

REGULAR MEETING MINUTES
WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION
TUESDAY DECEMBER 7TH, 2021 7:00PM

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

Chairman Morando called the meeting to order at 7:06 PM.

I. ROLL CALL

Present: Chairman L. Morando, Secretary M. Towers, Commissioners; A. Schibley, S. Fraysier (virtual), K. Elder and R. Williams (virtual).

Also present was Environmental Planner, Chloe Thompson.

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

Mayon Morris of 145 Park Ave addressed the Commission and explained the details of a recent enforcement order she received from the wetland agent on November 15th, 2021. M. Morris explained that she is currently unable to afford the removal of the deposited debris in the stream, and seeks guidance from the Commission.

III. BUSINESS MEETING

a. MINUTES:

Commissioner Towers made a **motion to approve the minutes for November 3, 2021**. Commissioner Elder seconded the motion. **Vote 5-0-0**

b. OLD BUSINESS

i. Application 21-285: 99 Lamberton Rd, CBRE – Site Improvements

John Wagenblatt introduced himself to the Commission as applicant and the Principal for LRC Group in Cromwell, CT. Mr. Wagenblatt explained the revisions made to the plan in regard to the temporary stockpile. This will be roughly 85 yards of topsoil that will be spread among a grassed area once the new proposed sewer line is finished on the eastern boundary of the property. This soil will be temporarily stored with silt fencing around it until it is dispersed properly. Mr. Wagenblatt said that the sewer line will most likely be installed at the same time the other improvements are done on the site.

Commissioner Fraysier made a **motion to accept application 21-285: 99 Lamberton Rd, CBRE – Site Improvements**. Commissioner Schibley seconded the motion. **Vote 5-0-0**

c. NEW BUSINESS

i. 2022 Meeting Schedule

Commissioner Towers made a **motion to approve of the 2022 Meeting Schedule**. Commissioner Elder seconded the motion. **Vote 5-0-0**

ii. 21-290: Various Locations, MDC – Vegetation Clearing

Env. Planner Thompson introduced this agenda item by reminding the Commission of the project introduction provided by Jason Waterbury, MDC Project Manager, at the previous meeting. Env. Planner Thompson also noted that one of the areas does come close to a previously ordered restoration plan area for 220 Kennedy Road and 37T Canterbury Lane.

Jason Waterbury introduced himself to the Commission as the applicant representing the MDC. Also present representing this application was Mark Lavoie, Project Contractor and Andrew Perham, Construction Manager. J. Waterbury explained that the clearing will span roughly 10-15 feet around the sewer lines.

Commissioner Towers asked Env. Planner Thompson to expand on her concerns with the restoration area on 37T Canterbury Lane. Env. Planner Thompson stated that it is likely that the clearing will come very close to the restoration area, and the exact locations of the easement proximity to such will best be determined on site. Env. Planner Thompson explained that she has informed the J. Waterbury about this, and strongly recommended opening a line of communication with the Hartford Audubon Society (HAS) for general purposes as well, outside of the Commission ordered restoration plan details. Commissioner Elder asked if there were any stipulations to the easement on the preserve at 37T Canterbury Lane. J. Waterbury said he would have to find the original easement document to determine if there were. Chairman Morando asked if there were any plans to restore the area after clearing, and stated that the Audubon Society may seek this from the MDC. J. Waterbury added that the sewer line was installed in 1969, which was prior to the establishment of the Wetlands Act of 1972.

Commissioner Williams asked what type of equipment would be used in the clearing. J. Waterbury stated that most of the work will be done by hand, and if areas allow, a walk-behind machine may be used for grinding stumps down. The hand equipment to be used will be chainsaws, weed-whackers and machetes, and not include heavy machinery.

Commissioner Towers asked if it would be possible for the MDC to work with HAS to determine which time period would be best to remove vegetation to minimize the impacts to the preserve. J. Waterbury said that this is something they could do, and there is a lot of room, timing-wise, for adjustments if need be.

Commissioner Towers made a **motion to accept application 21-290: Various Locations, MDC – Vegetation Clearing**. Commissioner Elder seconded the motion. **Vote 5-0-0**

IV. HEARINGS

a. Amazon Site Sedimentation – Update on completed work

Env. Planner Thompson stated that she had received an email from Steve Stosonis' Attorney, Jacqueline Reardon, which explain that there was an issue with a stream channel on the Stosonis property that they have been discussing with Attorney Tom Cody. Atty. Reardon was unable to attend the meeting tonight, but wanted to notify the Commission of an unresolved matter. Env. Planner Thompson explained that this was the first mention of this issue, and was not provided with further detail at this time.

