INLAND WETLANDS AND WATERCOURSES COMMISSION TUESDAY, SEPTEMBER 4, 2018 TOWN HALL 7:00 P.M.

Present: Chairman Bruce Burnett, Susan Ryan, Eric Rahn, Robert Wesneski, Merrill French, Alternate Member

Robert Orciari and Land Use Coordinator Polly Redmond

Absent: Victoria Elliott, Timothy Bobroske and Alternate Member Leah Blake

PUBLIC HEARING

1. OPEN HEARING - ESTABLISH QUORUM.

Chairman Burnett called the hearing to order at 7:00 p.m. All regular members present are seated with Alternate Member R. Orciari seated for V. Elliott.

2. TO PRESENT A COMMISSION-INITIATED AMENDMENT TO THE INLAND WETLANDS & WATERCOURSES REGULATIONS DATED 6/11/13, SECTION 19, TO ADD SECTION 19.5.I. MONITORING COMPLIANCE FEE.

LUC Redmond acknowledges the call to hearing as published in the Republican American on 8/24/18 and 8/31/18. Notice to Brian Thompson, DEEP, was given on 6/21/18 with no response. A reminder notice was sent to him again on 7/23/18 with, again, no response.

3. CONTINUE OR CLOSE HEARING.

With no public comment, R. Wesneski **motioned** to close the public hearing at 7:02 p.m., seconded by S. Ryan. Motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING - ESTABLISH QUORUM.

Chairman Burnett called the meeting to order at 7:02 p.m. All regular members present are seated with Alternate Member R. Orciari seated for V. Elliott.

2. APPROVE MINUTES OF PREVIOUS MEETING: 8/6/18

S. Ryan **motioned** to approve the minutes of the previous meeting, seconded by M. French. Motion passed unanimously.

3. DISCUSSION/POSSIBLE DECISION - BUMPER BROOK ESTATES, LLC - APPLICATION TO CONSTRUCT 36 UNIT ELDERLY HOUSING COMPLEX, TWENTY-FOUR BUMPER ROAD, ASSESSORS MAP NOS. A8-03-0003, A8-03-0004 AND A8-03-0006.

Atty. William J. Tracy, Furey, Donovan, Tracy & Daly, P.C., Bristol, CT, representing the applicant, Robert Hiltbrand, P.E., R.R. Hiltbrand Engineers & Surveyors, Bristol, CT, and Scott Bayne, S&W Custom Home Builders, Bristol, CT are present. Atty. Tracy states that he submitted plans to W.M.C. Engineers, the town's engineers, in July for their review. LUC Redmond received the review today via email and forwarded it to him. (All Commissioners also received a copy of W.M.C.'s review dated 9/4/18.) Atty. Tracy states that there is one item he is looking for clarification on from this Commission and that is, when reflagging was done in the spring, it was done on the Harwinton side of the town line. As the work was being done, the wetlands line that was being found was six, eight, ten feet farther away from the proposed development that was flagged from twenty years ago. As the wetlands flagging turned and crossed the Harwinton/Torrington line it was at least 20 feet farther away. Atty. Tracy states that Clinton Webb, C. Webb & Associates, was finding a smaller amount of area wetlands found on site then before. Mr. Webb then made the determination to stop at the town line and use from that point on the older wetlands line that seemed a more conservative approach because they were finding wetlands further away. Atty. Tracy states that one of the comments W.M.C. made was they should have kept going because one of the buildings, he is not sure which one because a building number was used (#4) by W.M.C. and the buildings

on the plan are lettered, but that one of the corners of the building appears to touch the 100 foot buffer line. Based upon the old demarcation of wetlands that was in the area that Mr. Webb was finding wetlands further away, he therefore stopped flagging the wetlands at the town line. If Mr. Webb continued, he suspects they'd be that much farther away so it was found that there was no need to go into Torrington for further reflagging but were content to use what they thought was a more conservative approach. Atty. Tracy asks the Commission if that is satisfactory to them in terms of making a determination. Chairman Burnett states that he would like to see the plans.

