

SPECIAL MEETING MINUTES
WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION
WEDNESDAY MARCH 2ND, 2022 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 7:04 PM.

I. ROLL CALL

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

Also present was Wetland Agent, Chloe Thompson.

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

Beth Caruso of Pleasant Street presented the Commission an article she wrote on the Landfill leachate project. B. Caruso stated that she felt the Commission wasn't presented with accurate data after reading the minutes from the public hearing on June 22nd, 2021. B. Caruso asked the Commission to revisit this application and the approval of such if there was information not communicated to the Commission.

Susan Miller of Palisado Avenue addressed the Commission, and also expressed concerns with the Landfill Project. S. Miller stated that in Fuss and O'Neill's Remedial Action Plan (Section 2.2.3) recommends a baseline ecological risk assessment as there is a NDDB area within regulated areas. In 2007, DEEP returned a NDDB report listing four species of special concern/threatened status. In 2014 these species were not present in a field survey, and S. Miller feels as though this needs to be explored further as the leachate may be a cause of this result and wishes the Commission would further into this issue.

Dr. Charles Button of Pleasant Street addressed the Commission, and read comments on behalf of Elizabeth Yetman of Robin Road. E. Yetman is opposed the application stated that wetlands can act as a buffer for contaminants, and feels as though any plans to bypass this buffer is a mistake. Dr. Button added his own statement as a professor at Central Connecticut State University, and a previous landfill manager. Dr. Button stated that his main concern is PFAS, and that landfills are a major source of PFAS, citing an article written on Hartford's landfill and PFAS. Dr. Button stated that he feels as though the Commission was not made aware of such at the time the application was being considered. Dr. Button added that upon reading the minutes of the June 22nd, 2021 public hearing there was no mention of PFAS or heavy metals, and therefore does not think this was properly considered, which is why he feels the Commission should reconsider their decision on the application.

Eric Weiner of Palisado Avenue addressed the Commission, and stated that his primary concern is that heavy metals were dumped into this landfill, and have been present in the leachate in tests conducted by Fuss and O'Neill. E. Weiner suggested the Commission contact Fuss and O'Neill to have a deeper discussion on these heavy metals. E. Weiner stated that during a Health and Safety Commission meeting Fuss and O'Neill stated that exceedances of the heavy metals did occur, but were not consistently high enough to raise concern. E. Weiner said that he strongly disagrees with that statement and feels as though

it should be a much bigger concern. E. Weiner added that when the dam is opened and the water level drops, the leachate discharge will be visible and the piping of the water to hide this will become a moot point, which is a waste of tax-payer dollars. E. Weiner highlighted sections of the Remedial Action Plan and handed this to the Commission, suggesting they reconsider this application as there was a major lack of information presented to them.

Chairman Morando stated that this application was approved around eight months ago and per the condition imposed by DEEP, the issue of the leachate must be addressed to officially cap and close the landfill. Chairman Morando stated that the Commission discussed this application over two separate meetings, one in the form of a public hearing. The Commission was presented with the test results and the Commission asked about the contents of the water and was told that it was not of concern. Chairman Morando added that appeals to applications must be made within 15 days after the publication of the Commission's decision, and being that it is now 8 months post, there isn't much the Commission can do about the approval at this point in time.

Commissioner Towers asked Wetland Agent Thompson if there was any additional staff review that could be conducted. Wetland Agent Thompson stated that the application is still in the comments phase with the state and Army Corps., and recommended these concerns be brought to these two entities for further input given the expiration of regulatory time periods of the IWWC. Wetland Agent Thompson provided her contact information to the public commenters if they wished to submit further documents or information.

III. BUSINESS MEETING

a. MINUTES:

Commissioner Schibley made a **motion to approve the minutes as amended for February 1, 2022**. Commissioner Towers seconded the motion. **Vote 6-0-0**

b. OLD BUSINESS

- **Application 22-101: 105 International Drive, INDUS Realty Trust Inc. – Industrial Building Construction**

David Ziaks introduced himself to the Commission as the Professional Engineer from Hesketh & Associates, Inc. representing this application. D. Ziaks recalled from the previous meeting, a Commissioner requested that utilities be moved further from the wetland boundary. D. Ziaks stated that this has been adjusted to be closer to International Drive and is reflected in the revised plans. Commissioner Fraysier stated that he feels his comment was adequately addressed.

