

WINDHAM INLAND WETLANDS & WATERCOURSES COMMISSION

MINUTES

March 13, 2008

I. Call to Order

The meeting was called to order at 7:06 P.M. at the Windham Town Hall, 979 Main St., Willimantic, CT. Members present were Chair Susan Johnson, Martin Brogie, Joseph Marsalisi, James McGill, and Joseph Wagner. Also present were Town Planner James Finger and Town Engineer Joseph Gardner.

II. New Business – DISCUSSION/POSSIBLE ACTION

1. Town of Windham Water Pollution Control Facility (WPCA) aka Sewer Facility – 2 Main St., Willimantic, application for wetland permit for

activities in upland of Wetland, + floodplain

David Garand, Supt. Of the Wastewater Treatment Facility, introduced Chris Pierce, Engineer. Mr. Pierce of Wright Pierce, Middletown, CT, described the plant that was originally built in the 1950's and upgraded in the 1970's. The goal is to replace old equipment, install efficient new technology, and improve nitrogen removal. There will be 2 phases of the project. Mr. Pierce showed the location on the map. It is at the confluence of the Nachaug and Willimantic Rivers, which combine to form the Shetucket River. Mr. Pierce described Phase 1. An existing building will be torn down and a new building will be built on the site that will house all electrical distribution equipment, a laboratory, and administration. A new access road for public access will be constructed. Other improvements include a new building in place of an existing garage to house vehicles and provide space for a new aeration equipment system. Phase 2 is designed to get rid of and replace some 50-year-old tanks. A new pump station will be built. The new access road will have 3 catch basins and will be tied to a storm drain that comes out to the river, and will also pick up the existing storm drain from the ball field. The existing 100-year flood line was never updated. There was a discussion of redoing FEMA maps or dredging. Chair Johnson asked for the difference in impact. Mr. Pierce did not think there was an actual impact, but it was discussed with DEP to provide that compensatory storage to satisfy the lines on the map. Mr. Garand said that a dam gives the ability to regulate and impact would be negligible. Town Engineer Gardner said it would cost less time and money to use a backhoe than to redo the FEMA map. Mr. Brogie asked for a full set of plans.

Mr. Brogie asked for details on the proposed storm sewer line. Mr. Pierce said there is a catch basin in the ball field that runs into the Willimantic River. As part of the new access road, there will be catch basins that will tie in to the existing storm drain, replacement of old pipe, and a rip rap apron at the river.

Some trees and rocks will be removed. Mr. Pierce said a soil scientist delineated wetlands and his report was submitted with the application. Mr. Pierce said in the application package there are details of the riprap apron and an erosion control plan. Mr. Pierce resubmitted and signed the Town application. Town Engineer Gardner calculated the square footage of the riprap apron to be 74 square feet. Some trees will be removed. Mr. Brogie asked for details for the out-fall area during construction. Mr. Pierce said the applicant will try to have construction take place during a dry period, 2 - 3 days in August, with a silt fence. There will be a full time inspector on site. Mr. Brogie asked to have the area stabilized as quickly as possible. Mr. Pierce said the area will be re-seeded right away. The applicant plans an ad for this Sunday for a contractor and selection will take place May - June. Mr. Brogie asked to include the square foot disturbance on the application. Chair Johnson asked for more detail on the erosion control plan. There was a discussion of the ball field catch basin. Mr. Pierce said much flow goes into the ground. A 15" pipe will replace the current 8" pipe. Town Engineer Gardner said the field was formerly flooded an ice skating rink and he said Public Works has a catch basin cleaner if it should fill up. Chair Johnson recommended to the Commissioners that they hold the applicant to compensatory storage. Planner Finger checked and found there were authorized signatures of the WPCA Chairman and the First Selectman and that fees are in order. Superintendent Garand signed the application. Mr. Brogie asked about the reseeded of the compensatory area. Mr. Pierce said specifications are in the application. Chair Johnson asked for comments from the public. There were none. Chair Johnson asked for a motion to accept the application. Mr. Brogie made a motion to accept the application. The vote was unanimous, in favor. Mr. Brogie made a motion to approve the application with the stipulations that: the compensatory area on the plans will be maintained and followed through; a detail of the compensatory area be submitted to the Town; a detailed erosion control plan for the area of the out-fall will be submitted to the Town; specifications of seed mix for the compensatory area will be submitted; and that the work will be done in dry weather. Mr. Marsalisi seconded the motion. The vote was unanimous in favor.