Plans presented include a Cover Sheet with revisions noted as per City of Torrington Engineer's Comments; 03-19-18 and as per Town of Harwinton Engineer's Comments 7-10-18. Other Plans titled Property/Topographic Survey, revised 6/15/18 for field located wetland limits, Site Layout Plan, revised 3/19/18 and 7/10/18, Site Grading and Drainage Plan, revised 3/19/18 and 7/10/18, Site Utilities Plan, revised 3/19/18 and 7/10/18, Sediment and Erosion Control Plan, revised 3/19/18 and 7/10/18, Profiles, revised 3/19/18 and 7/10/18, Details (1 of 2 and 2 of 2), revised 3/19/18 and 7/10/18 and Sediment and Erosion Control Details, revised 3/19/18 and 7/10/18 are provided.

A Property/Topographic Survey prepared for B&R Corporation, dated 10/26/16, revised 6/15/18 for Field Located Wetland Limits, originally prepared by Dufour Surveying, LLC, is provided with Atty. Tracy pointing out that new Wetland Flags begin with #1 through #9. (They are located in the upper north corner of the property and marked in blue.) Wetland Flags #1- #11 are also new. (They are located at the 530 contour on the Harwinton side of the parcel close to the Torrington line, also marked in blue.) Atty. Tracy states that the wetlands are 20 feet further from the older wetland line. W.M.C.'s 9/4/18 report notes their original comment (in italics) from their 5/7/18 review and is marked as item 3) The wetland flagging appears to be taken from a map reference dating back to 2005. They recommend the wetlands be recertified by a licensed soil scientist. W.M.C.'s current review comment response is "A portion of the wetlands have been reflagged on the Harwinton portion of the parcel. Since Building 4 is located on the 100 foot upland review area line and there is further disturbance with the upland review area, the wetlands should be reflagged along the entire boundary. Provide an updated report from the soil scientist." It is noted by Atty. Tracy that Building 4 of W.M.C.'s concern is most likely Building I and not 4. Atty. Tracy notes that this is a new concern of W.M.C.'s based on the reflagging of wetlands but that the buildings haven't changed location. Chairman Burnett questions if it is possible that the wetlands in Torrington might have come closer with Atty. Tracy stating that Clinton Webb was finding them further away. Chairman Burnett states that the wetlands in Torrington could have come closer to the project with Atty. Tracy stating that they were consistently finding them at or farther away from the old wetland line. S. Ryan questions if the Commission should only be concerned with wetlands in Harwinton. Chairman Burnett states that he doesn't think the town line would obviate a setback distance. Atty. Tracy states that he thinks the distance between the setback and the town line is what this Commission would regulate and on the other side, the distance between the town line and the 75 feet Torrington setback, is what Torrington regulates. M. French questions why it's not the measurement from the beginning of the wetlands to the building and why would the town line make a difference if dealing with wetlands? Atty. Tracy states that this Commission doesn't have jurisdiction in another town and by state law jurisdiction is only in Harwinton.

Chairman Burnett states that the town's engineer believes all of the wetlands should have been flagged not just the wetlands in Harwinton. E. Rahn states that as far as the Harwinton wetlands is concerned, whether its 10 feet or 20 feet, what is done on Harwinton property isn't going to change based on how close or how far away that wetland got. Mr. Hiltbrand states that basically the line that was reflagged was consistent with the previous flagging or farther away and the new line is more conservative. R. Wesneski states that even though the line is in Torrington, it affects the regulated area of wetlands in Harwinton. He states that the wetlands line is the wetlands line and that there can't be two lines flagged, there can only be one. Atty. Tracy states there was one found in 1992 and one found in 2018. Mr. Hiltbrand states that two different soil scientists quite often will come up with a slightly different line. R. Wesneski asks where is the true