Atty. Cody introduced several members of their team involved with the Amazon site, including Tim Onderko from Langan Engineering who presented the detail on the immediate corrective work conducted thus far. T. Onderko explained the actions ordered by the Commission to be completed in the fall, and stated that they expect to submit the application for the subsequential restoration phases for the next IWWC meeting in January 2022.

Commissioner Fraysier asked if the Cease and Correct Order is to stay in place until the restoration plan for the future work is submitted, or could the Commission lift the Order now contingent upon submission. Chairman Morando stated that once the restoration plan is submitted, the steps for compliance described in the Order will have been met, and then it can be lifted. Commissioner Fraysier asked if any site work or progress will be impacted if the Order remains in place. Atty. Cody said that the Order does not hinder any work or progress on the site.

Atty. Cody and T. Onderko addressed the email from Atty. Reardon described by Env. Planner Thompson earlier in the meeting. T. Onderko explained to the Commission that there was an issue with erosion near Basin 'D', where water flowed over the edges of the level spreader and impacted hydro-seeded matting as roots had not yet established. This resulted in a 50-foot channel approaching the stream in the forested area. Water was diverted into the woods away from the newly eroded soil/channel, but this did not resolve the issues with erosion, and further troubleshooting is required to remediate this impact. T. Onderko stated that solutions are currently being drafted, and will be included in the spring restoration plan. T. Onderko added that this erosion takes place on both the Amazon property, and Mr. Stosonis' property. To prevent further erosion temporarily, they have shut off flow to the level spreader with permanent resolution underway.

Env. Planner Thompson asked T. Onderko if they were planning to have resolved the matter prior to spring snow-melt. T. Onderko stated that they are planning to include plans for this in the January restoration application, and will be conducted as soon as possible but ultimately depends on the logistics of the solution. Env. Planner Thompson suggested that perhaps there is a strategy they could adopt in regard to snow storage on site to avoid a surplus of water in this location until improvements have been made.

V. AGENT REPORTS

a. Enforcement Orders

i. 551 Park Ave

Env. Planner Thompson explained the nature of the violation on this parcel, and that the most recent dumping was conducted by residents at 849 Matianuck Avenue. Env. Planner Thompson explained that the material has most likely been slowly added to this area over the span of several years. Historical

imagery shows that the tree line within the yards of several properties in this area has moved closer and closer to the west, toward the farm property at 551 Park Ave. Most of the property owners in this area have recently purchased their homes all within the last two years or so. The property owner at 849 Matianuck Ave, Osvaldo Nunez, has been in contact with Env. Planner Thompson to determine what the next steps are to achieve compliance with the IWWC Regulations. O. Nunez has removed the majority of inorganic material thus far, and plans on removing the remaining debris as discussed with Env. Planner Thompson on November 18th. Env. Planner Thompson stated O. Nunez is willing to do all that he can to remove the material necessary to restore stability of the area regardless of when or who has dumped material. Chairman Morando asked if this material could have been dumped by hand, or if equipment was likely used to dump this material. Env. Planner Thompson stated that this amount of material was most likely dumped using larger equipment, and there were tire tracks, most likely from a truck. Chairman Morando agreed that to remove the entirety of the deposited material may impose a greater impact to the area than allowing it to remain. Chairman Morando suggested that perhaps a part of this resolution would be to send a letter detailing the recent events, what activity requires a permit, and a notice to cease all dumping, to each of the property owners in this area. This would be a proactive approach to hopefully stop property owners from dumping in this area moving forward. Commissioner Fraysier stated that attempting to open the blockage to the stream may be something else the property owner could do in addition to the removal of inorganic material.

Commissioner Williams asked what type of inorganic material was deposited. Env. Planner Thompson stated that there were a lot of tires, concrete scraps, miscellaneous metal waste and other minor pieces of plastic or household waste. Commissioner Williams asked if there would be difficulty in removing this material. Env. Planner Thompson said that some of this waste has been present for quite some time, so organic material is mixed with this inorganic, but regardless of difficulty, feels that it is absolutely necessary that all of the non-organic waste needs to be removed.

ii. 145 & 151 Park Ave

Env. Planner Thompson stated that this matter will expand on the comments made within the Public Communications section earlier in the meeting from Mayon Morris, property owner of 145 Park Ave.