Commissioner Schibley asked about runoff from this parking lot and if protections could be put in place to prevent oils and other material from trucks from entering the regulated areas as this parking area plan does not have a curb in place. D. Ziaks stated that this is something they would consider if vehicles were going to be stored in this location, but this area will, at most, store containers and not any trucks or vehicles. Commissioner Schibley asked if any trucks would be stored overnight. D. Ziaks stated that the trucks are merely dropping off the boxes/containers and then leaving the lot immediately.

Commissioner Schibley asked how the location of water quality infiltration basins was decided upon, and why they need to exist in the upland review area. D. Ziaks stated that these basins are purposefully over-designed to avoid concentration of water and are intended to have water sheet flow and infiltrate,

eventually reaching the wetland areas. D. Ziaks stated that this long sheet flow is a method to avoid concentrating the water which increases the chances for erosion which would have to be protected with riprap and other defenses to avoid such.

Commissioner Schibley asked if the paved area behind the loading docks was at its minimal size, essentially asking if it could be reduced to minimize the upland review area impact. D. Ziaks stated that this is the absolute minimum distance/area required for proper use of the loading docks and that normally they like to have ~150ft, but have reduced it to 120ft because of the wetlands. Commissioner Schibley asked if the 125 foot offset was a zoning requirement, and if D. Ziaks could confirm that they cannot move the building and loading dock further north to reduce upland review area impacts. D. Ziaks stated that this is a zoning requirement and they cannot move any closer than the 125ft set back.

Commissioner Schibley asked if the basin along the truck/trailer parking lot could be reduced to fall outside of the upland review area. Commissioner Schibley added that it is in fact along the outermost edge of the upland review area and given the other impacts to the upland review area, this is relatively minimal and would not condition the permit on this, but if they can mitigate this he would appreciate such. D. Ziaks stated that he could explore options to reduce parking in this area and that this is all open farm field and pushing the lot further south may not be difficult to do and will see if this is an option before going to the Planning and Zoning Commission.

Commissioner Schibley made a **motion to approve application 22-101: 105 International Drive, INDUS Realty Trust Inc. – Industrial Building Construction, with standard conditions and a special condition relating to the Eastern box turtle (*T. carolina*)**. Commissioner Fraysier seconded the motion. **Vote 6-0-0**

- **Application 22-102: 385, 389 & 445 River Street, Amazon.com Services LLC. – Stream & Wetland Restoration**

Evan Seeman introduced himself to the Commission as an attorney from Robinson & Cole representing SPA Properties and Amazon.com Services LLC. Also present was Dean Gustafson, Senior Wetland Scientist from All Points Technology, Dan Madrigal SPA Properties, and Tim Onderko from Langan Engineering.

Atty. Seeman briefly summarized the efforts conducted on this matter thus far.

Dean Gustafson presented and explained revised portions of the restoration plan to reflect the Commission's input and the Stosonis' input from the previous meeting. D. Gustafson stated that these revisions address all of the comments the Commission made at the previous meeting, and an example monitoring report was submitted to the Wetland Agent a few hours ago.

Commissioner Towers asked if all parties had signed an agreement to allow for this work to be conducted on their property. Atty. Seeman said they have received consent from the Lowe family, but are still working with the Stosonis' to acquire consent.

Commissioner Schibley noted that the application while not signed by the abutting property owners, was not signed by the applicant either which must be completed. Atty. Seeman understood.

Commissioner Schibley asked Atty. Seeman how he would suggest the Commission proceed given the lack of signatures from property owners. Atty. Seeman stated that he feels the application should be tabled until the next meeting to allow for their team to work with the Stosonis' on an agreement.

Atty. Jacqueline Reardon addressed the Commission representing the Stosonis Family and stated that one of their issues is the map included in the application which shows a sharp curve in the brook, when the main channel of the brook does not follow this pattern. Mrs. Stosonis also stated that the imagery is outdated and does not show the current conditions with the Amazon building or basins on site.

