INLAND WETLANDS & WATERCOURSES COMMISSION

SPECIAL MEETING

NOVEMBER 13, 2024 – 6:30PM (VIA ZOOM)

1. Call to Order. The meeting was called to order at 6:30pm.

2. Roll Call & Seating of Alternates. Present: Larry Burcroff, Sally Spillane, John Landon, Maria Grace, Russ Conklin (Alternate), Tracy Brown (Alternate), John Harney (Alternate), Abby Conroy (Land Use Director), Miles Todaro (Land Use Tech Specialist) and Georgia Petry (Recording Secretary). Absent: Cary Ullman and Vivian Garfein. R. Conklin was seated as Voting Alternate for C. Ullman. J. Harney was seated as Voting Alternate for V. Garfein.

3. **Approval of Agenda**. Item #11 was previously acted upon; no further action needed. A **Motion to Approve the Agenda**, as amended, was made by R. Conklin, seconded by S. Spillane and unanimously **Approved**.

4. **Minutes of October 28, 2024.** A Motion to Approve the Minutes of October 28, 2024 was made by R. Conklin, seconded by J. Landon and unanimously **Approved**.

5. Minutes of November 7, 2024. Tabled to the next meeting.

6. Public Comment – None

7. #2024-IW-045 / William J. Colaric (Matt's Landscaping, LLC) / 67 Old CNE Road / Landscaping, Hardscaping, and Other Work in the Upland Review Area / Map 40 / Lot 30 / DOR: 11/12/2024 Matt Schwaikert represented the applicant and described the entire plan in detail; they will increase the living space and it will be eco-sustainable. They do not have TAHD approval yet. R. Conklin asked where the patio is near the water; Mr. Schwaikert answered that it is in the middle of the property and the front edge is about 8' from the lake. R. Conklin asked about the use of rip-rap; Mr. Schwaikert answered it would be the swale going down the side of the driveway and capture the run-off from the front of the house. L. Burcroff asked if the driveway was being re-done; Mr. Schwaikert answered that they are moving over the lower section towards the house, about 72' total from what was a circular driveway. J. Landon asked about the topography from the road down to the lake; Mr. Schwaikert answered that it is an aggressive slope and he will provide the contour map. R. Conklin asked about the buffer area and what is there now, at the water's edge; Mr. Schwaikert answered there are some boulders now, but they would be adding rip-rap where needed and moving the dock. R. Conklin asked about the rip-rap; Mr. Schwaikert answered that it is anything a foot and smaller in diameter,

usually 4" to 6" rock. A. Conroy asked if there would be 500 sq. ft. of disturbance within 75' of the lake; Mr. Schwaikert responded that it is up to the IWWC to determine. J. Landon and R. Conklin commented that a site visit is needed. A. Conroy indicated that this plan would also need approval from the PZC, which would trigger engineering plans, and that patios are considered structures. In the Lake Protection Overlay District there are setback requirements; A. Conroy will review the requirements for a special permit which involves a site plan designed for stormwater management and that needs to be done by an engineer. A. Conroy asked if the IWWC wants to do a site visit, regardless; R. Conklin has questions about the amount of stabilization required and J. Landon agreed they must actually see what it looks like. A. Conroy and M. Todaro will poll the members for a possible date and time. S. Spillane asked if there is any tree cutting going on; Mr. Schwaikert answered no. L. Burcroff asked how many boulders would be brought in; Mr. Schwaikert answered about 200 yards. J. Landon wants more information and all the details, including a narrative. A. Conroy suggested that the IWWC refer to the worksheet that was sent out and asked if there should be a Public Hearing; S. Spillane commented that nothing could be determined until there is a site walk. A Motion to Accept this Application was made by J. Landon, seconded by S. Spillane, With All in Favor. (At this time, the next 2 items on the agenda were skipped, in order to start the Public Hearing

Public Hearing – 7:00PM

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#2024-IW-027 / Salisbury Winter Sports Association, c/o Ken Barker / 80 Indian Cave Road / Construct a Pond for Water Supply and Snow Making / Map 15 / Lot 25 / DOR: 7/22/2024 The link to the Zoom recording of this meeting can be found at:

https://www.salisburyct.us/inland-wetland-watercourses-commission/#minutes

on time; they will be addressed after the Public Hearing)