2. Windham TSC, LLC – 476 Boston Post Rd., North Windham application for wetlands permit for activities in upland of Wetland/Bog
Attorney Len Jacobs of 146 Main St., Manchester represented the applicant and presented maps. The commercially zoned site is across from the airport. Less than 24,000 square feet of retail space is proposed. The site has no wetlands, but to the south are wetlands owned by Joshua's Trust. A portion of the project land is in the upland review area.

Planner Finger clarified that regulations indicate that IWWC asserts its authority to examine the entire commercial development for its effect. Atty. Jacobs said we will not go into a full presentation tonight, we will be on the agenda next month and present at that time in detail, we will give tonight an

overview so that IWW can decide whether to have a public hearing, and he said there has been an ongoing dialog with Joshua's Trust. He distributed a letter from Mr. Horsely, the Joshua's Trust environmental consultant.

Alan Carpenter, Registered Professional Engineer in CT, CPH, Vernon, CT, displayed a USGS map of the area. The site is 3.99 acres. 2.53 acres are in the Upland Review Area. It is an M1 zone commercial property with Rte. 6 frontage. The plan provides access for customers and trucks. The fee in lieu will be used to reduce the parking area/project footprint. A buffer of undisturbed green space is left away from Rt. 6. Mr. Carpenter described the pre- and post-construction discharge. There are 2 pre-developed drain basins, which have a minimal amount of discharge. The model for post-development has no discharge. The septic system has been located as far away from the bog as possible. A green undisturbed buffer and inclusion of pervious pavement have been provided. Public water will serve the site from Rte 6. The primary tenant will be Tractor Supply Hardware, a retail store, with additional retail space.

The applicant, Mark D'Addabbo, described Tractor Supply Hardware. No pesticides or fertilizers will be stored outside. They do not do repairs. The service area referred to on the map refers to servicing the building. The building will be heated with propane. Floor drains will only be in bathrooms. The applicant will check on DEP rules for floor drains. The plan is a prototype, 19,097 sq. ft. The outdoor display will have troughs, tanks, and fencing. Atty. Jacobs will show the progression of the design at the next meeting. James McGill asked about negotiations with Joshua's Trust. Atty. Jacobs said negotiations are ongoing.

George S. Logan, Soil Scientist, President of Ecological Services, Manchester, CT, submitted his resume. He said there is a significant resource associated with this site, both by size and by type, an organic white cedar swamp or bog, designated a CT Critical Habitat. There are habitat sensitivities having to do with water quantity and quality. Potential fluctuations in water quantity and/or quality can have potential adverse impacts. CT Critical Habitats may often harbor species protected by state statute. The wetlands have been delineated and reviewed. Except for one point, all wetlands are off-site. He found on-site soils to be very permeable, exploratory borings witnessed by the engineer have shown the ground water 5 - 7' below the hydrologic regime of the swamp. An on-site soil inventory report was submitted. Monitoring wells for real-life data will be installed and Mr. Logan believes they will prove a discontinuity between the project and the swamp. He also believes a system can be designed that will have no runoff even during a 100 year flood. The main focus is to have no adverse physical impacts, but potential indirect impacts such as lights and noise can occur. A complete report will be submitted before the next meeting to IWWC and to Joshua's Trust.

Mr. Brogie asked for a regional topographical map. Mr. Logan said the monitoring wells will be installed next week. Mr. Brogie asked if a Phase 1 or Phase 2 site assessment was performed. Mr. D'Addabbo said a Phase 1 assessment was made and the only concern was for buried debris but none was found. Debris was found on the surface. Mr. Brogie asked about previous development of a blueberry farm and pesticides, and Mr. D'Addabbo said this was of no concern to lender. Mr. Brogie asked for a copy of the Phase 1 Assessment for the file. Mr. Brogie asked for a list of all chemical-containing products and an inventory of fertilizers to be present on the property and for a detailed landscape and buffer-planting plan. Mr. Logan said a moth and a snail have been identified as protected species, and he thinks there may also be plants. Chair Johnson said a study of protected species will be done by the next meeting. Mr. Logan said DEP gives the Town authority for projects under 5 acres.

John Pagini, Conservation Coordinator for Joshua's Trust submitted his resume. He said there has been a cordial relationship with the applicants but there is not a meeting of the minds. Joshua's Trust has hired Scott Horsely, Principal of Horsely Whitten, Sandwich, MA. The bog is unique, a glacial relic. Mr. Pagini submitted two letters from the DEP that state there are rare and endangered species on the property. Joshua's Trust has made it a practice to send all copies to Mr. Finger and the applicants consistently. Another letter from 1/28/08 from Joshua's Trust asked the applicants to consider low impact development, and this is consistent with what Mr. Horsely is suggesting. Mr. Horsely will attend the next meeting. Another issue in the 1/28/08 letter is the inadequacy of the buffer.

