be submitted to Town; and 7) IWWC Staff and applicant staff can adjust location of roof and foundation drains". Jamie then explained that the curtain drain will lower the water table to put the septic system in and that the wetlands may have minimal affect from this. The curtain/roof drains will be back towards the wetlands, past the well and septic. D. St. Martin then made a motion to approve the application with the seven conditions previously given by Jamie. J. Stoddard seconded the motion and it was approved unanimously.

**CITIZEN'S COMMENTS:** None.

**NEW APPLICATIONS:**

1. **Roger N. Daigle, 193 Putnam Road**, re-stabilization of a previously disturbed stream northerly of Putnam Road (Route 44) in Pomfret. Application was received tonight but can't be acted upon until next month. Jamie spoke regarding the application. Then Mr. Daigle spoke. He said he wants to get out from under this situation and says he disagrees with a couple of items on the KWP plans. He feels that the check dams would get washed away by the force of the water. He has spoken with two contractors already. There is a lot of Japanese bamboo which he feels has stabilized the banks, but he will take it out or leave it, whatever the commission decides will get done. J. Folsom then asked if the commission felt this needed to go back through a public hearing. The consensus of the commission was that it did not need to have a public hearing. D. St. Martin then said he'd like to hear Jamie's opinion regarding the check dams. Jamie said that in a low flow scenario (later spring/early summer, not February or March) it is designed to give the stream channel back its originality before the disturbance. The Town or Mr. Daigle should not undertake armoring for the high flow scenario. The check dams are flexible. J. Folsom asked how much time this project would take. Jamie thought it would take about a week (5-6 days). J. Folsom then asked the commission how they felt about having a special meeting in two weeks, which would be 8/17/11. Jamie said the appeal has until 8/17/11. J. Bergendahl made a motion to have a special meeting on 8/17/11 at 7pm, location to be determined later (clerk will e-mail the commission and contact applicant). J. Stoddard seconded the motion and it was approved unanimously. Mr. Daigle then said he has one other concern regarding this whole issue. He is angry about the commission restricting him from accessing his land with only a lawn tractor (he has a John Deere 650). The clerk will make copies of the previous approval and e-mail it to the commission members prior to the special meeting.
2. **Janice L. Bosworth, 13 Day Road**, relocation of an existing house trailer on the property and associated land disturbance. Bob Messier was present to represent Janice Bosworth in the matter. He said that a trailer was moved on the property and another was put in so the property would look better. He has had continued correspondence with Ryan over the past months. He needs to find out if the commission deems this a significant activity and has plans to go to the ZBA after he gets through the IWWC commission. He also asked if the trailer needs to be moved back to the original location. He stated that the stream location is not entirely correct because it has changed over the past 20 years. D. St. Martin asked what the impact is to the septic system. B. Messier said there is no further impact because it is still a two-bedroom trailer as the previous one was, although this one is a little larger. P. Safin asked if the map will be revised. B. Messier stated that there is nothing

going on at the site. Everything has stopped. J. Folsom asked about the removal of the old trailer and site clean-up. B. Messier said that is going to happen. Jamie asked about the existing topography. B. Messier said it was done only 3-4 years ago. Jamie then said that they had no plan of remediation and they filled in a regulated area. P. Safin then asked what the application asks for. Jamie said they want the commission to approve what's shown on the plan. W. Gould asked if the trailer is on a slab. B. Messier said no. W. Gould then asked how the trailer is anchored and B. Messier said he was unsure but he will check it out. N. McMerriman felt this is setting a precedent. J. Folsom said this smacks of asking forgiveness rather than filing for permits. There was further discussion regarding how the application was worded incorrectly and how it should reflect the actual reason for the application. It was stated that a proposed driveway will go through the property. The plan will be updated and re-drawn. Jamie said the commission needs to accept the application, but they can deny it as incomplete because what's shown on the plans doesn't meet the regulations. J. Folsom asked what the advantage was of relocating the new trailer. B. Messier said he'd need to get a statement from J. Bosworth. Ryan then said that when he spoke with J. Bosworth, she said she wanted it back and tucked away from the road. J. Bergendahl thought it would be worthwhile to know what's there on the site and what's needed to finish the project. Jamie said the map they have is a time starter with the commission, but it is not ready for Staff to review it yet. J. Folsom then stated that B. Messier had been filled in on what's needed by the commission for next month.

3. **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. W. Abbott was present and spoke regarding this issue. He stated to the commission that Ryan arrived at his property on a Wednesday and Mr. Abbott wasn't expecting to see him. Mr. Abbott had photos of the area with him to show the commission along with a letter outlining why he believed the work was an exempted activity. The following is what Mr. Abbott read to the commission.