wetlands line with Mr. Hiltbrand stating they will use the recently wetlands line flagged by Clinton Webb. R. Wesneski states that Mr. Webb didn't flag the wetlands in Torrington and the Torrington wetlands line affects the Harwinton setback area so that is why it is asked to flag the whole thing. Atty. Tracy states that wetlands were consistently being found towards Torrington which would move that buffer line farther away. R. Wesneski questions whether they agree with Clinton Webb's wetland line with Mr. Hiltbrand stating, yes. R. Wesneski states he is trying to make sense of the confusion of the wetlands line and asks if Clinton Webb has attested to in writing that there is only one wetlands line. Atty. Tracy states no, but the other soil scientist from 1992 did. R. Wesneski asks why Clinton Webb hadn't done that in Torrington with Atty. Tracy stating because the wetlands were reinvestigated on the Harwinton side but they are still relying on the wetlands report that was done previously on the Torrington side. Mr. Hiltbrand states that the Commission wanted to see if there was an intermittent watercourse and Clinton Webb did that. R. Wesneski asks if where the wetlands line on the Torrington side is will affect the regulated area on the Harwinton side with Mr. Hiltbrand stating that is correct. R. Wesneski asks, so why wasn't it done when it was asked in writing with Mr. Hiltbrand stating that this is a new request made by W.M.C. R. Wesneski states that he's not saying there's going to be anything different, he just wants someone to attest to the wetlands on the Torrington side. Chairman Burnett states that the bottom line is that the two wetlands lines are in close agreement. Mr. Hiltbrand states that he believes the question being asked is, are we going to find anything new and the answer is no. R. Wesneski states then someone should attest to that and asks if there is a report from the old soil scientist that says the Torrington line is the wetlands line because that affects the Harwinton side.

LUC Redmond provides a 2005 report from George T. Malia, Jr., Certified Soil Scientist, dated 11/7/05. The report is from a land use file prepared for Ronald Raymond for review of a proposed driveway access to this property. With the presentation of this soil report, E. Rahn **motioned** that the Commission will use the 2005 survey for Torrington wetlands and the 2018 survey for Harwinton wetlands and will accept the current wetlands surveying without requiring that it be reestablished on the Torrington side. M. French seconds the motion and it is passed unanimously.

Mr. Hiltbrand refers to W.M.C.'s 9/4/18 report and the eight issues they mention. W.M.C.'s report states that some comments/requirements have been completed. Those that have not been completed include #3) pertaining to wetland flagging mentioned above (settled by the Commission), #5) which refers to their original 5/7/18 comment, "While the detention basin is designed with a sediment forebay, there are no formal means of primary treatment of stormwater onsite. We suggest consideration be given to implementing more Low Impact Development (LID) measures and to constructing a Wet Pond or Wet Extended Detention Basin conforming to the 2004 CT Stormwater Quality Manual after further evaluating results of deep test pits." W.M.C.'s current review comment response of 9/4/18 is "A 'Wet Pond' has been indicated on the plans however we suggest the design engineer review the 2004 Stormwater Quality Manual for the proper design in order to provide primary treatment of stormwater. Wet Ponds require excavation several feet into groundwater to ensure the permanent pool water level is maintained and allows for pollutant removal. Test pit DP #1 indicates no groundwater was encountered 96" below grade. The sediment forebay should be composed of an earthened embankment with an overflow spillway. We suggest the design of the basin be updated to conform to the Manual or provide other form of primary treatment of stormwater."

Mr. Hiltbrand states that he looked over W.M.C.'s comments and about 90% of what was given to them has been addressed. Eight new comments were made regarding additional detail on the plan. He refers to the detention stating he created a wet pond condition for stormwater quality meaning he has a sediment forebay and a ponded area setup with an outlet structure to hold water after a storm. He states that technically, with the stormwater quality manual, by state, they want you to get into the ground water table with excavation. He states he is and isn't a believer in that for different reasons. He set up this basin so that it holds water after a storm. Many detention ponds that weren't meant to hold water do hold water over time because of sediment buildup. He states he set up this basin with these criteria but without the

groundwater. He explains that he dug a test pit in that area and groundwater is deeper than 18". W.M.C. suggested that if it can't be in the groundwater level then they should provide for some other level of primary treatment so Mr. Hiltbrand states he provided for a sediment chamber at the end of the system before the detention basin that provides for treatment and he feels the way he did it is adequate. He states he addressed the new W.M.C. comments minus this one thing. E. Rahn asks if primary treatment is for suspended solids with Mr. Hiltbrand stating, yes. E. Rahn asks if there is a schedule to clean it out with Mr. Hiltbrand stating that it is used as a sediment basin during the construction phase. It has a vertical stand pipe with crushed stone around it to take water during construction. Once everything is stabilized, it is cleaned it out of sticks and such but you don't really need to maintain it. Maintenance shouldn't be an issue primarily because sand is no longer used on roads in the winter and that was the primary component. Other issues of W.M.C. include curbing, safety fencing, spillway and two new drainage comments made. He states he can work with these and that he's 90% of the way there.

