



TOWN OF WINCHESTER
INLAND WETLANDS & WATERCOURSES COMMISSION
Town of Winchester Town Hall, 338 Main Street
P. Francis Hicks Room – 2nd Floor
August 16, 2017 – 7:00PM
Regular Meeting Minutes

1. CALL TO ORDER:

Chairman Ric Nalette called the meeting to order at 7:00PM.

2. ROLL CALL:

Roll call was completed by Mr. Nalette. Present at the meeting in addition to Mr. Nalette were: Chris Kiely, Jackie Mulvey, Matt Closson, Bob Haburey, Steve Molinelli, Kurt Timmeney and Town Planner/Wetlands Agent Steve Sadlowski.

Absent excused was Gene Berlinski. It was noted that Russ Davenport was absent.

3. APPROVAL OF MINUTES – JULY 19, 2017:

MOTION: Ms. Mulvey, Mr. Kiely second, to approve the July 19, 2017 Minutes; Motion approved with Mr. Nalette, Ms. Mulvey, Mr. Kiely, and Mr. Molinelli voting aye while Mr. Closson, Mr. Haburey, and Mr. Timmeney abstained.

4. AGENDA REVIEW:

No modifications were made to the agenda.

MOTION: Mr. Molinelli, Ms. Mulvey second, to table the regular meeting and open the public hearing; unanimously approved.

5. PUBLIC HEARING:

A. IWWC #17-19 Owner: Town of Winchester Applicant: Town of Winchester Proposal: New 5-Year Drawdown Schedule for Highland Lake.

The legal notice for the public hearing was read into the record, with it being noted that it was published in the Republican American the requisite two times, August 8, 2017 and August 11, 2017.

Water Level Committee Chairman Shirley Allshouse, accompanied by fellow committee member Will Platt, appeared before the Commission regarding this application. Mr. Platt reported that the committee, comprised of Ms. Allshouse, Sue Peacock, Claire Stevens, Sarah Munley and himself, met about five times over the last two years, and twice during that span with Limnologist George Knocklein, to draft this new five-year water level plan. Referencing a report from Dr. Knoecklein, Mr. Platt explained that the lake has adjusted well to the three-foot drawdown explaining that erosion that could occur, has already occurred. Mr. Platt explained that problems occur with deeper drawdowns, citing when Sucker Brook Cove empties out and the deposits of silt that forms in front of the island. He noted that this occurs during drawdowns with a three- to eight-foot drop, with moving silt and the release of phosphorus into the lake. Mr. Platt noted that these deeper drawdowns attract geese that feed on the exposed plant life, the geese stay longer and thus create more weeds. The rate to refill was also a concern cited by Mr. Platt as he explained that it is taking longer and longer to refill to capacity. Mr. Platt reported that the Water Level Committee has decided to shorten the length of time of the drawdown with it beginning to refill on December 15, 2017 with a hopeful result of it being completely refilled before the cove shrinks causing the bogs. He explained that his Committee decided to go to six and one-half feet to keep water in the coves.

Ms. Allshouse confirmed that this Commission received her memorandum. Ms. Allshouse noted that theories of the ad hoc committee have changed over the last twenty years, with theories regarding weed kill by a deep drawdown being dismissed. She also pointed out that the committee members represent property owners from both deep-water and

shallow-water, noting that there were individuals who would have benefited from a deeper drawdown. However, she continued, there had been unanimous support for the drafted five-year drawdown policy for 2017-2018 to 2021-2022. She noted that about eighty-five acres are exposed during an eight-foot drawdown. Ms. Allshouse reported that Highland Lake has experienced floating bogs. She shared photographs of them. Additionally, Ms. Allshouse reported that the Department of Energy and Environmental Protection has called for more conservative drawdown policies.

Ms. Allshouse questioned whether commissioners had received a copy of the Evaluation of Lake Level Drawdown at Highland Lake 2008-2016 prepared by Dr. George W. Knoecklein of Northeast Aquatic Research, LLC dated February 28, 2017. It was noted that the Commission had just received a copy of the forty-page document this evening.

