

Town of Winchester
INLAND WETLAND & WATERCOURSES COMMISSION
Minutes November 16, 2011
7:00 PM, P. Francis Hicks Room 2nd Floor, Town Hall
338 Main Street, Winsted, CT 06098

FILED
CLERK'S OFFICE

NOV 30 2011

SHEILA S. SEDLACK
TOWN CLERK OF WINCHESTER
WINSTED, CONN.

The meeting was called to order by Chairman Christopher Waring at 7:05 p.m. The following members answered roll call: Christopher Waring, Christopher Kiely, Sue Peacock, Brian O'Heron, Jim Rollins and Scott Eisenlohr, Inland Wetlands Agent and (Ric Nalette Jr, Steven Molinelli and Rhonda Roy marked absent excused). Robert Haburey Jr marked absent.

Approval of Minutes 10/19/11

Motion: by J. Rollins to **approve minutes as amended** for 10/19/2011,
Seconded by S. Peacock. Vote: all in favor-*Motion carried unanimously.*

- J. Rollins-adjournment should be J. Rollins not J. Reinhart.
- S. Peacock-would like the minutes to reflect on page 8 that the Water Level Committee was taking under consideration the change in the 8 foot draw down because of the bog situation.

4. Agenda Review

- J. Rollins would like to add under communications Item E. 2002 DEP E&S Control Manual.
- S. Eisenlohr-under New Business Application IWC 06-22 Michael & Kathy Smith-722 W. Wakefield Blvd IW extension.

5. Old Business

A. Application IWC#11-18

Applicant: Jan Cohn

Location: 812 W Wakefield Blvd

Map: 038, Blk: 111, Lot: 002A, Zone: HLD

Proposal: Replace collapsing concrete retaining wall and adjacent stairs

- S. Eisenlohr-it is currently in the attorney's hands because part of the wall that is collapsing is on towns property. The attorneys are reviewing and I would like the commission to table this because the contractor would like to fix this collapsing wall before winter. If I have her withdraw it and if she comes back in January or February for approval it might be too late to repair it and I don't want the road to fall apart. Hopefully the attorneys will get back to us regarding the easement and our next step would be to approve it. My other question is there any outstanding issues the commission would like addressed.

- J. Rollins-the only thing to keep an eye on would be, because the hillside is so steep any erosion would be quick down to the lake, so it would have to be maintained.
- S. Eisenlohr-if we don't have anything by our next meeting from the attorneys I will ask them to send in a letter to extend it.
- C. Waring-we did receive an email from the Town Attorney telling us that we cannot act on it until the issue is resolved.

Motion: by S. Peacock to **table** application IWC #11-18, Applicant: Jan Cohn Location: 812 W Wakefield Blvd, second by J. Rollins. **Vote-all in favor-Motion carried unanimously.**

B. Application IWC#11-23

Applicant: Oliver Tenney

Location: 203 W. Wakefield Blvd

Map: 113, Blk: 120, Lot: 002, Zone: HLD

Proposal: Install Dock 8 ft wide x 20 ft long

- S. Peacock-the general information on the front page, was the fee paid?
- S. Eisenlohr-yes \$215, check number 268-Td Bank
- J. Rollins-so the only outstanding issue I remember having was the distance to the littoral boundary.
- S. Eisenlohr-a revised drawing was provided.
- C. Kiely-should we have better drawings than this?
- C. Waring-in my opinion as long as we can locate it.
- C. Kiely-but if there is a wall involved or a stairway, this really isn't acceptable.
- C. Waring-if it was more complicated I would totally agree.
- J. Rollins-there was more to the application last month so this is just a supplemental to that.
- S. Peacock-what was it you were looking for last month?
- C. Waring-the distance from the dock to the property lines. It came out to just under the 50% rule.

Motion: by S. Peacock to **Approve** Application IWC#11-23 Oliver Tenney. Proposal: Install Dock 8 ft wide x 20 ft long, Map: 113, Blk: 120, Lot(s) 02, Zone: HLD based on oral and written testimony, second by J. Rollins see conditions, **Vote: all in favor-Motion carried unanimously.**

Conditions 1-12 are standard Inland Wetland Commission Conditions and the following additional conditions:

13. Cash Erosion and Sedimentation Bond of \$-0- be submitted to the Inland Wetland Office before construction begins.
14. No construction equipment allowed in the lakebed at any time.
15. Excavating in water not allowed.
16. No additional sand shall be added.
17. The plan as modified complies with Ordinance Section 162 and the applicant will conform to all other outstanding items in Section 162.

6.