L. Burcroff opened the Public Hearing at 7:00PM. The Legal Notice was read by A. Conroy. Jay Fain, Jay Fain & Associates, Project Environmental Consultant, began with introductions of the team representing SWSA, including Pat Hackett, Engineer; Mark Capecelatro, Attorney; John Higgins and Ken Barker, SWSA Board of Directors. Mr. Fain described, at length, the materials he had prepared, including a summary of his letter to the IWWC dated November 11, 2024. R. Conklin asked if Attorney Capecelatro was joining the meeting; Mr. Higgins responded that Attorney Capecelatro was not representing or retained by them, but they had some discussions with him for guidance. When Mr. Fain concluded his presentation, A. Conroy noted for the record that the IWWC regulates use, not the user, so it is pertinent that the use is a snowmaking pond. A. Conroy continued that a lot of the commentary just heard was about the user and that shouldn't play a role in the decision; the purpose may be to allow an activity which has public benefit, so it's a balancing act to determine which factors should be considered. A. Conroy asked to clarify and summarize, because there has been a lot of discussion about this application before the hearing, to make sure the message is clear. A. Conroy asked if, because of climate change, the operation is now largely dependent on snow-making; Mr. Fain answered yes. A. Conroy asked about the details of the current snow-making operation; Mr. Barker described it. A. Conroy noted that in Mr. Fain's November 11 report, he summarized that the

facility has adequate water, but what is inadequate is the instantaneous yield and supply capacity at the snow gun, it takes a long time and the operation is dependent on volunteers to make it up; Mr. Fain answered that it is important to do it in a compressed period of time. Mr. Fain commented that he had prepared a mitigation plan. A. Conroy expressed that everything is being covered again because this is the first night of the Public Heating and it must be concise for the record. A. Conroy pointed out that a lot of this information was just received today and is new to the IWWC. Mr. Pat Hackett, Engineer, gave a lengthy detailed presentation on the engineering aspects, including a revised proposed snowmaking plan. He noted that after this process, they would be going to the State for a diversion permit because they would be pumping out over 50,000 gallons per day. Mr. Fain commented on addressing the removal of phragmites and Japanese Knotweed and on the proposed pond planting plan. A. Conroy noted that the IWWC did hire a third-party consultant to review Mr. Hackett's hydrogeology report. The consultant's review was that in his opinion, the hydrologic impacts will be limited, temporary and should not be significant; additionally, because the withdrawals will occur in the winter months, the significance of potential adverse impacts to wetlands and watercourse hydrology is reduced. The scope of the review did not consider any alternatives because alternatives were not provided until today; but he noted that does not mean that alternatives do not exist. The consultant's report should not be construed as certification the proposed pond will be viable; there is still a possibility that the pond will be no more productive than the wells. The consultant noted that a State diversion permit is triggered at withdrawals of 50,000 gallons per day; therefore, additional recommendations would be to meter and report on usage to document that the user is not exceeding 50,000 gallons per day. A. Conroy asked Mr. Hackett about the demand for snow mentioned in his report, specifically about the current stated pumping of 58 gallons per minute, allowing for up to 14 hours of snow making before 50,000 gallons is exceeded; Mr. Hackett indicated that was correct. Mr. Hackett commented that once a pond goes in, that rate can get significantly higher; he added that it's about the storage and that is what is driving the whole project. A. Conroy commented that it was on the record that the diversion permit is the ultimate goal; Mr. Hackett answered yes. A. Conroy noted the future use of the pond and asked if there was a specific reason they were here before this Commission before pursuing the diversion permit; Mr. Hackett responded that if they can't get through this process, going for a diversion permit would be a much more involved process. Mr. Fain pointed out that getting a diversion permit is time-consuming, expensive, and requires a lot. Mr. Hackett referred to the recommendations in the report from the Hydrogeologist at Weston & Sampson. A. Conroy mentioned there was a previous question from M. Grace and that the applicant had responded by providing this report; the IWWC then had a third party review of that report. A. Conroy pointed out that their Hydrogeologist found that because the withdrawals occur in the winter months, it's less likely to have a negative impact. Mr. Fain expressed that there aren't reasonable and prudent alternatives; the alternatives are too expensive; and the alternatives would be more impactful than what is being proposed. A. Conroy commented that the IWWC had previously conducted a site visit and noted where the phragmites are located in the existing wetland; Mr. Fain was asked to provide an estimate of the