Env. Planner Thompson explained that this matter first came about through a complaint submitted by DEEP, in addition to further complaints from surrounding property owners. There were a few violations occurring in this location on two different properties:

1. 151 Park Ave: Construction of a retaining wall along the western border of Deckers Brook.
2. 145 Park Ave: Clearing of vegetation and deposition of material into stream channel.

1. 151 Park Ave:

Env. Planner Thompson explained that a Notice of Violation was sent to both properties listing the next steps for compliance. The property owners have since submitted a permit application for the retaining wall, and a fence in the upland review area. Chairman Morando asked what the wall was made out of, and what height it was. Env. Planner Thompson said it was made out of logs, and was roughly 4 to 5 feet high depending on the area. Commissioner Towers asked if the wall has resulted in any deviations in water flow. Env. Planner Thompson said there was not enough information to be able to determine this.

Env. Planner Thompson stated that she explained the regulations to both property owners, and that the activity taking place in this area all should have been included in a permit application prior to work being conducted.

Chairman Morando and Commissioner Towers expressed concern with additional material being deposited west of the wall needed to level off the ground, and concern with whether or not the integrity of the wall would be compromised by the flow of the brook in the future. Env. Planner Thompson noted that the wall did have concrete footings, as the spillage of concrete can be seen in a site photo after the wall was installed, which she asked the property owner to clean-up.

2. 145 Park Ave:

Env. Planner Thompson explained the conversations she had with Mayon Morris, property owner at 145 Park Ave. Env. Planner Thompson stated that a tree had fallen on M. Morris' house in 2020, and it was unclear whether or not the vegetation had been removed as part of the tree clean-up or not, so most of the concern for the violation was concentrated on the deposition of material into the stream channel, and having such removed to achieve compliance with the regulations. The material deposited was tree trimmings, leaves and brush. Env. Planner Thompson stated that after the first two conversations with the property owner, it was reported that additional material was thrown into the stream just a few hours after I left the property on 11/24/21. During a phone conversation on this same day after the site visit, the property owner said she would get a quote for the removal of material in the stream channel, and M. Morris would update Env. Planner Thompson when the contractor could complete the work. On Dec 6th, the property owner came into the Town Hall and said that she couldn't afford to have the material removed. Env. Planner Thompson made the following statement:

"Deposited material in a stream channel carries a fine of \$750.00, which is the highest degree in our regulations besides violating the terms of a permit (\$1,000.00). This is because it is a violation which imposes a significant impact on our regulated areas. While flow in the stream is present, to say that the stream remains unaltered is incorrect. If the removal is postponed, this poses risk to surrounding properties (including those upstream) as the material has the potential to significantly obstruct flow upon snow melt or in the event of a significant rainstorm. I, as your agent see it imperative that the material is removed immediately from the stream channel, and erosion control measures be applied to any banks that have been destabilized by the removal of vegetation. It also needs to be clearly restated that depositing material into the brook is a direct violation of the regulations, and that the brook boundaries are not defined by the level of water but by the banks or bankfull width of the brook."

M. Morris explained that she had Emily Perko, previous Wetland Agent, visit the property because they sought assistance from the Town concerning the brush around the stream and maintenance of the culvert. M. Morris stated that she did not receive the assistance she was looking for as she was told the stream and culvert was not maintained by the town. M. Morris stated that when they bought the house there was a lot of overgrown vegetation and garbage in this area, and they were concerned about soil erosion.

Commissioner Williams asked what it was that we are asking the property owners to do. Env. Planner Thompson explained that in the NOV, the steps for compliance were to remove the material deposited in the stream channel, and to stabilize any banks that have been stripped of stabilizing vegetation. Env. Planner Thompson showed pictures of the deposited material in the stream.

Commissioner Fraysier asked if the material was small enough to be removed by hand. Env. Planner Thompson agreed and said that all of the material is small branches and brush that could be reasonably removed by hand, from the stream without the use of heavy equipment or machinery. M. Morris stated that they have a contractor they hire to remove this material off site, which they have done in the past. M. Morris stated that this same contractor gave her a quote of \$250 to remove the deposited material.

Chairman Morando recalled that in a previous matter, the property owner was able to rally friends and family to conduct work, suggesting that M. Morris do the same; regardless of how, the material needs to be removed from the stream channel. M. Morris stated that she does plan on removing the material but they cannot afford to have it removed at this time.

