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**Special Meeting - Inlands Wetlands & Watercourse Commission**
**Windsor Town Hall – Rose Room**
**January 8, 2007**

Chairman Levine called the meeting to order at 11:32 a.m. in the Rose Room of Windsor Town Hall.

I. **Present:** Chairman Levine, Commissioners Gegetskas, Gilbert, Vola, Alternate Commissioner Prevost, and Wetlands Agent Groff.
For purposes of establishing a quorum, Alternate Commissioner Prevost was seated as a voting member.

## II. Public Communications

Chairman Levine noted that information came to the attention of the Commission after the January 3, 2007 meeting in that conditions of the permit were not being adhered to.

Bruce Fader, attorney for Mr. Michael Jezouit questioned the Commission's intent to reconsider the decision made at the January 3, 2007 meeting. Chairman Levine stated the item in question was discussed at the end of the meeting as a violation notice and not as a public hearing.

Wetlands Agent Groff indicated that this was the first notice to the IWWC of this violation. Mr. Jezouit had already agreed to remediate the violation on December 29th. The request on January 3, 2007 was an amendment to the permit that was already granted to Mr. Jezouit. The action of the IWWC on January 3, 2007 approved the work that was already completed by him.

Chairman Levine noted there is a provision on every permit granted by the Commission that they may revoke any permit that is in violation.

Chairman Levine noted she is a landscape designer who previously did work for Mr. & Mrs. Ferraina (approximately three years ago) and is willing to recuse herself from discussion. Attorney Fader stated that because of the sensitivity of this issue, he would object to Ms. Levine's participation in this matter. Chairman Levine stepped down and appointed Commissioner Vola as Acting Chair. With Chairman Levine stepping down, the Commission no longer has a quorum.

**MOTION: A motion by Commissioner Gegetskas, seconded by Commissioner Vola to table this item until the next regular meeting of the Commission.**

Attorney Vasallo, from the Town Attorney's office, stated that no votes could be taken without a quorum. Attorney Fader stated that his client has a pending shed permit that has not yet been approved. He asked for time to confer with his client.

**Acting Chairman Vola recessed the meeting at 11:40 a.m. The meeting reconvened at 11:55 a.m.**

## III. BUSINESS MEETING

### A. Old Business

#### 1. Violation of Darlene & Michael Jezouit – 159 Ethan Drive

Attorney Fader voiced his appreciation to Chairman Levine for coming forward with her previous relationship with Mr. & Mrs. Ferraina. After discussion with Mr. Jezouit, they have reconsidered and will agree to have Chairman Levine remain on the Commission to consider this matter. Attorney Wall indicated he and his client have no objection to this.

**MOTION: A motion by Commissioner Gegetskas, second by Commissioner Gilbert to withdraw the previous motion to table the item. The motion passed 5-0-0.**

Attorney Fader asked what information was brought to the Commission's attention after the January 3rd meeting. Wetlands Agent Groff stated she had additional information but was unable to address the issue at the meeting.

Attorney Fader presented pictures for the Commission's review. He noted that Mr. Jezouit's property is 159 Ethan Drive and Mr. Ferraina's property is to the south. It is his client's belief that the source of the additional water is coming from the property to the north of #159 and flowing through the Jezouit property on to the Ferraina property.

Attorney Wall argued that the culvert piping is now discharging water onto the Ferraina property. He
noted that even though the pipe is on Mr. Jezouit's property, there was damage to the Ferraina property
in the process of installing the pipe.

Attorney Fader indicated the purpose of the picture is to show water ponding before the culvert pipe, which indicates a lower elevation to the pipes. Both he and his client do not believe that the two 12-inch pipes will bring more water onto Mr. Ferraina's property. This additional water is not because of the work done on Mr. Jezouit's property, but due to the actions of the property owner to the north.

It was noted that Mr. Ferraina offered an easement to Mr. Jezouit to discharge water into the stream that leads into his pond. He was not taken up on the offer. Attorney Fader stated that Mr. Jezouit is not doing anything wrong and he is not sure why the Commission is meeting to further discuss this issue.