New Business

A. Application IWC #06-22

Applicant: Michael & Kathy Smith

Location: 722 W Wakefield Blvd

Proposal: 5 year extension for the permit

- C. Waring-this was passed out by S. Eisenlohr, there is a letter on the front and the next page is the certified letter that was sent from the applicant with approval and the conditions about the permit.
- C. Waring-is there any additional information?
- J. Rollins-the fact that it is just beyond the five years I think we can waive that.
- S. Eisenlohr-it came in September 7th in an envelope; the envelope was never opened so it never got put on the agenda. The check came in October 31st.
- C. Kiely-in reading this it says it has not been completed, has it been started?
- S. Eisenlohr-I think they have done some minor pointing along the wall.
- B. O'Heron-I thought if you started something you didn't have to get an extension.
- S. Eisenlohr-if he did the majority of the work, he has only done a minor portion of the project so he asked me about the extension. Was the deep draw down in as part of the conditions? They didn't do it during the six foot draw down so that is why they need the extension.
- B. O'Heron-I still don't understand that, I thought if they started the work they didn't have to come back.
- C. Waring-the permits are for five years and if you don't complete the work in that five year period then you either have to request an extension or get a new permit.

Motion: by J. Rollins to **approve** a five year extension for IWC#06-22, Michael & Kathleen Smith, Proposal: 5 year extension request to 10/18/2016 second by S. Peacock, **Vote:** all in favor-**Motion carried unanimously.** Based on oral and written testimony.

1. The 5 year extension expires on 10/18/16, totaling 10 years.
2. Extension request must comply with approval letter dated 10/18/06 with 20 conditions.
3. Any modifications of the 10/18/06 approval and plans will require a permit.

Other Business

- Town of Winchester Ordinance 162-Ad Hoc committee
 - Waring-we got word on this that the Ad Hoc committee can review sections of the ordinances that they would like to open, and they don't have to open the entire ordinance to editing. So the next step would be to form an ad hoc committee.
 - O'Heron-first of all we need to decide what we want them to look into.
 - Waring-we keep having these meetings where everyone is not here. Does anyone have an opinion on how we should handle this? I think we should add something to next month's meeting as a real agenda item to discuss and get through this.
 - S. Eisenlohr-do we have a finalized list?
 - J. Rollins-I think we can figure out that list and discuss it with everyone that is here and either add or take away from it.
 - Waring-lets having something on the agenda for our next meeting for full discussion of possible changes to the ordinances and a second item for possible formation of an adhoc committee.
 - S. Eisenlohr-will provide a list of previous adhoc committee members to start with because of there past experience with this document.
 - O'Heron-can you email the check list so we can review it prior to next month's meeting.
 - Waring-provided the members with the current check list.
- A. Town of Winchester Inland Wetlands Regulations - possible amendments/revisions.
 B. Bylaws Town of Winchester Inland Wetlands Commission amendments/revisions.

8.

Agent Determination

- A. **Application: IWC#11-24**
 Applicant: Matt Closson
 Location: 656 East Wakefield Blvd
 Map: 038, Blk 107, Lot(s) 20&21, Zone: HLD
 Proposal: install access road for well, remove and stabilize well for drinking water.
- S. Eisenlohr-the applicant was Matt Closson-owner on record is David Paigo. It has been graded and hydro seeded.
 - J. Rollins-the only question I had was answered when I got the drawing.

9.

Warnings

- A. Gilbert School-collapsing wall-200 Williams Ave
- S. Eisenlohr-I haven't heard anything from them, I will follow up with them by next month.
 - S. Peacock-who should be contacting you on that?

- S. Eisenlohr-I called Dave Battista from Lenard Engineering. I believe D. Battista has been communicating with the school.

10.

Violations

11.

Communications & Bills

A. Chairman Report

- C. Waring-our meeting next month, the third Wednesday will be the 21st.
- S. Eisenlohr-I think it is the 14th the 2nd Wednesday.
- S. Peacock-has there ever been a time when the December meeting was cancelled?
- C. Waring-maybe send out a reminder the week before seeing it is a different week.
- S. Eisenlohr-I have to create a calendar for next year would you like me to keep it the third Wednesday?
- B. O'Heron-does it have to be Wednesday night, for old guys like me can we have the meeting at 6 instead of 7.
- Commission agreed to keep it on Wednesday and at 7pm and the second Wednesday in December.

B. IWC Grant/Steap Committee – Ad hoc committee start grant writing/Jim Rollins

- J. Rollins-nothing much going on, no money out there to give.

