

**SPECIAL MEETING MINUTES**  
**WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION**  
**TUESDAY AUGUST 3, 2021 7:00PM**

Online webinar, to join via computer please go to the link below  
<https://us02web.zoom.us/j/85435818689>

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Chairman Morando called the meeting to order at 7:03 PM.

**I. ROLL CALL**

Present: Chairman L. Morando, Secretary Towers, Commissioners, A. Schibley, S. Fraysier, D. DeCarlo, K. Washington, and R. Williams.

Also present was Town Planner, Eric Barz; and Inland Wetlands Agent, Chloe Thompson.

**II. PUBLIC COMMUNICATIONS** (3-minute limit on items other than Public Hearings)

- a. No public communications, closed at 7:06pm.

**III. BUSINESS MEETING**

- a. **MINUTES: Commissioner Towers made a motion to approve the minutes for July 12, 2021 as amended.** Commissioner Fraysier seconded the motion. **Vote 5-0-0**

**\* Commissioner R. Williams joined the meeting at 7:09pm.**

**IV. HEARINGS**

- a. **220 Kennedy Road, Tameka Hewitt – 37 Canterbury Lane, Hartford Audubon Society (HAS)**

George Logan of REMA Associates addressed the Commission as the environmental consultant for Tameka Hewitt. Mr. Logan updated the Commission on the vegetation growth and changes to the site conditions since the last meeting.

Sigrun Gadwa of REMA Associates addressed the Commission also as a consultant for Ms. Hewitt, and explained the restoration plan prepared by REMA. Mr. Logan added that most recent site observations revealed there were roughly 12-24 silky dogwood individuals they propose to foster as referenced in the restoration plan.

Commissioner Schibley asked Ms. Gadwa to explain the purpose of monitoring plots rather than evaluating the entire restoration area. Ms. Gadwa said that sample monitoring plots are a commonly used practice in mitigation plantings to efficiently generate quantitative data of plant success. Ms. Gadwa also stated that monitoring is to occur throughout the entirety of the restoration area, but a more detailed and technical report can be generated through the

implementation monitoring sample plots. Mr. Logan added that this will allow them to document and evaluate plant growth and competition with *Phragmites*.

Commissioner Schibley asked Mr. Logan if the wetlands were delineated on site. Mr. Logan said that some flags are still in place, but not all flags are still present or visible.

Commissioner Schibley asked why REMA chose to include the black gum tree in the plant list. Mr. Logan and Ms. Gadwa explained the ecological and aesthetic value of this native plant.

Commissioner Schibley asked REMA what the reasoning was for planting the upland plants along the property boundary, rather than planting within the upland review area which was impacted by Ms. Hewitt. Mr. Logan explained that in his most recent visit to the site, HAS cleared a three-foot path through the area referenced, and that if HAS would be willing to abandon this recently cut path, the plants could be planted much closer to the wetland on HAS property.

Commissioner Fraysier asked REMA if a date can be added to the plan. Mr. Logan agreed, and said mid-September would be the most beneficial time to have all seeding and planting completed to ensure establishment.

Donna Summers of HAS addressed the Commission, and explained that the path they mowed was to mark property boundary lines, and an application to retroactively permit this activity has been submitted to the wetland agent. Ms. Summers asked REMA if they were to act as the overseeing wetland scientists for the restoration. Mr. Logan confirmed this.

**\* Commissioner K. Washington joined the meeting at 8:00pm.**

Ms. Summers explained the HAS's perspective and comments on the REMA restoration plan.

Commissioner Towers expressed concern to HAS with requiring landscapers to be hired by Ms. Hewitt to do the plantings. Anthony Zemba, Ecologist from HAS, explained that landscapers would be necessary for liability and warranty concerns with the plantings. Town Planner Barz explained options regarding holding a bond for the restoration to the Commission. Mr. Logan added that the liability and warranty of plant survival is something included in his report, where at the end of the three year monitoring, a success rate of 80% is required.

Commissioner Schibley asked Mr. Zemba if he believes the pictures of sprouting shrubs shown by Mr. Logan were worthy of being fostered. Mr. Zemba replied that if the plants are properly cared for, that these individuals may have an even greater success rate because of the established root system.