Attorney John Wall, representing Mr. Ferraina and his son, Craig, stated that Mr. Ferraina was very surprised to find work done on his property without his knowledge. Water is now being focused onto his property. Attorney Wall indicated that the construction of the two 12-inch pipes was in excess of the permit that allowed a 10-inch pipe. His client questioned why permission was granted to discharge water onto his property. He was never informed or given the opportunity to address the issue.

Attorney Wall stated that Mr. Ferraina has been involved in land development for many years and suggested to Mr. Jezouit that instead of discharging the water to the side to run it out the back into his stream.

It was agreed that additional water may be generated from the Plant property (the property to the north of #159), and Mr. Ferraina does not have a problem granting either party an easement to discharge into the brook.

Mr. Wall and his client are requesting that work done on the Ferraina property be refurbished. The redirecting of the water onto the Ferraina property is not acceptable as this is having a great impact on the area.

Chairman Levine asked why the easement was not considered by Mr. Jezouit. Attorney Fader stated this is a private matter and does not feel this is in the IWWC's jurisdiction. Chairman Levine indicated the easement would have an impact on the Commission's decision.

Attorney Fader stated this is a pre-existing condition which is not a result of the work permitted by the IWWC on Mr. Jezouit's property. Attorney Wall argued that the water is now much more focused and more direct. He feels it would be better directed to the creek, if the creek can hold the extra volume of water without any adverse affect to the environment.

Attorney Fader stated the permit was for the installation of a 10-inch pipe, but the IWWC agreed to the two 12-inch pipes at their January 3, 2007 meeting. The amount of water being carried to the pipe is no greater than before. Attorney Wall stated the volume might not have changed, but the focus and direction has. The water is being directed onto the Ferraina property and trees and property have been damaged.

Wetlands Agent Groff went back in the records and found that the map revision that Mr. Ferraina has was approved by the IWWC on March 3, 1995. The trees taken down by Mr. Jezouit negatively impact the wetlands ecosystem in the area. It is unclear if the level of the water table was affected by the pipe installation. Attorney Fader believes the water table is lower than the pipes.

Wetlands Agent Groff stated the Commission looks at whether the pipes are perforated. When Mr. Jezouit made the request for an amendment on January 3, 2007, it was not clear that the two 12-inch pipes were perforated. The Commission was also not aware that the pipes went beyond the allowed 110 feet. The amendment was only for the two 12-inch pipes.

Mr. Jezouit would like to see if the restoration work being done on the Plant property dries up the additional water flowing through his property. If necessary, Mr. Jezouit is willing to pull the pipes. Wetlands Agent Groff noted that the owner to the north has 15 days in which to comply. Mr. Jezouit stated if the pipe is longer than the permitted 110 feet he will cut the pipe back. He is willing to put swales at both ends of the pipes to prevent water being directed to the Ferraina property.

**B. New Business – Permit AA06-116 – Darlene & Michael Jezouit – 159 Ethan Drive – amendment to permit**

**MOTION: By Commissioner Gegetskas, seconded by Commissioner Vola to reconsider the ruling to amend permit AA06-116 to Darlene & Michael Jezouit at the meeting on January 3, 2007. The motion passed 5-0-0.**

**MOTION: By Commissioner Vola, seconded by Commissioner Gegetskas to amend Permit #AA06-116 to Darlene & Michael Jezouit with the following**

**stipulation: that detailed information regarding the proposed swales and landscaping be submitted to the Wetlands Agent within 72 hours of this meeting with a copy to Attorney Wall. The motion passed 5-0-0.**

## IV. Adjournment

**MOTION: By Commissioner Vola, second by Commissioner Gilbert to adjourn at 12:40 p.m.**
**The motion passed unanimously.**

Respectfully submitted,

Janet M. Burke,
Recording Secretary

I certify that these minutes were approved on
MARCH 6 2007

Robert McCarron, Secretary
Windsor Inland Wetlands Commission