She reviewed the negative aspects of a deep drawdown including weed migration into new areas, the phosphorus levels that are increased, the fueling of algae production, the rate of lake refill, the possible prevention of certain species of fish reaching spawning areas, the loss of habitat for some invertebrates, the loss of recreation use such as the inability to skate or snowmobile due to the inability to get to the ice, the effect of the cove getting drained denying some property owners their legal access to the water, and the economic loss associated with that.

Ms. Allshouse referenced a legal issue under littoral law, noting the right of all shore-front property owners on a navigable body of water, with a basic legal right for access to the water. She explained that water cannot be diverted to benefit some people to the detriment of other people. Noting other lakes that do not draw down, Ms. Allshouse opined that if there are other prudent and feasible alternatives to draining, this Commission should not include the cost factors in consideration. Ms. Allshouse distributed copies of photographs of bogs, dating back to 1979. She reported that the Board of Selectmen voted unanimously to approve this proposed drawdown policy.

In response to an inquiry from Mr. Kiely regarding the former drawdown schedule and the proposed new drawdown schedule, Ms. Allshouse noted that the former provided for a 6.5 feet drawdown with an allowance up to 8 feet while the new drawdown will be held at 6.5 feet. She noted that the Department of Public Works had suggested an additional change to include not closing the gate until ice is sufficiently off the lake. Mr. Kiely questioned whether it was worth reaching out to the State regarding this matter. Mr. Closson questioned what acreage of the lake is exposed with a 6.5-foot drawdown as well as the acreage with a three-foot drawdown. It was noted that thirty acres is exposed with a three-foot drawdown. Ms. Allshouse explained that if there is water in the cove, the lake doesn't get the bogs. Mr. Molinelli questioned whether there is water in the cove during a 6.5-foot drawdown. Ms. Allshouse confirmed. Noting that the policy is for the next five years, Mr. Nalette questioned whether the following five-year plan might include a deeper drawdown for the benefit of property owners who might need a deeper drawdown. Ms. Allshouse noted that every five years a report is commissioned by the Water Level Committee to review the past five years and that the Committee is not locked into anything going forward. Mr. Closson questioned how many weeks it takes to complete the drawdown. It was noted that it generally is pretty quick, taking three to four weeks. Mr. Closson noted that it leaves about three to four weeks to do maintenance on property. Ms. Allshouse noted that not everyone needs the full draw and that some people might begin their work prior to the full drawdown. Mr. Haburey questioned how many residents need the eight-foot drawdown. Ms. Allshouse distributed a 2002 survey of Inland Wetlands and Watercourses permits, reflecting whether a three-foot or six-foot drawdown was needed for permitted work. Mr. Nalette questioned whether the three-foot drawdown holds any benefit to the lake. Mr. Platt explained that a three-foot drawdown keeps the water away from the spillways for safety and has been historically what has been done.

Brian O'Heron of 212 West Wakefield Boulevard spoke in opposition of the reduction of the deep drawdown from eight feet to six and one-half feet. He noted that he has had property on the lake for many years and has served on several committees in town. Upon learning of the proposed deep drawdown reduction, Mr. O'Heron explained that he went door to door canvassing his neighbors up at the lake regarding their need for an eight-foot drawdown, noting that he gathered sixty signatures prompting this public hearing. Mr. O'Heron provided anecdotes regarding various needs in support of the deeper drawdown. He cited a builder's estimate that half of the property owners at the lake have needed or will need it as well as relaying a conversation with one local surveyor who indicated that a deep drawdown is beneficial to him.

Claire Stevens of 374 East Wakefield Boulevard, noting that she has served on the Water Level Committee for twenty-three years, explained that the water level has always been very controversial because of the disparity of needs. She noted that her Committee has always relied upon the expertise of Dr. Knoecklein as he does not sell any products. Ms. Stevens explained that her property abuts deep water and yet she is still in support of the current proposal. She noted that Dr. Knoecklein's report indicated that no drawdowns other than the three-foot drawdown protects the spillway. Ms. Stevens opined that the compromise of a drawdown to six and one-half feet is very reasonable and rational.

Carol Zacchio of 114 Shore Drive, spoke in support of the proposed drawdown schedule, explaining that she had personally witnessed the bogs.

Don Crossman of 122 West Wakefield spoke in support of the proposed drawdown, noting the recommendations provided in Dr. Knoecklein's report.