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percentage of the swamp to be converted contains phragmites and Mr. Fain estimated that to be about 60%. A. Conroy asked how he thought the phragmites got there; Mr. Fain answered that it is a disturbed site and maybe fill was brought in over the years. A. Conroy commented that the phragmites had been brought in by the user, spread and gone unmanaged. A. Conroy commented that additional disturbance is proposed in the wetland and asked how they would ensure that the new emergent wetlands shelf won't become established with phragmites; Mr. Fain answered that they would continue monitor and treat as necessary. L. Burcroff asked how they plan to get rid of the knotweed; Mr. Fain answered that it would be cut and treated, but not removed from the site. M. Grace asked specifically how it would be treated because it is in a wetland area, and would it trigger a permit for pesticide application; Mr. Fain described the knotweed as not being in the wetland area. M. Grace asked if there were more specifics in the application about the treatment, such as percentage of pesticides and how it would be cut; Mr. Fain answered that they typically work with a licensed applicator to do it and described a possible process. M. Grace asked if that was detailed in this application or if that was going to be a different permit; Mr. Fain answered that it is included in this application and that they would add additional details, as a condition of approval. M. Grace suggested that more details of the treatment should be provided because both the phragmites and knotweed are in the Upland Review Area (URA). Jon Higgins asked if there are specific recommendations for the best way of treatment or leave it to them to come back to the IWWC; M. Grace suggested they get a licensed pesticide applicator to give them a specific plan of action for that site and that it is a multi-year effort to control it. T. Brown asked for details about the emergent wetlands area and the pond and if expanding the emergent wetland to the entire perimeter of the wetland was a possibility; Mr. Fain answered that they don't plan on doing that initially, but his experience is that the zone along the edge will become dominated by emergent plants. T. Brown asked what kind of fence they would use; Mr. Barker answered it would be a simple floorboard post and rail fence. T. Brown asked how long the construction would take; Mr. Fain answered he hoped for about 6 weeks for the construction and de-watering. S. Spillane commented that the pond is 0.27 acres and asked how big the entire wetlands are that it's sitting in; Mr. Fain answered about one half of an acre, maybe closer to 0.6 acres. S. Spillane asked if half of the wetlands would be converted to open water; Mr. Fain answered something like that. J. Harney commented that it is a significant impact because open water is less of a function, less integrity than the natural wetlands that have been removed. A. Conroy asked about Mr. Fain's initial report which did not characterize the wetlands as phragmites-dominated, but in the letter dated November 11, 2024, it was really emphasized. A. Conroy commented that she had not seen a functional assessment that included specific details to support the assertions that this habitat will be enhanced and asked for more detail about how the water quality and functions will be improved with this conversion of wetlands. Mr. Fain described the wildlife habitat as being improved; there wouldn't be excessive lows; there wouldn't be a polluting load from an outside source; he considers the recreation and aesthetic functions will be enhanced; people will enjoy looking at the water there. Mr. Fain commented that this is a conversion, but not an elimination of the area, and they have a real need for this pond. J. Harney asked A. Conroy if it was possible

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to have another wetlands consultant review the letter and report from Mr. Fain. A. Conroy responded that the Hearing has been opened in the appropriate timeframe; they only have 35 days for the Hearing; no more extensions are available on the application; when it comes to considering wetlands applications, it comes down to the expert testimony. A. Conroy commented that there was no discussion about water quality which is why she asked for more details in her question; it might be possible to find a qualified professional to do a third party review, if the IWWC thinks it is important. J. Harney expressed that it is important. S. Spillane commented that she is unclear about the State diversion permit and if they think they are going to be exceeding the amount of water, how this IWWC can move forward without that diversion permit. John Higgins commented that some members of IWWC are volunteers for the ski jumps and know the site well; if their limitation is 50,000 gallons per day without having to go for further permits, then that would be their limit or they would deal with it at that time. Mr. Higgins added that the issue is that they get into a crisis when they get to jump time because they need a lot of water in a very short timeframe. S. Spillane asked if that would be selfmonitored and who would get the report; Mr. Higgins answered that they would probably meter the use and he would make the reports. A. Conroy commented that the IWWC could make a condition to ask for monitoring and reports; she does not want to be responsible for those reports. S. Spillane asked about the Wood Turtles. J. Harney asked to have a consensus on whether to have a third party review of Mr. Fain's letter and report. S. Spillane commented, if it could be done within the timeframe, it would be interesting to compare opinions. J. Harney expressed that it would be good to compare opinions on the impact and functionality of the current wetlands and the impact of the proposed development, by a third party. J. Landon asked what if they want that, but it's not feasible within the timeframe, what then. A. Conroy noted that it is a complex application, but one of the things is the exploration of alternatives and if the IWWC is satisfied with the explanation provided by the applicant; does the IWWC have enough information to render a decision. M. Grace asked if they had to make a decision tonight; A. Conroy answered no, they have 35 days to close the Hearing. M. Grace wants more information about the removal of invasives before acting on this; L. Burcroff asked if that could happen by the next meeting. A. Conroy asked if that would be an invasive management plan; M. Grace answered yes, unless they plan on submitting another application about it. A. Conroy asked if that management would also have to be a Condition of issuing a permit because it would have to be tied to this one and not a separate permit; as a Condition of a permit, they would have to do it. M. Grace expressed that it is important to review what is going to be done in the wetland and part of that work is going to be using pesticides in the wetland; it would be important for them to discuss that before a vote on this. A. Conroy asked if there was an updated DEEP reporting form submitted; Mr. Hackett answered no, he didn't do that as there was only a change on one number that should have been 0.4 not 4; otherwise it contained all the material Mr. Fain had submitted in 2023. J. Harney expressed again that it would be a good idea to have a third party wetlands review because his opinion is that this is a significant impact on wetlands and wildlife habitat and everything else is sent out to third parties for review; this is critical information to review to make sure it is not skewed on way or another. J. Landon asked