Mr. Logan stated that the previous plan to install plants along the upland property boundary could be altered to have these plants installed in the upland review area closer to Kennedy Road (indicated on maps). This area will also be seeded with the appropriate seed mix.

Commissioner Schibley proposed that the Commission needs to determine details for items as follows; general locations for new plantings or how this will be determined on-site, which plants and how many plants require fostering, and who will be responsible for the labor of this project, being a landscaper or trained volunteers.

Commissioner Fraysier agreed, and stated that he believes a professional landscaper is not necessary as the responsible party for the success of these efforts is the property owner and REMA Associates. Commissioner Fraysier proposed adding the detailed planting instructions of HAS's comments included on the ordered restoration plan for clarity and quality control during plantings in addition to supervision by REMA Associates. Commissioner Fraysier added that establishing dates is another detail that should be added to the restoration plan.

Mr. Zemba of HAS stated that he agrees with REMA in regard to monitoring plots and supports this inclusion. Mr. Zemba also stated he believes it is absolutely necessary to include a drawing or plotted plan of where plantings are to occur.

Ms. Hewitt expressed concern with the number of plants proposed by HAS, as they more than double the REMA plan.

Commissioner Schibley suggested that the Commission make a motion with enough detail to allow for the Pre-Implementation meeting between both parties. It is at this meeting that the discussed items will be further developed, documented, and presented to the Commission at the next meeting in September.

Env. Planner Thompson explained her notes on the restoration plan and comments submitted by HAS which were to:

- to provide dates of when plantings and seeding is to be completed by
- to specify on a map, the locations of where plantings, seeding, and fostering are to occur,
- to avoid use of any heavy machinery on site,
- to require additional live plantings to replace any unsuccessful seeding, fostering or initial planting, should the 80% minimum survival and/or success rate not be satisfied. Monitoring of the live replacement plantings could then be extended to an additional growing season to ensure this minimum requirement is met.

Mr. Logan agreed to include the live replacement plantings and additional monitoring year, should this be necessary throughout the three year plan.

Ms. Summers of HAS asked for the Commission's input on additional plantings in the upland area. Commissioner Schibley recalled that Mr. Logan mentioned fostering of plants in this area including sumac and silky dogwood, but that he would like to see a few additional plants installed in this area. Mr. Logan made suggestions of specific plants to add to the plant table in the report accommodate this request. Fostering will also occur in this area in addition to these plantings. Sarah Faulkner of HAS stated that HAS is in agreeance with this.

Commissioner Schibley suggested including in the conditions of the order, a planting plan be submitted to the wetland agent, and all plantings to occur on HAS property.

Env. Planner Thompson confirmed with the Commission final details on amendments to the plan including the date for all seeding and planting to be completed by is September 25<sup>th</sup>, 2021. \*\*

**\*\* Restoration plan conditions and modifications are attached to these minutes**

Commissioner Schibley made a **motion to order Tameka Hewitt to implement the plan presented by REMA Associates dated 7/26/21, with conditions and modifications.**

Commissioner Towers seconded the motion. **Vote 7-0-0**

**\* Commissioner K. Washington left the meeting.**

**b. 130 Merriman Road / 4 Walters Way – Thomas DeFranzo**

George Logan addressed the Commission as the consultant for Thomas DeFranzo. Mr. Logan explained some of the on-site conditions through photos of the site. He also explained that there is at least 25'-30' of undisturbed vegetation between the cleared area, and the wetlands. Mr. Logan stated that he believes there has been no damage to wetland resources or potential for immanent damage to the wetland areas. He recommends that the exposed dirt areas be seeded and to potentially allow for a few additional vines to be added to the current crops on site that may occur within the upland review area (150 feet from the wetland boundary).

Commissioner Schibley asked Mr. Logan if he was able to provide maps of the property showing the existing work and wetland boundaries, referring the order from the Commission to the property owner during the last meeting. Mr. Logan said he did not have a map to display this data as it was ordered by the Commission. Mr. Logan stated that he planned on using a Google Earth aerial image, but the latest images show the forest canopy intact. Mr. Logan added that this area was used as a motocross field, but that was years ago, prior to Mr. DeFranzo owning the property.