Information Read by William Abbott during the IWWC Meeting of August 3, 2011

- A. It is our belief that the work that was done was an exempt activity because the work was incidental to the enjoyment and maintenance of residential property; in fact, the work was done not because we unilaterally decided to undertake the work, we did it only in response to an act of nature. The storm of 12/26/10 forced us to deal with the situation as soon as practical, otherwise the land disturbed by the uprooted trees would have caused far more erosion and sedimentation into the water of the pond.
- B. We would suggest that the work done uses under Section 4.1 of the Pomfret IWWC rules and regulations: such property defined as equal to or smaller than the largest minimum residential lot size; but the critical part of that particular regulation is such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of said watercourse. The work was done in accordance with Best Management Practices and in this particular instance, Management Practices means designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such Management Practices include but are not limited to: erosion, sedimentation controls, restrictions and land use and what have you.
- C. Sedimentation and erosion control is important. When we pulled the stumps out, we replaced the stumps and leveled what was left with processed gravel. I don't know if you're all aware but processed gravel has the property that when it gets wet it becomes like rock. And, we've covered it with topsoil. I'm sorry, I missed one. We did wrap fabric around the point prior to placing the fill. We covered it with topsoil, we seeded and we hayed it. The rocks are in the area where erosion has been going on for decades and we knew we had to do something and the storm made it an emergency because the roots of those four trees were holding the soil.
- D. Alternatively, even if the work is not deemed to be exempt (an exempt activity), then it is an activity permitted as "right" under Section 4.2 of the Pomfret IWWC regulations. The work prevented rather than created further

disturbance of the soil near the water. The following operations and uses shall be permitted as non-regulated uses in wetlands and watercourses provided they do not disturb the natural and indigenous character of the wetland or watercourse by removing, deposition of material, alteration or obstruction of water flow or pollution of the wetlands or watercourse; conservation of soil, vegetation, water, fish, shell fish and wildlife. The work minimized the environmental impact of Erosion and Sedimentation into the water caused by the trees being uprooted by the storm, controlling the eroding sedimentation caused by the uprooted trees as soon as was possible and practical. The work, which was completed in four days, would insure the long-term health and productivity of the lake and no loss of its functions. The work did not cause any irreversible or irretrievable loss of wetlands or watercourse resources. In fact, it prevented such loss and restored such resources. The degree of injury to the wetland and watercourse that might have been caused by the work was at best minimal, and in comparison to the damage that would have been caused if it had not been corrected would have been much more.

Regardless if the activity is exempt and/or not, there is no prudent and feasible alternative to the activities that were undertaken. The work caused less environmental impact on the soil and water than if no work had been done at all. And, if no work was done, there would have been more soil erosion and sedimentation in the pond. Regardless if the activity was exempt or not, or permitted as a right or not, the work was undertaken in a way to cause minimal impact in and on the water. And, I've got to tell you, we knew we had to do something and it became an emergency. That peninsula was built 70 years ago and that house was put in place. It's obviously not in compliance with present codes, but we do not want to see the loss of that particular geologic item in our particular wetland. Thank you.

D. St. Martin then asked when the work was actually done. W. Abbott said they waited until things had dried out so it was done in the end of June. Jamie said this is a regulatory issue and the commission decides whether or not an application is exempt. He disagrees that this is exempt. The work has been completed and the site is stable. It may be pertinent to add this to the special meeting agenda for 8/17/11. D. St. Martin made a motion to add this item to the special meeting agenda for 8/17/11. P. Safin seconded the motion and it was approved unanimously.

**NO-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. Application was approved with conditions 12/2/2009. Work to be done in July. Permit has been approved awaiting payment. This is now the subject of a new application (8/3/11) with the commission. Leave on agenda.
2. **JASD, Orchard Hill Road** - work in regulated area. NOV issued 11/4/05. Nothing new. Leave on agenda.

**JURISDICTIONAL RULINGS:** None.

**AGRICULTURAL ACTIVITIES:** None.

**PRIOR APPLICATIONS WITH CONDITIONS:**

1. **Paul Miller, Tyott Road**, culvert replacements, road widening, catch basin, and installation of a couple of pipes regarding the four lot subdivision. The work should start the middle to end of next week. Tyott Road may be closed for a day. This is being overseen by Staff and G. Postemski, Road Crew Foreman. Leave on agenda.