Scott Eisenlohr of 287 Pratt Street spoke in opposition of the proposed drawdown, noting his previous experience as the town's wetlands enforcement official. He explained that it is very costly to build a wall in the deep end of the lake, noting that one of the conditions historically included in this Commission's approvals was that work was to be performed in a dry lakebed. Mr. Eisenlohr implored consistency with a schedule to provide residents with better tools for planning. He described the challenges that can be encountered by contractors with doing work during the cold winter months in those areas with deep water. Mr. Eisenlohr suggested that if a six and one-half foot drawdown is adopted, this Commission may want to consider allowing equipment to be in the lakebed for easier access.

Mr. Molinelli questioned whether this Commission truly has authority relative to this application. Mr. Sadlowski confirmed, noting that the Commission can approve, deny or modify the application.

Mr. Haburey questioned whether the Town benefits from a deep drawdown. Mr. Rollins indicated that as far as the Department of Public Works is concerned, he didn't note a benefit either way. Mr. Eisenlohr noted the consistency as the important factor in drawdowns. Mr. Rollins agreed.

Woody Dawson of 543 West Wakefield Boulevard spoke in favor of a well-advertised deep drawdown.

MOTION: Mr. Molinelli, Mr. Kiely second, to close the public hearing in the matter of IWWC #17-19 Owner: Town of Winchester Applicant: Town of Winchester Proposal: New 5-Year Drawdown Schedule for Highland Lake; unanimously approved.

MOTION: Mr. Kiely, Mr. Molinelli second, to continue the application in the matter of IWWC #17-19 Owner: Town of Winchester Applicant: Town of Winchester Proposal: New 5-Year Drawdown Schedule for Highland Lake to the next regular meeting of this commission; unanimously approved.

The Commission took a brief recess at 7:50PM. The Commission reconvened at 7:55PM.

6. OLD BUSINESS:

A. IWWC#17-16 Owner: Lynn C. Brennan Brandolini and James Brandolini Applicant: Lynn C. Brennan Brandolini Location: 734 Lake Drive Proposal: Replace 30 Foot Section of Seawall.

It was noted that the Commission did not have questions regarding this application from its initial review of it from last month.

MOTION: Mr. Molinelli, Ms. Mulvey second, to approve Application IWWC#17-16 Owner: Lynn C. Brennan Brandolini and James Brandolini Applicant: Lynn C. Brennan Brandolini Location: 734 Lake Drive Proposal: Replace 30 Foot Section of Seawall based on oral and written testimony. Conditions 1-12 are standard Inland Wetland Commission Conditions and the following additional conditions determined by the Inland Wetlands Commission.

1. The permittee shall notify the Inland Wetlands Enforcement Officer immediately upon the commencement of work and upon its completion.
2. If the authorized activity is not completed within five years from the issuance date of July 19, 2017, said activity shall cease and, if not previously revoked or specifically renewed or extended, this permit shall be null and void. Any request to renew or extend the expiration date of a permit should be filed in accordance with the Inland Wetlands Regulations of the Town of Winchester. Expired permits may not be renewed and the Inland Wetlands Commission may require a new application for regulated activities.
3. All work and all regulated activities conducted pursuant to this authorization shall be consistent with the terms and conditions of this permit. A copy of the permit and plans shall be on site at all times. Any structures, excavation, fill, obstructions, encroachments, or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation.
4. This authorization is not transferable without the written consent of the Inland Wetlands Commission.
5. In evaluating this application, the Inland Wetlands Commission has relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.