Commissioner Schibley asked Mr. Logan to display the image showing the excavated land and berms, and to explain in detail the existing conditions and location of this area on a map. Mr. Logan explained that beyond the upland review area (which was flagged in blue and shown in the image displayed), excavation and re-grading of the land occurred to flatten the area in preparation for the grape vines. Mr. Logan explained that beyond the blue flagging of the 150-foot buffer, was a non-regulated upland.

Commissioner Schibley asked what type of seed being proposed on site, and Mr. Logan said annual and perennial rye grass is what he recommends to be seeded. Mr. DeFranzo agreed that this is what he wanted to do

Commissioner Schibley stated that, in general, the Commission is concerned with impacts to the upland review area and/or wetlands and watercourses, and that if Mr. DeFranzo wishes to seed outside of these regulated areas, he is free to do so. Commissioner Schibley explained that it is the regulated upland review area that is to be restored to pre-existing conditions. Mr. DeFranzo replied that he cut the trees to increase sunlight.

Commissioner Schibley asked Mr. DeFranzo if he had cut trees in the upland review area. Mr. DeFranzo replied, “Yes”, and that in 2003 a previous agent had issued a Cease and Desist Order for the same activity within the upland review area. Mr. DeFranzo also recalled a conversation with the previous agent in December of 2020, who told him that the ponds he was creating and trees being cut were a regulated activity and needed a permit to do such work. Mr. DeFranzo said that all work was stopped after speaking with the agent, and that when he purchased this property in May, he contacted the Planning Department, and removed 5 trees for his vineyard. Mr. DeFranzo stated that the fallen trees show in the displayed images were cut prior to his conversation with the previous agent in December of 2020.

Mr. Logan shared an aerial image on-screen of the property to explain once more the existing conditions of the site and stated that the wetland areas were not damaged by the work done by Mr. DeFranzo. Commissioner Schibley stated that there was some impact, specifically referencing the sediment pollution into the boat launch parking lot. Mr. Logan clarified that he only observed conditions on the property, and his statement is only in reference to the wetlands and watercourses on this property.

Commissioner DeCarlo asked Mr. Logan to show on the map where work was conducted in relation to the upland review area. Mr. Logan indicated on-screen where the areas of each were generally located.

Commissioner Fraysier proposed that what the Commission is looking for is restoration of the upland review area where work was conducted. Mr. Logan replied by saying that if Mr. DeFranzo were to receive an agricultural exemption, the activity conducted would be “permitted as of right” per the Inland Wetland and Watercourses Regulations. Commissioner Schibley stated that Mr. DeFranzo did apply for this exemption, but the Commission told him that he needed to provide updated plans for them to make a decision. Commissioner Schibley added that Mr. DeFranzo did not return to the Commission, yet this unpermitted work had been conducted knowingly without such designation. Mr. DeFranzo addressed this comment by saying that since he purchased the property in May, work has only been done in the non-regulated upland area. Commissioner Schibley stated that regardless of timeline, clear cutting specifically has been done within the regulated area, which was shown by Mr. Logan’s presentation using the displayed aerial image.

Commissioner Schibley asked Environmental Planner Thompson to describe her observations of the site, George Logan’s presentation, and whether or not she believes a violation has occurred. Env. Planner Thompson said that she does believe a violation has occurred, however to document this properly and to understand the extent to which activity occurred, a map with the relevant data is necessary.

Mr. DeFranzo mentioned having plans dating back to 1999 showing the wetland boundaries that he had planned on bringing to the Commission.

Env. Planner Thompson commented on multiple topics and stated that clearing was observed on site within the upland review area. Clear-cutting is a permitted use as of right with an agricultural exemption if it is for the expansion of crops, but this clear-cutting was done without crops existing on the property prior to cutting, with all existing crops planted in the non-regulated upland area. In addition to this, the creation of the berms along the boat launch road has altered the drainage pattern created for the road, which has resulted in continuous erosion of sediment flowing alongside Mr. DeFranzo's silt fence. This sedimentation flows into the boat launch parking lot, and in recent storms has deposited sediment into the Farmington River/Rainbow Reservoir. This is an occurrence that was observed both post and pre silt fence installation, and requires resolution to this now altered drainage pattern, to remedy this ongoing erosion and sediment pollution.