2. **Town of Pomfret, Grosvenor Road**, remove old culverts and replace with two new ones. Start date of this project was 8/27/09. The remediation date was 1/6/11. Syl Pauley, as the licensed engineer for the project, signed off on the project on 1/10/11. Staff will continue to monitor. This is an ongoing situation. Leave on agenda until spring.
3. **Donna Gauthier, 2 Clapp Road**, single-family home. Letter was sent 7/1/09. Letter received from D. Gauthier requesting return of bond. J. Rabbitt said the site is as stable. This is in bond release status. Leave on agenda until the bond is released.
4. **Sarantopoulos, 325 Wrights Crossing Road**, subdivision 5/07. CO has been issued. This is an ongoing issue. Leave on agenda.
5. **Loos, Rebecca, 40 Modock Road**, 4-lot subdivision 6/07. No activity. The four parcels have been bought. No activity. Leave on agenda.
6. **Moon et. Al., Peter, 596 Pomfret Street**, single-family home 3/08. Application was approved with 10 conditions. Lot is advertised for sale with all approvals in place. No activity. Leave on agenda.
7. **CT Audubon Society, 218 Day Road**, construction is done. CO has been issued. They are in and have asked permission to remove the silt fence. Leave on agenda until the fall.
8. **Pomfret School, 398 Pomfret Street (10/6/10)**
  - A. **Remediation** – ongoing. Staff will check in spring.
  - B. **Turf Fields** – site is stable but utility trench may need re-seeding.
9. **Town of Pomfret Recreation Field, 576 Hampton Road, (10/6/10)** evaluating the condition of remediation area and how best to treat area for long term.
10. **Ridgewood Farms, LLC, formerly 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. Deposit date of surety/bond monies was 8/15/10. Staff has calls in to Gino. There is no activity. Leave on agenda.

**SUBDIVISIONS APPROVED BY PLANNING AND ZONING:** None.

**COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION:**

**1. Ongoing**

- A. **Sharp Hill Vineyard/Fowler – (9/1/10)** Sharp Hill is working with Town for re-paving of road. Mr. Fowler was issued a NOV 7/15/11. Staff has been in contact with the site contractor. The contractor is supposed to visit the Town Hall for a permit next week and has been told he needs to maintain the existing topography.
- B. **Scott Lee, 585 Mashamoquet Road – (9/1/10)** Nothing new since last month. Leave on agenda.
- C. **Scott Lee/Knight property – (1/5/11)** same as above. Leave on agenda.
- D. **Paul Hennen, 555 Mashamoquet Road – (1/5/11)** no new correspondence from Mr. Hennen. Leave on agenda.
- E. **Windham 4-H Camp – (4/6/11) (Cease & Desist issued 3/16/11)** application was approved 8/3/11 with conditions. Leave on agenda.
- F. **Janice Bosworth – (5/4/11)** Day Road mobile home, camper and water/stream problem. Application was submitted to commission 8/3/11. Leave on agenda.
- G. **James & Linda Byrne, 196 Kearney Road, (5/4/11)** information received that 10 yds. of mulch were delivered and 5 yds. of the mulch has been put into the wetlands. Ryan checked this property and did not see any indication of a wetlands violation. He was asked to follow up with this issue onsite.
- H. **John Casey property – (1/5/11)** it was mentioned that there are two tri-axles on the property. Ryan had checked the property and hasn't seen anything or any disturbance. Staff to discuss with Chairman and Ryan after meeting. Leave on agenda.
- I. **William Abbott, unpermitted work on peninsula – (7/6/11)** application was submitted to the commission 8/3/11. Leave on agenda.

**NEW COMPLAINTS: None.**

**CITIZEN'S COMMENTS: None.**

**EXTENSIONS REQUESTED: None.**

**COMMISSION BUSINESS:**

1. Updates and Report from WEO and Commission members. Ryan said his only new things were the two applications that came in tonight for Janice Bosworth and William Abbott.
2. Approval of the *July 6, 2011 Minutes*. – J. Bergendahl made a motion to approve the minutes as submitted. D. St. Martin seconded the motion and it was approved unanimously with two abstentions. Approval of *July 27, 2011 Minutes* – J. Rowley made a motion to approve the minutes. N. McMerriman seconded the motion. W. Gould noted two corrections that were needed. Motion was amended to include the corrections and approved unanimously with one abstention.
3. Report of billing and bond releases – nothing to report
4. Correspondence – John distributed correspondence
5. As needed – None.

**ADJOURNMENT** – Motion to adjourn was made by D. St. Martin. J. Bergendahl seconded. Motion was approved unanimously. Meeting was closed by the Chairman at 9:03 pm.

Respectfully submitted,

Lynn L. Krajewski, Clerk

Date Approved: \_\_\_\_\_