6. The permittee shall employ the best management practices, consistent with the terms and conditions of this permit to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands or watercourses. Permittee will provide a copy of approved plans to contractor which shall stay on site and be available for review or inspection during the duration of work. For information and technical assistance, contact the Wetlands Enforcement Officer. The permittee shall immediately inform the commission of any problems involving the wetlands or watercourses that have developed in the course of, or that are caused by, the authorized work.
7. No equipment or material including without limitation, fill construction materials, or debris, shall be deposited, placed or stored in any wetland or watercourse on or off site unless specifically authorized by this permit.
8. This permit is subject to and does not derogate any rights or powers of the Town of Winchester, conveys no property rights or exclusive privileges, and is subject to all public and private rights, to all applicable federal, state and local laws. In conducting and maintaining any activities authorized herein, the permittee may not cause pollution, impairment, or destruction of the inland wetlands and watercourses of Winchester.
9. If the activity authorized by the inland wetlands permit also involves activity or a project that requires zoning of subdivision approval, special permit, variance, or special exception, no work pursuant to the wetlands permit may begin until such approval is obtained.
10. The permittee shall maintain sediment and erosion controls at the site in such operable conditions as to prevent the pollution of wetlands and watercourses. Said controls are to be inspected by the permittee for deficiencies at least once per week and immediately after rains. The permittee shall correct any such deficiencies within 24 hours of said deficiencies being found. The permittee shall maintain such control measures until all areas of disturbed soils at the site are stabilized.
11. The permittee, contractor and/or owner shall conduct all operations at the site in full compliance with this permit, to the extent provided by law, may be held liable for any violations of the terms and conditions of this permit and are responsible for any violation they may have created.
12. Wetland flagging to stay in place during the construction process. Missing flags to be replaced upon the Wetland Agent's request if required for inspection or enforcement.
13. Cash erosion and sedimentation bond of \$1,000 will be submitted to the Inland Wetlands Office; Motion passed with Mr. Molinelli, Ms. Mulvey, Mr. Nalette, Mr. Kiely, Mr. Davenport voting aye while Mr. Closson, Mr. Haburey, and Mr. Timmeney abstained.

B. IWWC #17-18 Owner: Richard Fitzgerald Applicant: Richard Fitzgerald Location: 124 Shore Drive Proposal: Construct Approximately 12'x20' Addition and Remove Existing Pavers Under Front Deck and Replace with Pervious Pavers.

Mr. Closson recused himself regarding this application and reported that the owner/applicant had contacted him, indicating that he was unable to make the meeting. Mr. Nalette noted that the only outstanding item was a site map.

MOTION: Mr. Kiely, Mr. Molinelli second, to approve Application IWWC #17-18 Owner: Richard Fitzgerald Applicant: Richard Fitzgerald Location: 124 Shore Drive Proposal: Construct Approximately 12'x20' Addition and Remove Existing Pavers Under Front Deck and Replace with Pervious Pavers. based on oral and written testimony. Conditions 1-12 are standard Inland Wetland Commission Conditions and the following additional conditions determined by the Inland Wetlands Commission.

1. The permittee shall notify the Inland Wetlands Enforcement Officer immediately upon the commencement of work and upon its completion.
2. If the authorized activity is not completed within five years from the issuance date of July 19, 2017, said activity shall cease and, if not previously revoked or specifically renewed or extended, this permit shall be null and void. Any request to renew or extend the expiration date of a permit should be filed in accordance with the Inland Wetlands Regulations of the Town of Winchester. Expired permits may not be renewed and the Inland Wetlands Commission may require a new application for regulated activities.
3. All work and all regulated activities conducted pursuant to this authorization shall be consistent with the terms and conditions of this permit. A copy of the permit and plans shall be on site at all times. Any structures, excavation, fill, obstructions, encroachments, or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation.
4. This authorization is not transferable without the written consent of the Inland Wetlands Commission.
5. In evaluating this application, the Inland Wetlands Commission has relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.
6. The permittee shall employ the best management practices, consistent with the terms and conditions of this permit to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands or watercourses. Permittee will provide a copy of approved plans to contractor which shall stay on site and be available

for review or inspection during the duration of work. For information and technical assistance, contact the Wetlands Enforcement Officer. The permittee shall immediately inform the commission of any problems involving the wetlands or watercourses that have developed in the course of, or that are caused by, the authorized work.

7. No equipment or material including without limitation, fill construction materials, or debris, shall be deposited, placed or stored in any wetland or watercourse on or off site unless specifically authorized by this permit.

8. This permit is subject to and does not derogate any rights or powers of the Town of Winchester, conveys no property rights or exclusive privileges, and is subject to all public and private rights, to all applicable federal, state and local laws. In conducting and maintaining any activities authorized herein, the permittee may not cause pollution, impairment, or destruction of the inland wetlands and watercourses of Winchester.