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A. Conroy if she had someone to engage; A. Conroy answered yes, she has 2 ideas that she will contact by the next meeting. S. Spillane mentioned the Wood Turtles again; the Wood Turtle fencing; the timing of the work and how that corresponds to the Wood Turtles life. Mr. Fain commented that they have read Michael Klemens letter and their work will be outside of the critical areas of habitat for the Wood Turtles; they will take precautions during the construction period. A. Conroy commented that legally, they can't have Michael Klemens do the review. A. Conroy noted that this Hearing will be continued and the applicant is going to provide further information on the invasives management so the IWWC can fully understand all of the proposed impacts and activities that would be under their purview; she will work on securing someone for the third party review and suggested they should go on to Public Comment.

Public Comment:

- -- Newton Tedder No longer lives in Salisbury, but comes back every year for the ski jumps and his parents live here; his father is on the SWSA Board. He has looked at the documents produced for this project, regarding the ecological impacts, and expressed that wetlands do change over time; he noted potential changes in the short term, but not in the long term over geological time. He commented that this is a project that has real benefit for a community and urged the IWWC to allow a community to continue with an important function, as far as a ski jump, and approve this project.
- -- Elyse Harney Thanked the IWWC for their efforts and diligence. Her concern was if this sets a precedent for disrupting wetland areas. She totally appreciates the extensive volunteer effort that this has been over the course of many years and that SWSA is special. She hopes that in the future, people won't take this example and use it for another purpose, which would not be good for the community.
- -- Mat Kiefer Is a long-time volunteer at the ski jumps and this is an important part of the continuation of these jumps. He noted that J. Harney is no longer a volunteer. He commented that they never have plenty of water to make snow and they don't have the cold temperatures to make snow; this project would be an integral part of continuing this tradition in our town. They have fewer volunteers, so they want to make it easier for the volunteers to keep up with the snowmaking; they can meter it and not exceed 50,000 gallons per day, then go for a diversion permit.
- -- Bruce Palmer Asked the question, is it possible to have a tanker truck to keep up with the water supply needed for snowmaking? J. Landon responded that Mr. Hackett has looked at a number of different alternatives and that was one of them.

The discussion returned to Mr. Hackett, regarding alternatives; he indicated that basically there aren't any good ones. He referenced his letter, which is on the website. Mr. Fain offered additional comments. S. Spillane asked what temperature is required to make snow; Mr. Fain answered that it depends on the dew point and if the conditions aren't right, they can "farm" snow, making snow when they can and keep it to spread when they need it. T. Brown asked if the tanker idea was considered in the alternatives; Mr. Fain answered it is not feasible. A.

Conroy expressed that some of this analysis is basically static and looking at it as a static design is not a fair way to compare the options; saying they would need X number of tanks to have the same capacity as the pond is not a fair analysis.

Additional Public Comment:

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Michael Klemens – Did not offer an opinion, but asked for a clarification from Mr. Hackett, regarding a 300' line and a 1,000' line, to show them again and explain what they are, for the record. (A. Conroy pointed out that the chat function cannot be used to introduce new material, but read the information contained to the IWWC) Mr. Hackett showed the 100 scale of the existing and proposed site and the 1,000 scale and explained the lines he used, along with other details. Mr. Klemens commented that he did not get his question answered; he wants to know what the lines are. Mr. Klemens had another question about the fill area and the relation of it to the vernal pool at the top of the hill; Mr. Hackett did not know the location of the vernal pool, if he can get the location, he'll put it on the map for the next meeting. Mr. Klemens asked Mr. Hackett to explain the significance of the 300' and 1,000' lines; Mr. Hackett described them as arbitrary numbers measured from Moore Brook. Mr. Klemens commented that the pond is being built more than 300' from Moore Brook, but less than 1,000'; Mr. Hackett responded that is correct. A Motion to Continue the Public Hearing to Tuesday, November 26, 2024 at 6:30pm was made by J. Landon, seconded by S. Spillane, with All in Favor.