Chairman Burnett clarifies that the soil scientist report is still outstanding with Mr. Hiltbrand stating that is correct, that Clinton Webb is still traveling out of the area.

R. Wesneski questions whether the plans will go back to W.M.C. with revisions for a final review with Atty. Tracy stating they will. R. Orciari questions whether a planting plan for the slope will be received from Clinton Webb with Mr. Hiltbrand stating there is a planting plan that will be presented.

Mr. Hiltbrand submits for the file a revised Drainage Report prepared by R.R. Hiltbrand Engineers & Surveyors, LLC, dated January 24, 2018, revised to July 10, 2018.

Further discussion will take place at the next IWWC meeting scheduled for October 1, 2018. A decision is due by October 9, 2018.

4. WARREN WILFORD, LHA PRESIDENT – APPLICATION OF THE LAKE HARWINTON ASSOCIATION FOR EMERGENCY REPAIR OF RETAINING WALL AT END OF PASSWAY NEAR 68 CATLIN ROAD.

Mr. Wilford is present and provides photos showing the wing wall at the end of the passway that is falling into the lake. A Lake Harwinton Drawdown goal, plan and schedule are also submitted. The lake will be drawn down beginning approximately 10/1/18, taking about 30 days, and refilled by a tentative date of 1/18/19 to 2/7/19. Repairs will begin 10/29/18 and completed 11/19/18. Mr. Wilford notes that erosion control fencing will be put in place. He also notes that this is the same process that was done in 2015. R. Wesneski **motioned** to approve the application as a use of right with the condition that the Land Use office be notified of when work begins, seconded by S. Ryan. Motion passed unanimously.

- 5. THOMAS BECKMAN CLEARING OF LAND, 65 HARWINTON HEIGHTS ROAD. No one is present to represent.
- 6. PICKETT BROOK PROPERTY MODIFICATION OF PREVIOUS APPROVAL FOR DRIVEWAY LOCATION, LOT 10, FOX HUNT WAY, 4 FOX HUNT WAY. AGENT APPROVAL RECEIVED 5/24/18.

Jared Braddock, Supreme Industries, is present with plans titled Proposed Plot Plan, Lot 10 Fox Hunt Way (house #4), revised 8/31/18 for new driveway location. LUC Redmond signed off on the application in May for single family dwelling, including driveway, for non-regulated activities. The new driveway location brings it into the regulated area. Mr. Braddock notes that construction has begun on the house. R. Orciari states that he believes this modification is not a significant change to the original plan and sees it as a minor wetland effect. R. Wesneski **motioned** to approve the modification as a use of right, seconded by S. Ryan. Motion passed unanimously.

7. RON CONROY – APPLICATION FOR AFTER-THE-FACT CLEARING OF LAND, VALLEY ROAD, ASSESSORS MAP NO. B2-02-05. (IN CONNECTION WITH PAST AGENDA ITEM LISTING OF RALPH JOHNSON – CLEAR CUTTING, VALLEY ROAD.)

Ralph Johnson, property owner, is present and provides an application for after-the-fact activities of clear cutting. The application notes the activity as restoring access road, restore site, removing trees and debris from tree clearing/harvesting on 5 acres. Mr. Johnson states that there is no more removal of trees taking place. They are just removing what is on the ground and that erosion control measures will be put in place. He has a surveyor coming in to survey the property and establish the property lines. Chairman Burnett asks Mr. Johnson for clarification that the application presented tonight is for after-the-fact activities with Mr. Johnson replying, yes. Mr. Johnson states that at this time he is just clearing the road of debris and that is all that is being done. He notes that a Zoning application will be filed for placing containers on the property and that clearing the land is for the intention of storing trucks on the property in the future. Mr. Johnson states that if any Commissioner would like to visit the site to make certain no regulated activities are taking place, they may do so. Chairman Burnett mentions to Mr. Johnson that a complaint has been received for gravel placed down at 508 Hill Road that may be within a regulated area. Mr. Johnson replies that there was always a road behind the house. He adds that the 508 Hill Road property has to be cleaned up of trucks and commercial equipment and that IWZEO Tom Mitchell was at the property and asked for erosion control measures to be put in place and that he was going to come back and inspect again. E. Rahn motioned to accept the after-the-fact application and charge the applicant the \$650.00 after-thefact fee, seconded by M. French. Further discussion of work already done and the unnecessary reason to hold the application over for a decision next month takes place. E. Rahn modifies his motion to approve the application for after-the-fact activities and charge the applicant the \$650.00 after-the-fact fee, seconded by M. French. Motion passed unanimously. Mr. Johnson states that he will drop off the check to the Land Use office.