Another letter was submitted, from Juan Sanchez, an environmental educator, which states that rare lichens have been identified. More formal documentation will be submitted. The white cedar swamp is highly sensitive. Joshua's Trust asks IWWC to find tonight that the project may have impact on the swamp. We suggest a site walk, that stakes include access drives, and to have an independent soil scientist look at the wetland delineation of a depression. Mr. Pagini submitted his written statement.

Chair Johnson asked for other comments. Town Engineer Gardner said he finds the plans as an application are complete. Chair Johnson asked for a motion to accept the application. Mr. Brogie made a motion to accept the application. Mr. McGill seconded the motion. The vote was unanimous, in favor.

Chair Johnson asked for a decision on a public hearing. Mr. Brogie made a motion to have a public hearing. Planner Finger said a hearing would be appropriate. Chair Johnson said the impact and the public interest make a hearing appropriate. Chair Johnson asked for all in favor of going to a public hearing based on the fact that it's a significant and a public interest, please signify. Mr. Marsalisi seconded the motion. The vote was unanimous, in

favor. A site walk was arranged. Planner Finger said the Commission will not take testimony during the site walk. He will post notices and alert the Board. The site walk will be held Saturday 3-22-08 at 10 AM. The hearing will be 4-10-08.

3. Borghesi Building & Engineering Company, Inc. – 1315 Main St.,

Willimantic – application for jurisdictional ruling for activities in upland request for jurisdictional ruling on a use -

Alan Carpenter, Registered Professional Engineer, asked for an extension for the acceptance of this application because of delays and changes in the plans. A document certified by Ed Pollack of CT Ecosystems stating there are no wetlands on the property will be submitted. The plans and calculations are not complete. Mr. Carpenter said the design will comply with runoff regulations. The February 14th meeting had been cancelled. Mr. Carpenter said we are up against a deadline for acceptance of 65 days, and the client asks you to allow 30 days extension for the acceptance. Chair Johnson said we will not take receipt, and they will give us an extra 30 days. A document from the applicant requesting the extension was submitted. Mr. Carpenter said the tenants would be a Price Right Super market, an office building, and others. He described proposed provisions for runoff. The Commission did not accept the application because it is incomplete.

4. Frog Bridge Development Company, Inc. - 560 Main Street. Willimantic

This is a request for jurisdictional ruling on a change of use from manufacturing to establish a multi-family housing project. Attorney David J. Markowitz represented Frog Bridge Development Co., assisted by Richard Kenyon, Architect, of Kenyon and Cutler in Avon, CT. Atty. Markowitz displayed site plans. He said the applicant intends to convert the building from its current use, now light assembly, retail, and storage to multi-family residential. The site will not change except for use. There are no plans to change parking. Trucks currently park in the lot and that will change to cars. There will be no increase in runoff. Construction will take place on the interior.

Mr. Brogie said sediment control in a spillway leak-off may present an opportunity to improve conditions and efforts would be looked favorably upon, and he asked to have their engineer consider new technology. Atty. Markowitz said that can be looked into and he will make a recommendation. Mr. Kenyon said they intend to use a biodegradable USDA approved liquid instead of sand on the parking lot. The exterior will be power washed with a USDA approved substance and a system of scaffolding, tarps, and vacuuming will prevent the substance or flakes from going into the river. Chair Johnson was concerned that concrete would come off with the power washing. Mr. Brogie was concerned with the power washing because of the possibility of substances getting into the river, such as historic lead emissions, and he said that DEP may have an interest in the power washing. He proposed that there be an analysis of the surface of the building and he asked the developers to supply details on the power washing. Mr. Kenyon said windows will be taken out from inside.

Mr. Brogie made a motion to accept the application and asked that supplementary material and a narrative to describe the drawing be provided. Mr. Marsalisi seconded the motion, and the vote was unanimous, in favor.

5. Willimantic Waste Paper Co., Inc. 185 Recycling Way, Willimantic - application for wetlands permit for activities in upland of wetland + floodplain.