9. If the activity authorized by the inland wetlands permit also involves activity or a project that requires zoning or subdivision approval, special permit, variance, or special exception, no work pursuant to the wetlands permit may begin until such approval is obtained.

10. The permittee shall maintain sediment and erosion controls at the site in such operable conditions as to prevent the pollution of wetlands and watercourses. Said controls are to be inspected by the permittee for deficiencies at least once per week and immediately after rains. The permittee shall correct any such deficiencies within 24 hours of said deficiencies being found. The permittee shall maintain such control measures until all areas of disturbed soils at the site are stabilized.

11. The permittee, contractor and/or owner shall conduct all operations at the site in full compliance with this permit, to the extent provided by law, may be held liable for any violations of the terms and conditions of this permit and are responsible for any violation they may have created.

12. Wetland flagging to stay in place during the construction process. Missing flags to be replaced upon the Wetland Agent's request if required for inspection or enforcement.

13. Cash erosion and sedimentation bond of \$1,500 will be submitted to the Inland Wetlands Office; Motion passed with Mr. Molinelli, Ms. Mulvey, Mr. Nalette, Mr. Kiely, and Mr. Davenport voting aye while Mr. Haburey, and Mr. Timmeney abstained.

Mr. Closson rejoined the Commission in his full member status at this point.

7. NEW BUSINESS:

A. IWWC #17-19 Owner: Town of Winchester Applicant: Town of Winchester Proposal: New 5-Year Drawdown Schedule for Highland Lake.

This application was accepted and continued to the next regular meeting of this commission.

B. IWWC #17-20 Owner: Suzanne Carfiro Applicant: Frank Carfiro Location: 552 East Wakefield Boulevard Proposal: Install 2nd Dock 24'x6' - Aluminum on Legs, Jet Ski Float, No Excavating or Concrete Work.

Frank Carfiro appeared before the Commission regarding this application. He noted that the amount of the lake frontage is between one hundred eighty (180') feet and two-hundred (200') feet. Mr. Carfiro explained that the dock will cantilever over the water.

MOTION: Ms. Mulvey, Mr. Closson second, to accept Application IWWC #17-20 Owner: Suzanne Carfiro Applicant: Frank Carfiro Location: 552 East Wakefield Boulevard Proposal: Install 2nd Dock 24'x6' - Aluminum on Legs, Jet Ski Float, No Excavating or Concrete Work, deeming the proposed work as an insignificant activity; unanimously approved.

8. AGENT ACTIONS:

A. Determinations.

None.

B. Warnings/Violations.

None.

9. COMMUNICATIONS AND BILLS:

Mr. Nalette reported that he had received an email requesting that he appear at the upcoming Board of Selectmen meeting as they continue their review of Ordinance Section 162 Docks, Swim Floats, Boatlifts, Walkways, Personal Watercraft Lift Floats, Mooring Buoys and Markers at Public Bodies of Water. Mr. Nalette noted he had a work conflict with the time of the meeting. Mr. Kiely agreed that he would be able to attend in his stead.

10. OTHER BUSINESS:

A. Proposed Bubbler Ordinance.

Mr. Nalette reported that he met with Mr. Sadlowski to review this. A draft copy of a proposed ordinance, "Bubblers and Waters", was provided to the Commission. Mr. Haburey questioned the number of bubblers on the lake currently. Mr. Molinelli indicated that there are presently no more than four. Mr. Closson questioned whether the existing bubblers would be grandfathered. Mr. Sadlowski suggested that even the existing bubblers should be registered as they are not there all the time but are put in during the winter months. The consensus of the Commission was that they would take the draft and act upon it at their next regular meeting. It was noted that the Commission would review their bylaws at their next regular meeting.

The issue of conflicts of interest among commissioners as well as perceived conflicts of interest were discussed. Mr. Sadlowski read aloud from the Town's Ordinances, Section 132 Adoption of Code of Ethics. What would constitute a conflict was discussed with it being noted that a financial interest is a key component in that determination. The method by which a recognized conflict should be communicated was also discussed.

11. ADJOURN:

MOTION: Mr. Nalette, Mr. Kiely second, **to adjourn at 9:37PM; unanimously approved.**

Respectfully submitted,

**Pamela A. Colombie
Recording Clerk**