C. Water Level Draw Down

- B. O'Heron-since our last meeting I have done a lot more research on the history of this whole thing going back 20 years or more. I did go to the selectmen's meeting and I did give them a copy of what I passed out here. I am giving you another letter this evening I can read it if you would like.
- B. O'Heron-When they do study the bog issue they may learn that the 8 foot draw down is a problem but it is very unlikely.
- C. Waring-the bog doesn't happen with every 8 foot draw down.
- B. O'Heron-the bog could happen with a three foot draw down. The other thing I wanted to say is when the selectmen where talking about this the first time around and they changed it to four years, part of the reason they did that was because the report was non conclusive. They couldn't agree on whether the fifth year was going to be an 8 foot drawn down or a 3 foot. We really need to have the proof if this is causing the problem or not.
- S. Peacock-just a follow up on the bog situation, when they have the deep draws the consideration is to have it earlier like in September. The reason why the draw down started in November is so people could us their boats recreationally longer. But as far as the deep draw there is a consideration under study and a comment can be made on it, to move it to early in the

season which would mean to some owners that they would not be able to recreate on the lake, because they would take it down fast and bring the water back in so that you would never have that freezing that created the bog.

- S. Peacock-as far as information goes I received this email and I made a copy of it and I thought I would pass it out here, there is a lot of information on it, it was sent to C. Waring but also sent to a lot of the committee. There is a lot of detail on what is going on with the Water Level Committee.
- S. Peacock-as far as this body, the IWWC making any recommendations or passing any rulings, we are at the far end of the decision making of the acceptance on this. The Water Level Committee is an authorized agent of town; the Board of Selectmen formed the Water Level Committee and charged it to make a water level schedule which was back in 1996. That committee is an agent of the Board of Selectmen. It does emanate from the IWWC. The Water Level Committee recommends to the Board of Selectmen and at that time the Board of Selectmen can modify or except as recommended allowing the study of the Water Level Committee. Whatever the Board of Selectmen want to do passes it to the Wetland Committee, which is a state mandate commission and you approve our modify and grant the permit. You supersede the Board of Selectmen. I spoke with Claire Stevens and she said she clarified this with Steve Tessitore at the DEP. The schedule ends this year but a five year schedule was clipped to the permit. The official permit in S. Eisenlohr's file. This is where the mix up got in, Candy Perez as Mayor was also liaison to the Water Level Committee and the Board of Selectmen which she was chair passed a four year submittal as a compromise because the Board of Selectmen wanted three year, the Water Level Committee wanted five year , so a four year was passed. But there is belief that in the Wetland Office the permit is for five years that was stapled to the permit. The meetings are open; they are for the good of all and the good of the water body. There are studies that have to be done and Nocolitine is a recognized limnologist. The money is in the budget to do some testing.
- S. Peacock-on a personal observation having been on the lake for many years, when I was a kid that lake was drawn down deep every single summer because they used the power of the factory at the end of the lake. So we had that deep draw down that we are all so concerned about now, they did it every year. The water just flowed back in naturally and it was full body the next summer. So if it's anything that is bothering the lake from the deep draw down it has to be perhaps all the siltation from the development around the lake because back then it was all summer homes.
- C. Kiely-I'm not sure if I am in favor of lobbying, correct me if I am wrong, but did you say we should lobby the Selectmen previous to them drawing up the permit application. I'm not in agreement with that I think they need to do their own research unless they ask us for input. When the application comes before us we can add or do anything we want.
- J. Rollins-lobbying is the wrong word; request them to make a decision on the water level.
- B. O'Heron-I agree with everything S. Peacock has said however the problem is the thing is broken, they had a public hearing and they agreed

on a four year and then we were suppose to go out and do all this work and do the next plan. Now we are sitting here without a plan for next year and that is where it is broken. They aren't even having another meeting until next summer, so what I am saying we don't want to wait another eight months for them to go through the study process. We should just ask the selectmen to tell them that we would like to get the drawn down for next year and the two following years pinned down so they can get all their work done and do it in a satisfactory manner . All the stuff that was on their permit they didn't do, they didn't come once a month or once a year.