8. RON CONROY – APPLICATION FOR PROPOSED CLEARING OF LAND, VALLEY ROAD, ASSESSORS MAP NO. B2-02-05.

Per Ralph Johnson, no further work is taking place at this time. He will submit an application when ready to begin work again.

9. HARWINTON LAND TRUST – INFORMAL DISCUSSION OF WATER LEVELS AT BULL POND.

R. Orciari discusses with the Commission recent activities at Bull Pond that caused a minor conflict of responsibility between the Land Trust and the responsibility of the Highway Department. He states The Land Trust is to protect the environment of Bull Pond and the Highway Department is to assure public safety and maintain the road system. Presently, with the collapse of the masonry dam back in 2004, beavers in Bull Pond maintain a normal water level that they're satisfied with. They haven't built the beaver dam any higher and there is no flooding of neighboring properties. From an environmental standpoint, the land trust is also happy with the water level. The Highway Department feels that, what he calls normal water levels, could impact a storm drain on Locust Road after a heavy rainstorm. That storm drain is approximately 250 feet from the pond and the grading is very shallow with less than a foot difference in grade. R. Orciari notes that Eric Rahn is a member of the Land Trust and is steward of Bull Pond and that he himself is an officer of the Land Trust and they have worked cooperatively with John Fredsall. He acknowledges that John Fredsall, Highway Supervisor, is very familiar with storm drains. He won't call it a conflict with the highway department because they are working cooperatively together but several weeks ago, there was a period of heavy rain and he and Eric Rahn were at the pond and saw that a two-foot depth chunk of beaver dam was removed by a backhoe by the highway department for the reason that John Fredsall felt was the water level of Bull Pond rising and was backing up into the shallow ditch and the storm drain, causing the storm drain to rise up and flood Locust Road. From The Harwinton Land Trust standpoint, the issues with doing this is that one, the Commission came to the thought that if controlling beaver dams and heavy equipment was to be used, a permit was needed, and two, the dam was

dug out during high flows, near flood level flows, causing an instantaneous flow of water into already near flood level waters. R. Orciari states that use of a backhoe is destructive in that it latches on to the interlocking pieces of the beaver dam and doesn't give much control. He has spoken to John Fredsall regarding this since 2004 saying that if the highway department is going to use a backhoe, use it to tamp the beaver dam down, not remove a portion of it. The most critical thing is that the notch was two feet deep which could've drained half the volume of Bull Pond causing oxygen depletion to fish. Also noted is that in the summer the water doesn't hold much oxygen.

R. Orciari states that he and Eric Rahn discussed this with John Fredsall and John Fredsall had the town crew clean out the ditch that goes from the storm drain to nearly all the way to the pond which he guesses to be 250 feet. After the breach occurred the beavers than built the dam back to normal water level. He and John Fredsall inspected the ditch and noted that the water does back up into the ditch but didn't reach the culvert. The backup was about 50 feet away from the culvert. Elevation-wise it had about another inch or so to go to get to the culvert. The culvert is approximately 22 inches in diameter and when they saw the culvert John Fredsall measured about an inch and a half of water at the very bottom of the culvert and that was because of the water flowing out of the culvert. R. Orciari states that John Fredsall feels that the pond water has a profound effect on what happens with the storm drain. R. Orciari states that he and Eric Rahn were looking at the storm drain and he explains that there's a 22 inch culvert that comes out of the storm drain. Going into the storm drain there's an equal sized 22 inch culvert that will take care of the flow from down the road. There are also two additional culverts coming in and conceivably, if all those pipes were flowing into that storm drain, it could overwhelm the exit pipe. Also, and maybe more importantly, R. Orciari states that the storm drain is open throat and takes all the flow runoff from the pavement and the new town garage roof top and the combination of those has some effect on the storm drain not being able to hold that additional capacity. He realizes John Fredsall would say it doesn't and he realizes John certainly has more experience in this.