M. Morris said there are currently pine trees adjacent to the stream that she feels could be uprooted and fall on her house, and would like to know who is responsible for this as she believes it is a direct result of the stream eroding soil and destabilizing the ground. Env. Planner Thompson explained that this concept is an entirely separate subject than the violation that is currently being addressed. Chairman Morando explained that this Commission does not have the power to solve tree issues on private property. However, if a tree needed to be removed in a regulated area, this Commission would be able to grant permission if permission was needed. Env. Planner Thompson explained that generally speaking, if there was a tree that was posing a risk to your house, the removal of such would be considered an activity that is permitted as of right, and a permit would not be required.

M. Morris stated that she reached out to the previous agent regarding this matter, and said that she did not receive information regarding the maintenance of this area. M. Morris added that she said to the previous agent she feels that because a tree has fallen on her house, they should be allowed to block water off and prevent water from flowing onto her property. Env. Planner Thompson explained that when the previous agent stated that the town does not have an easement and does not take ownership of the brook, the agent was explaining that the CT Department of Transportation (DOT) has an easement for the maintenance of the culvert that goes beneath the state road (Park Ave) and that is all. This means that the state is required to maintain the overgrowth of vegetation immediately around the culvert, and if they have concerns with this that they should contact CT DOT. Env. Planner Thompson added that the concern this Commission has is the material that was deposited by the property owners at 145 Park Ave, which is not near the culvert at all. M. Morris stated that the material they deposited is along the banks of the brook and claimed that this does not block flow as the water is currently flowing. M. Morris and her party added that the material deposited was organic material and just trimmings or smaller pieces of material rather than large pieces of debris. Chairman Morando stated that while he can appreciate it was just trimmings, but this is not allowed within the stream or even on the banks of such, and we cannot argue what is written law which is defined by the State of CT. Env. Planner Thompson displayed an image from Google Street View and pointed to the areas which define the banks of the brook, and explained that the water level of the brook does not dictate its' boundaries. M. Morris stated that she understood this. M. Morris added that the tree falling in 2020 damaged much of the existing vegetation, and this material was removed as a result.

Commissioner Elder asked what the protocol is for trees on private property. Env. Planner Thompson and Chairman Morando stated that trees on private property are the responsibility of the home owner, and the town does not hold any responsibility of such. Env. Planner Thompson added that the State

of CT typically has easements for the culverts under state roads, but this does not span more than approximately 10 feet or so from the culvert itself anyway.

Commissioner Fraysier stated that the planting of the evergreen trees will aide in the stabilization of the soil in this area, and that he will look into contacting someone at CT DOT who may be able to look at this culvert in particular for any needed maintenance.

Chairman Morando asked where on the property the material could be stored once it is removed from the brook. Env. Planner Thompson stated that a compost pile could be created on their property as long as it was outside of the wetland areas or watercourses. M. Morris stated that they do not have ample space on their property to store material or create a compost pile. Chairman Morando suggested storing material temporarily on the northern portion of their property. M. Morris stated that they will remove the material from the brook and place it on their lawn area until they can afford to have it removed from the property. Chairman Morando stated that if it was in this area as indicated on a shared screen map view, that it would be outside of the brook. Chairman Morando restated that no material whatsoever, leaves included, cannot be deposited into the brook. Commissioner Towers stated that Windsor Sanitation will take brown bags of leaves for free if they are bagged properly, and suggested the property owner contact Windsor Sanitation on the details of this.

Chairman Morando stated that the Commission is trusting that the property owner make their best effort to have the material removed, and to not engage in this type of activity in the future. Chairman Morando consulted with the property owners, the Commission and Env. Planner Thompson, to determine that April 1st was the most agreed upon date to have the material removed by. Env. Planner Thompson added that if the material was not removed by April 1st, that fines would then be invoked on the matter as proper notification has been given at this point. Should issues come about and the deadline is no longer feasible, the property owner must contact the Town immediately to avoid being issued fines for this violation.

Commissioner Towers made a **motion to order property owners at 145 Park Ave to remove all deposited material from the brook by April 1st, 2022.** Commissioner Williams seconded the motion. **Vote 5-0-0**

VI. PETITIONS FROM COMMISSIONERS

VII. ADJOURNMENT

Commissioner Fraysier made a Motion to adjourn at 10:04pm. Commissioner Williams seconded and it passed 5-0-0.

I certify that these minutes were approved on

Marlene Towers, Secretary
Inland Wetlands and Watercourses Commission