Town Planner Barz asked if the application for the creation of ponds from January 2021 was submitted "after-the-fact" or if the ponds were created after the submission and discussion with the Commission. Chairman Morando stated that this was not an actual application, it was a petition for an agricultural exemption. Commissioner Schibley stated that until a map as ordered in the last hearing is presented, the Commission cannot order a restoration of the area. Mr. DeFranzo invited the Commission to his property to view the existing conditions. Mr. DeFranzo claimed that erosion was the result of a truck's tires removing vegetation from the side of the road, of which he cleaned up after the event.

Mr. Logan said that he can develop a scaled map with the updated wetland boundaries and relevant notations, but the accuracy has a margin of error of about 10 feet, and is not a professionally surveyed plan.

Mr. DeFranzo stated that he would like to remove trees and seed the area with rye grass. Env. Planner Thompson said that until the existing conditions are presented on a map to the Commission, she does not recommend allowing for seeding to occur. Commissioner Schibley asked Mr. DeFranzo if he can remove the previously cut trees from the property without causing damage to the regulated areas, or provoking sediment erosion. Mr. DeFranzo said that he was certain the logs could be removed without any further disturbance.

Commissioner Schibley stated that the erosion and sediment control measures need to be monitored weekly and after each storm event to ensure efficacy and that plans discussed should be submitted to the wetland agent a week prior to September 8<sup>th</sup> to allow for distribution and review by the Commission.

Commissioner Schibley made a **motion to lift the Cease and Desist Order for 130 Merriman Road/4 Walter's Way only with respect to the removal of previously felled trees from the property, and to order the property owner to submit maps to the Commission prior to the next meeting to allow for review, which shall show existing conditions of the relevant work conducted and wetland boundaries.** Commissioner Towers seconded the motion. **Vote 5-0-0**

**V. ADJOURNMENT**

**Commissioner Schibley made a Motion to adjourn at 10:56pm. Commissioner Towers seconded and it passed 5-0-0.**

I certify that these minutes were approved on

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Marlene Towers, Secretary  
Inland Wetlands and Watercourses Commission

Conditions and Modifications to the

## Plan for Restoration of Wetland (and Upland) Habitat

Prepared by REMA Ecological Services, LLC (7-26-21)

All conditions or modifications to line items are listed and numbered below as it pertains to the original report.

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Motion made by the Commission:

*Commissioner Schibley made a **motion to order Tameka Hewitt to implement the plan presented by REMA Associates dated 7-26-21, with conditions and modifications.** Commissioner Towers seconded the motion. **Vote 7-0-0***

### 2.0 WETLAND AND UPLAND RESTORATION:

#### Preparation & Preliminary Work

1. Table 1 was modified and shall be replaced with the attached table dated 8/6/21. All plants must be native, and changes to this list are subject wetland scientist approval and nursery stock availability.

#### Planting and Seeding

4. All plantings are to occur on HAS property. Planting, fostering and seeding shall begin on August 15<sup>th</sup>, and completed by September 25<sup>th</sup>, 2021 (excluding any replacement plantings from failed efforts).
5. A wetland professional or ecologist shall specify on a map, the locations of where plantings, seeding, and fostering are to occur.
6. All planting of woody species shall be undertaken by **the wetland professional or by volunteers supervised** and trained by the wetlands professional.
8. Woody plantings within the upland review area previously proposed to occur along the west side property boundary shared between the two parties, will instead occur throughout upland area as indicated on the attached map.

### 5.0 MONITORING:

2. Removal (weeding) of invasive species is to be conducted manually, without any heavy machinery or equipment that would further disturb the area.
3. Should the cumulative success of the plantings, fostering and seeding total less than 80%, live plantings shall serve as a replacement. Monitoring of the live replacement plantings shall occur one year following planting to ensure survival success.