Commissioner Schibley explained that in the last meeting, it was discussed that before any restoration work is to be conducted, Dean Gustafson will be flagging the original banks of the stream which will be examined by the Commission's Wetland Agent. The stream would then be reinspected after excavation to ensure the sediment had been removed and proper sediment and erosion controls were put in place. Commissioner Schibley asked if it would help for the Stosonis' to be invited and notified of these inspections. Mr. Stosonis stated that he has the ability to do that now, and this was discussed in the previous meeting.

Wetland Agent Thompson presented a map of the hydrography in this area, showing that the curve in the stream is highlighting a tributary of the stream as it is more relevant than the rest of the stream being adjacent to Basin D. Dean Gustafson stated that in their map, they were focusing on the portions of the stream that were to be restored, not a complete representation of all hydrography of which is indicated in the map legend. D. Gustafson added that he could add all of the stream tributaries if need be, but they were trying to limit the detail of the map to the relevant portions only. The map does include all wetland boundaries, of which the stream is within.

Commissioner Schibley asked D. Gustafson if the stream was perennial or intermittent. D. Gustafson stated that the stream appears to flow most of the year, but he has categorized it as intermittent. Mr. Stosonis stated that the stream flows consistently year-round and uses the water to irrigate his fields. Chairman Morando asked the Stosonis', if this issue would be resolved by adding the stream tributaries in a different line type on the map. Mrs. Stosonis said she was unsure because the issue of the increased volume of water is still a major concern.

Commissioner Schibley stated that he sees two issues that are being confused as one; the underrepresentation of the stream in regard to restoration areas, and the discharge of water into the stream which flows on the Stosonis property. Commissioner Schibley added that the Commission's current objective is to ensure this restoration plan is most suitable for the restoration of the wetlands, and it is the Stosonis' job to maintain their own expectations. Commissioner Schibley stated that the Commission will do their best job to account for and consider future storm events and other issues that may arise, but they cannot account for all extreme scenarios or storm events that may cause another failure or impact to the stream. Atty. Reardon stated that this does make sense and they understand the Commission's role and objective, but the Stosonis' do want to be satisfied about the future and she does not know how to get something more for the Commission at this point. Commissioner Schibley asked if the Stosonis party would be willing to table this application to the next meeting and if they needed anything else from the Commission. Atty. Reardon said they would appreciate a more detailed map than the one being used in the Restoration Plan. Wetland Agent Thompson stated that Dean Gustafson would be the party to seek an updated map from, and offered any MDC data that may be useful.

Commissioner Schibley posed the option of hosting a public hearing on this application to the Commission. Chairman Morando asked what the reason would be for a public hearing. Commissioner Schibley quoted the regulations on the reasoning and said that the Stosonis are an example of interest from the public that are not listed as applicants. Another reason is that this application involves activity directly in

wetlands and a watercourse due to multiple failures of an outfall. Commissioner Schibley stated that these are two very strong reasons to hold a public hearing, and this is a very complicated application which impacts multiple property owners.

Atty. Seeman stated that their party does not feel that a public hearing is necessary, as the interested party, the Stosonis' have been involved with the Restoration Plan from the very beginning and they have been actively working with them to reach an agreement. Atty. Seeman also stated that there hasn't been substantial interest from any other party, as each meeting has a public communication section, and no one has come to speak about this matter thus far. Atty. Seeman added that providing the additional data is certainly something they can accommodate, and request that this application be tabled until next month without a public hearing. Commissioner Schibley asked Atty. Seeman how he thinks the Commission should proceed if at the next meeting, they still do not have consent from all property owners. Commissioner Schibley added that the timeline for receiving and approving applications will require the Commission take action at the next meeting. Atty. Seeman said this is a unique scenario, and that they are doing their best to receive consent from the Stosonis', and that should they be unable to, he feels the Commission can still act on the application as their objective is to protect the wetlands.

Commissioner Fraysier noted that the impacts were caused by atypical I storm events that are not normally accounted for when designing stormwater structures, and while it is best to design for and expect the worst case scenario, this doesn't always account for all possible conditions or storm events. Commissioner Fraysier added that he is unsure of whether or not to hold a public hearing, but feels as though the Restoration Plan is quite thorough and well-constructed.