8. #2024-IW-044 / Stephanie Field Martin and William Todd Spoor / 73 Rocky Lane / Dredge accumulated sediment on either side of an existing dock / Map 66 / Lot 34 / DOR: 10/28/2024 (At this time, M. Grace left the meeting) Matt Vogt, representing the applicants, was present and noted that the homeowners had decided on a method for the dredging. Mr. Vogt indicated that Mr. Spoor had decided to go with the suction method for the dredging rather than continue with the method that had been done previously; that was the only addition to the narrative. S. Spillane asked who would be doing the work; Mr. Vogt assumed that his company would be doing the work and described the methodology. The IWWC was favorable to the methodology proposed. Mr. Spoor commented that it's going to be a lot more money because the IWWC is pushing to have someone else do the work and it seems to him that the IWWC is being punitive to Jeff (the original contractor) because he started the work without a permit. He asked if the original contractor could use the same methodology because he has already paid him or if they are saying only Matt Vogt can do it with his company. A. Conroy pointed out that the IWWC permits the activity based on what has been proposed; it is not necessarily about who is doing it, it's the method that's being proposed. A. Conroy noted that the question becomes, if it's someone else who's doing the work, are they actually going to follow the protocol that was outlined in the application; the Motion on the Table is conditioned on the methodology. A. Conroy asked how to ensure that whoever does the work follows the methodology and how they are going to guarantee that. Mr. Spoor asked for guidance; if he goes forward with Mr. Vogt and has to pay him extra to do that, what is the next step? Mr. Spoor asked if Mr. Vogt

281 would have to meet with them and if there is a timeframe that's allowable, such as the spring. 282 Mr. Spoor mentioned a pre-construction meeting that he had never heard of before. A. Conroy 283 talked about the Standard Permit Conditions; protocols that would be in place to prevent debris materials from washing back into the lake, such as installing or using different methods to 284 285 protect the wetland in case of extreme weather events. In this case, the method has been 286 identified; the IWWC could also condition monitoring by a third party at the applicant's expense. 287 Mr. Spoor asked again about a pre-construction meeting in the spring; A. Conroy responded yes, 288 there would be a meeting with the contractor then. Mr. Spoor asked specifically about the 289 timeframe; Mr. Vogt responded that the work should be done before the Hydrilla growing 290 season, in March/April of next year. Mr. Vogt should get in touch with the Land Use office then. 291 R. Conklin suggested that monitoring was not necessary; J. Harney and S. Spillane agreed. Mr. 292 Spoor asked if this method was acceptable to recommend to other people; R. Conklin answered 293 yes, generally, unless there is a question about what vegetation is being taken out. 294 Motion: To Approve Application #2024-IW-044, Stephanie Field Martin and William Todd 295 Spoor, 73 Rocky Lane, to dredge accumulated sediment on either side of an existing dock, 296 Subject to the Standard Conditions, including a pre-construction meeting, with work occurring 297 in the March or April timeframe and based on the preferred methodology of suction dredging 298 as proposed in the Narrative provided by the applicant. The Motion was made by R. Conklin, 299 seconded by J. Harney and unanimously **Approved**.

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- 9. #2024-IW-028 / Wake Robin (SLR) / 104 & 106 Sharon Road / Redevelopment and Expansion of Wake Robin Inn Property / Map 47 / Lot 2 / DOR: 7/22/2024 Extension through November 13, 2024.
 - Mark Arigoni, SLR, gave a progress update, including additional application information submitted; there were no questions from the IWWC.

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307 10. #2024-IW-027 / Salisbury Winter Sports Association, c/o Ken Barker / 80 Indian Cave Road / 308 Construct a Pond for Water Supply and Snow Making / Map 15 / Lot 25 / DOR: 7/22/2024/ 309 Extension granted to November 29, 2024. Public Hearing Continued to November 25, 2024.

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11. #2024-IW-036 – No Further Action Required.

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12. #2024-IW-040 / 280 BTLR LLC (Great Falls Construction) / 280 Between the Lakes Road / To Relocate a Portion of Between the Lakes Road and Install Drainage Improvements / Map 67 / Lot 07-2 / DOR: 9/23/2024 / Public Hearing Scheduled for November 25, 2024

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Adjournment. So Moved by S. Spillane, seconded by J. Landon and unanimously Approved.
The meeting adjourned at 9:15pm.