

**SPECIAL MEETING MINUTES
TOWN OF POMFRET
INLAND WETLAND AND WATERCOURSES COMMISSION
POMFRET SENIOR CENTER, 407 MASHAMOQUET ROAD 5:30 PM
MONDAY, SEPTEMBER 29, 2008
These minutes have not been approved.**

Members present were: David St. Martin, Chairman, Marshall Eaton, John Folsom, Secretary, Joe Stoddard, Jim Rowley, Nancy McMerriman, William Gould, Alternate Nancy Fraser, Alternate, Jamie Rabbit, Designated Agent, Ed Higgins, Attorney, and Jim Rivers, First Selectman were present. Attorney Zizka was present via telephone.

OPEN SPECIAL MEETING

David St. Martin opened the special meeting at 5:36 p.m. Roll Call was taken.

SEAT AN ALTERNATE AS NEEDED – Both alternates were seated.

NEW BUSINESS:

1. Lussier decision discussion. As mentioned in the previous IWWC meeting, the commission has had a long history with this property. There was an application made, then a violation and another application made, which went to a public hearing. The hearing was closed and went to a decision with 14 conditions and Mr. Lussier appealed this decision in Superior Court. The court made a decision that no permit was required. The commission does not know what to do as to (a) how to handle this particular appeal, and (b) how to handle future applications. The commission will be going into executive session to discuss what we can or cannot do and how we proceed going forward.

Chairman St. Martin asked everyone who was not a member of the commission, to please leave the room so the commission could go into executive session. His motion to move to executive session occurred at 5:40 pm.

Special meeting reconvened at 6:47 pm. For the record, the commission held a discussion in executive session regarding the pending litigation of the Lussier decision. No vote was taken during that executive session. During the discussion with both our counsels, it was determined that we are beyond the appeal period and the commission cannot appeal this decision. The only thing on the agenda is the continued discussion of the Lussier decision. John Folsom asked if there was anything we had to do to come into compliance with this specific court case, such as issuing a declaratory statement at this point. Atty. Higgins stated there should be a ruling on the minutes of the meeting

that the requested activity was permitted by right and not subject to any conditions. To close it out, it would be appropriate to take some action on those lines to adopt a resolution. Atty. Higgins will write a two sentence resolution for the commission to have on their agenda for Wednesday's meeting.

CITIZEN'S COMMENTS – Ford Fay asked if it was possible for the public to know what the ruling is from the courts in regard to all the articles that we're seeing in the papers that this has now set a precedent for the state that logging doesn't need any type of permit. Lussier's letter dated 9/29/08 was read into the record (copy attached). Chuck Boster asked, in Atty. Higgin's opinion, is the regulation of logging not only permitted but also done by several other towns in Connecticut through zoning. Paul Hennen made the comment in reference to the fees for logging applications and other applications, the regulations make it very clear, as does state statutes and DEP and other regulations, that wetlands commissions do have the right to exert fees for their processing an application. It is not a fee for a permit; it is a fee for the application so that the town can recover some of the costs of that processing process. "I just want to make the statement that to make matters of "right" a non-fee subject, I do not believe, would be in compliance with your regulations."

ADJOURNMENT - John Folsom motioned to adjourn and was seconded by Joe Stoddard. Motion was approved unanimously.

Respectfully submitted,

Lynn L. Krajewski, Clerk