Wetland Agent Thompson stated that holding a public hearing does not directly extend the time period in which action can be taken, as the Commission can act on the application at the conclusion of the public hearing. Wetland Agent Thompson added that what might be a better focus in preparation for the next meeting would be to receive a finalized solution or plan for Basin D to ensure the Commission and town staff that this basin will not have another failure as a result of, at the very least, a normal storm event, as restoration efforts will be nullified if this is not resolved.

Wetland Agent Thompson addressed the conversation around obtaining consent from the Stosonis' and reminded the Commission of a previous application where the property owner was not agreeable to all terms of a restoration plan, and stated that certain arguments are a civil matter to which the Commission is not responsible for.

Commissioner Towers stated, in regard to a public hearing, that the community as a whole is effected by this application, as there was evidence of the sediment pollution reaching the Farmington River. Atty. Seeman stated that this was addressed and town staff was present for the site-visit where this was addressed. Wetland Agent Thompson stated that she conducted multiple site-visits and sediment was noted flowing into the Farmington River, but depositions of such were carried away from the outfall with the current of the river, and excavation was not needed.

Commissioner Elder asked if it were possible to condition the approval on the consent from the Stosonis'. Commissioner Schibley stated that he has concerns with not having enough time to negotiate, and expressed to the Amazon party the need for an agreement of all parties by the next meeting in April. Dean Gustafson stated that if the applicant agrees, the application can be extended, but another reason why this is not ideal is due to the timing of the growing season – any delay in approval could alter the timing

of the restoration efforts. Commissioner Schibley stated that he is not standing firm on holding a public hearing.

Commissioner Schibley made a **motion to table application 22-102: 385, 389 & 445 River Street, Amazon.com Services LLC. – Stream & Wetland Restoration, until the next regularly scheduled meeting.** Commissioner Towers seconded the motion. **Vote 6-0-0**

c. NEW BUSINESS

- **Application 22-103: 123 Great Pond Drive, VCP EPC, LLC. (Emhart Glass) – Solar and Battery Storage System**

Commissioner Fraysier recused himself from this application.

Brad Parsons from Verogy addressed the Commission as the project manager representing this application. Chris Gagnon was also present and was introduced as the Professional Engineer for this project from BL Companies.

C. Gagnon explained that the eastern portion of the property would be clear-cut for the placement of a solar array over a thick stone base which will also hold stormwater. In addition to the array, there will be a battery storage area and a trench dug for utility lines in the upland review area. C. Gagnon stated that all work is to be conducted only in the upland review area, and they will not be directly disturbing any wetland or watercourse areas.

C. Gagnon stated that a portion of the thick gravel base in the southern portion of the property will be utilized as storage for stormwater. An additional basin will also be constructed immediately south of this area to fully account for runoff rates and storage of stormwater.

Commissioner Schibley asked how the current proposed location was determined to be the most feasible and prudent given the fact that there are portions of site that are not within regulated areas. B. Parsons stated that Verogy's goal was to offset as much of the facilities energy costs as they could, and the roof of the building posed limitations as far as solar panel placement. Commissioner Schibley asked if the parking lot was considered, suggesting canopies over parking.

B. Parsons said this would alter the direction in which the panels would face, and is maybe a third of the area they are currently proposing.

Commissioner Schibley asked if the wetlands around the site are manmade or naturally occurring wetlands as the application package did not include any detail on the wetland functions and values. B. Parsons stated that there is a mix of manmade and naturally occurring wetlands, but the wetland directly east of the project area is currently being impacted by some type of dirt bike track. B. Parsons added that they will look into providing additional detail on the functions and values of these wetlands and/or watercourses.

Commissioner Schibley asked what the stream feeds into, where the water eventually flows. B. Parsons stated that this feeds into Mill Brook. Commissioner Schibley stated that this is an important watercourse in Windsor and is concerned about the proximity of the gravel and a fence in the southern portion of the

site. B. Parsons stated that the area is currently quite disturbed given the dirt bike track also present in this area.