Mark Zessin, Engineer with Anchor Engineering Services in Glastonbury, CT, represented the DeVivo family and displayed maps. The applicants propose to change the present waste paper fiber building into a single-stream recycling building with an addition. John Ianni flagged the wetlands. At the nearest point, the distance from building to the wetland is 40 feet. The whole building is in Upland Review Area. There will be some compensatory excavation. A catch basin is planned, with a new Vortech device, which can be used with a small amount of flow and computations, can be supplied to IWWC. This site is subject to DEP permitting and the Vortech device is in compliance with best management practices. Roof water will drain to a riprap level spreader. There will be additional pavement. Mr. Ianni has supplied a short letter report. The wetlands have been impacted by former user, Republic Steel. Mr. Brogie clarified that Mr. Ianni is preparing a report that summarizes the wetlands and soils. Mr. Brogie asked the applicant to provide a topographical map. He was concerned about the drainage from a flat gravel area used to store empty containers and the proposed contouring might direct surface flow to the wetlands. Mr. Zessin said an undulation could pitch it back. Mr. Brogie asked that restoration of a grass swale and modification of the topography will be included in plan. Chair Johnson said plans are complete enough to take receipt. Mr. Brogie made a motion to take receipt of the application. Mr. McGill seconded the motion. The vote was unanimous, in favor.

III. Old Business– DISCUSSION/POSSIBLE ACTION

1. Wetland Violation Complaint re: 363 & 377 Scotland Rd.- This item was on the agenda of the January IWWC meeting. Agent James Finger advised the Commission that they could review the record file available in his office during the past few months. Chairperson Johnson explained that she had spoken to a representative of the DEP Inland Water Resources Division – Steven Tessatore, and had reviewed the Town’s file on the matter. From her review of the file, it appeared that the complaint was a continuation of the previous complaint from two years ago - that seemed to have been addressed, and we cannot re-open that. She suggested to Agent Finger that he contact Mr. Fleming and that he file a new complaint – which he did.

As part of his investigation of the new complaint, Agent Finger visited the Fleming property the afternoon prior to the Commission’s March 13th meeting, and had taken approximately 68 pictures of the area. He then proceeded to distribute a sampling of these to the board members and described the pictures. Many of the pictures showed that the Fleming’s had cut down a few large trees with stumps near two wetland areas – one of which had other brush piled on top. He had advised them that this sizable material should be removed, as this material is

more noticeable than the material on the Perkins property. In addition, he referred to other documents related to the complaint, among which were the following:

- A memo from Marla Butts of the DEP Water Resources Division advising that procedures the Commission followed two years earlier had been correct, and that her office did not intend to investigate the matter further.
- Ryan Acosta of the DEP Solid Waste Division - that he had investigated the complaint from Mr. Fleming, and that after examining the details with his supervisor, they determined that no further action would be pursued from their office.
- A report from Darlene Chapdelaine – consultant to Mr. Fleming investigated the complaint, which indicated that some illegal fill of yard waste and other solid waste fill were deposited on the adjacent property in the past up until a few years ago. But according to her, given the amount of time that had past since the material had been deposited, she had advised against removing the older deposits of yard waste on the adjacent property, as it would not be in the Fleming's best interest - explaining that it could result in more water being displaced onto the Fleming property.

Agent Finger then presented historical aerial views of the properties from the early 1950's, and 1990 showing that the area did not have the large pond to the west until perhaps the mid 1970's, and that the little pond straddling the Fleming and Perkins property was not apparent in the 1990 photo; so it had to have been established after this date. Mr. Finger explained that he learned from Marla Butts, that a permit is not needed to create a pond in an area that is not classified as a wetland. But once it has been created, it is then subject to wetlands regulations. He then provided a letter from Attorney Bartlett who represents the Perkins, along with videotape showing the Perkins property and driveway.

The Chair asked Agent Finger for his recommendation regarding the complaint, and he advised board members to review the new material, and perhaps the Commission could discuss some possible actions at the April meeting after further study of the files and materials.

IV. **Routine Business** – DISCUSSION/POSSIBLE ACTION

1. Approval of Minutes - Minutes of the previous meeting will be sent to members for approval at the April meeting.
2. Miscellaneous -
 - A video tape by John Ianni is available.
 - There was a discussion of DEP Training. The first session will be held on 3-29-08. Interested members can go online. A CD of the training is also available. Chair Johnson will attend. It can be made available on Charter Cable access TV.

V. Adjourn - a motion to adjourn was made by Mr. Brogie, Mr. McGill seconded the motion. The vote to adjourn was unanimous, in favor. Chair Johnson adjourned the meeting at 10:32 P.M.

Respectfully submitted,
Kathleen Wright, Clerk March 27, 2008