R. Orciari notes that in approving the application for the new town garage back in 2000, the IWWC, of which he was a member of then, didn't review the additional run off and he questions if the Commission at the time asked if there would be an effect on downstream. He states he remembers saying that flow from this facility will go directly into Bull Pond and it was felt that it wouldn't be a problem. He states he is mentioning this because the pipe looks dilapidated and he believes there should be an engineer looking at this when it needs to be replaced.

R. Wesneski notes he has seen in retention basins, where they set the high level of the pond through a vertical pipe with an elbow and run it across the road so it won't contribute to the twin culverts but would flow down to the brook. This is a way to maintain the level of the pond and get rid of the excess water.

R. Orciari states that he is still in discussion with John Fredsall who wanted to do a test by dropping the water level, mark it to judg, e and have a compromise water level. R. Orciari notes that this was done and marked with an orange marker and that's the marker he and Eric are okay with and the beavers seem to be okay with the level also so he believes they're getting to a resolution.

R. Orciari thought to issue a permit to the town Highway Department to have for immediately prior to any storm, to tamp the dam down and release flows into low flow conditions that would create a storage pool for flood waters. Basically, any further work on the dam would be conditioned that it be tamped down and not to use heavy equipment after storms on the beaver dam. E. Rahn's idea is, as he describes, to pipe over the dam with a 90 degree on it, figure out what height the beaver dam is and that will keep the water constant for the beaver dam. The use of an 18" or 3 10" pipes, though not PVC, metal would be better, and place a pipe down vertically 3 feet.

Chairman Burnett states that this Commission would appreciate a permit.

10. DISCUSSION/POSSIBLE DECISION - COMMISSION-INITIATED AMENDMENT TO THE INLAND WETLANDS & WATERCOURSES REGULATIONS DATED 6/11/13, SECTION 19, TO ADD SECTION 19.5.i. MONITORING COMPLIANCE FEE.

R. Wesneski **motioned** to approve the Commission-initiated amendment to the Inland Wetlands Regulation to add Section 19.5.i for Monitoring Compliance Fee. <u>Effective date: September 10, 2018</u>. E. Rahn seconded the motion and it passed unanimously.

11. ANY OTHER BUSINESS.

LUC Redmond reports that she signed off on the following application:

John Theroux, 81 Hayden Road – application for 12' x 42' shed to replace an existing 12' x 20' shed. No wetlands.

Chairman Burnett talks of the UCONN soils workshop he attended last month and a forestry/silviculture project that was taking place there with a field walk of the project included in the workshop. He states that good information was given on forestry and he picked up reading material provided by DEEP on Best Management Practices, a 2012 CT Field Guild and a brochure on Agriculture/Forestry & CT Inland Wetlands and Watercourses Act. He asks LUC Redmond to order more of these from DEEP if possible to hand out to applicants. *Note – the 92 page BMP for Water Quality while harvesting forest products, the Field Guide, and numerous other publications are available on the DEEP Website:

https://www.ct.gov/deep/lib/deep/forestry/best_management_practices/best_practicesmanual.pdf.

12. COMPLAINTS/ENFORCEMENT ACTIONS/REPORTS.

None.

13. CORRESPONDENCE.

LUC Redmond provides a 2016 letter from the DEEP, Jerry Milne, Forester, addressed to the Harwinton Conservation Commission that has been in that Commission's town hall mail box and never picked up since the Conservation Commission disbanded. The letter is attached to a copy of the new 10-year management plan for the Campville Block of Mattatuck State Forest. As a matter of course, the DEEP sends a copy of the management plan to the Conservation Commissions of the town which contain the State Forest for their review. Letter and management plan will remain in the Land Use office.

14. INVOICES.

None.

15. ADJOURN.

R. Wesneski motioned to adjourn the meeting at 8:40 p.m., seconded by M. French. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT ON 9-11-18 AT 9:54 AM-ATTEST NANCY E, ELDRIDGE TOWN CLERK