- S. Peacock-didn't C. Stevens go in front of the Board of Selectmen this year?
- B. O'Heron-she went after the Water Committee Level meeting and she told the selectmen that she had a five year schedule. I stood up during public comment and said no you only have a four year schedule.
- S. Peacock-that is where the discrepancy is.
- C. Waring-we have been discussing this over the last few months, S. Peacock you might have said and you can comment on this, that there has been measurements and testing being done over the course of the last three years. What has that entailed and has it led to any conclusion.
- S. Peacock-according to C. Stevens's letter shows you what is planned up ahead. B. O'Heron are you suggesting an 8 foot draw down next year? They had the draw down with the bog two years ago and I don't think it is in the plans to have another deep draw down next year. They had the deep drawn down and then the bog drawn down the following year so two years in a row they had water go down significantly. I would imagine that the next would be a 3 foot because that is the way it usually goes, on the back of the email I gave you there is the schedule for what is coming up this year. June 6th is the finalization of the proposed draw down schedule, after deliberation for the entire month of May, then presented to the Board of Selectmen and then coming to IWC on June 21st .
- J. Rollins-we are not going to suggest we want them to tell us what they are going to do. That is the purpose of the committee it isn't up to us to decide. That is all well and good but this schedule was assumed with a five year plan. A four year plan was approved so this is a year behind. So seeing it is behind we have to get them to do something soon. They don't have a permit to do anything at this point.
- S. Peacock-the permit will be given next June, that is when they will go into the next rotation and sense there has been two deep draw downs two years in a row, and this year was a three. I imagine next year will be a three.
- B. O'Heron-and I would disagree with that. I understand what you are saying because that is what they want to do; they want to drift the 8 foot out to five years.
- S. Peacock-we have never had an 8 foot draw down every other year.
- B. O'Heron-we had 8 foot, 3 foot, 3 foot, 8 foot.
- S. Peacock-we usually have three 3 foots then an 8 foot.
- C. Waring-I think the standard has been an 8 foot every three years.
- S. Peacock-I know the committee was leaning towards having fewer 8 foot.

- B. O'Heron-yea because they said because of the water quality but they haven't been able to prove that.
- C. Waring-I feel the responsibility falls on the IWC once we receive the application. The two points made one by J. Rollins was, one of the things we always said as a commission is that we don't decide people's applications for them and if we were to go to the Board of Selectmen and say here are the reasons why we want you to go ahead with some sort of draw down schedule and here is what we recommend that to be. That is really us trying to design that application for the town and I don't think that we don't have any say it that what so ever. When we get an application we don't know what is going to come before us, then we discuss it and work through it after that. My second point to what J. Rollins said, from the email that was submitted was based on a five year schedule, the last time the schedule was redone it didn't get approved until October of that year and the draw down started November 1st. I think what the Water Level Committee and Board of Selectmen's normal schedule has been for determining the next drawn down schedule is that they don't do that until it is coming up for that year that they need it. That leads to what I was saying earlier that I think they should do it the year before that.
- B. O'Heron-last time it didn't matter because it was a 3 foot draw down and everyone expected it to be a 3 foot draw down because that was the pattern but they also knew that the 8 foot would follow that and then there would be two 3 foot draw downs. We do tell people what to come in with, we tell people what is good for the lake is 162 or whatever else you want to say. I am just trying to find out what our responsibility is to make sure the people know about the draw down in advanced.
- C. Waring-I pretty much agree with what you said if we as a commission were to go the selectmen and say here is the situation and that we feel that the owners on the lake for there to be a schedule in place earlier that what is currently planned.
- S. Peacock-could you go to the chairman of the Water Level Committee and to suggest that it was voted on at the meeting.
- C. Waring-there is either two ways of doing it, one we go direct to the Board of Selectmen recommending that they get in touch with the Water Level Committee and make it be known that there is this concern and if you agree with this concern then you need to push them to get something done before their current schedule. The second one is instead of going to the Board of Selectmen is to go directly to the chair of the Water Level Committee with our concerns.
- J. Rollins-I think we should go to both of them at the same time.
- C. Waring-the thing that I'm not comfortable with is saying this is what we want the draw down schedule to be. It is the selectmen's decision as to what they put in their application. Then it is our decision to approve or deny that. I am more than fine with drafting up a letter to the Board of Selectmen and the Water Level Committee stating our concerns regarding when the next schedule is going to be and whether that will be an 8 foot or a 3 foot. Our strong recommendation is that an application for the following draw down be put in as soon as possible preferably put in well in advanced in June of 2012.

Motion: made by J. Rollins **authorizing** the chair to draft and send a letter to both the Board of Selectmen and Water Level Committee addressing a concern to expedite their permitting process regarding the draw down schedule, Second by C. Kiely, **Vote:** all in favor-***Motion carried unanimously.***

D. Clerks Hours-None

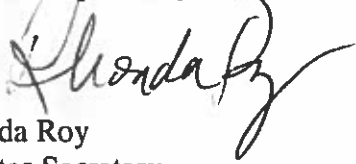
E. E&S Control Manual

- J. Rollins-E&S control book-will bring in next month for discussion.

12. Adjourment

Motion: by C. Waring to adjourn at 10.00 p.m. Second by J Rollins. **Vote:** all in favor-***Motion carried unanimously.***

Minutes respectfully submitted,



Rhonda Roy
Minutes Secretary

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