Wetland Agent Thompson referred to a previous conversation with B. Parsons about ensuring that there are no additional regulated areas on the neighboring property that would extend the upland review area limits. B. Parsons said that boundaries were approximated with 2016 lidar. Wetland Agent Thompson stated that field verification is required to appropriately determine if regulated areas are existent, and this only needed to be surveyed within 150 feet of the project limits. B. Parsons affirmed this would be confirmed on-site.

Commissioner Elder asked why silt fencing was missing from the areas surrounding the trench to be dug for utility lines. C. Gagnon stated that they will extend silt fencing to the southern side of the trench.

Wetland Agent Thompson stated that the town's Assistant Engineer commented that the infiltration rates retrieved from the NRCS soil survey must be field verified. C. Gagnon said that they have done tests for this on-site and in most areas there is sand about 15 feet deep.

Commissioner Schibley made a **motion to accept 22-103: 123 Great Pond Drive, VCP EPC, LLC. (Emhart Glass) – Solar and Battery Storage System.** Commissioner Towers seconded the motion.
Vote 5-0-0*

• **Application 22-104: 171 Rainbow Road, Seneca LLC. – Slope Stabilization**

Tony Senese from ServPro LLC, addressed the Commission as the project manager and explained how previous storm events caused large trees to fall on the house, and subsequent erosion of a steep slope adjacent to the house as a result of these large trees dying or the removal of such. T. Senese explained that a retaining wall is being proposed to stabilize this eroding slope. Bob Donais, property owner, was also present.

Chairman Morando asked what was on the other side of the retaining wall. T. Senese explained that there are wetlands on the other side of the wall, all on B. Donais' property.

Wetland Agent Thompson presented the property on the town's GIS website showing the property boundaries, wetlands and aerial imagery. Wetland Agent Thompson also explained that wetlands have not been officially delineated for this project, but on-site observations show the wetlands are directly adjacent if not within the project limits.

Commissioner Schibley asked what watershed the stream was a part of. Looking at the GIS website, this stream flows into a pond before entering into the Farmington River. T. Senese stated that the project is quite far from the stream. Commissioner Schibley stated that he believes this work to be necessary given the detail provided thus far.

Commissioner Fraysier asked if the difference between the two plan options provided was that the second plan did not include concrete waste blocks, and the base of the slope would be large riprap stone instead. T. Senese confirmed this.

Commissioner Elder noted that the second plan includes a very steep slope, roughly 1.5:1, and expressed concern with completing this work entirely from the top of the slope without compromising it. Commissioner Elder stated that it seems more likely that the riprap would have to be installed from the base of the slope which would create a greater impact to the wetlands. Commissioner Schibley added that detail on this procedure needs to be detailed in the application. T. Senese stated that he has communicated to the contractors that all of the work needs to be conducted from the top of the slope to avoid impact to the wetland, and that the top of the slope has been prepared for the equipment to be staged. Commissioner Williams asked what type of equipment will be used. Wetland Agent Thompson said that the application listed a CAT 320 excavator.

Wetland Agent Thompson stated that if the Commission feels as though they need more information from the applicant, they have the ability to request additional material. Commissioner Towers stated that she feels more information is necessary mapping wise and that it would be helpful for the contractor to attend the next meeting as well.

Commissioner Elder agreed with Commissioner Towers adding that there should be more information on procedures and methods of installation in addition to a more detailed map of the regulated areas and the project limits. Commissioner Elder added that proper sediment and erosion controls should also be detailed on a map.

Commissioner Schibley and Wetland Agent Thompson summarized and explained that the Commission needs the following to properly consider and act on this application:

1. On a map or site plan: wetlands, watercourses and upland review area boundaries, project limits, riprap location and any other relevant detail;
2. A narrative detailing methodology for riprap installation as proposed – from the top of the slope.

T. Senese stated that he understood and would provide this at the next meeting.

Commissioner Schibley made a **motion to accept application 22-104: 171 Rainbow Road, Seneca LLC. – Slope Stabilization**. Commissioner Williams seconded the motion. **Vote 6-0-0**

IV. AGENT ACTION

- **Application AA22-100: 575 Palisado Ave, Robert Farrelly, LLC. – Single Family House Construction**

Chairman Morando asked Wetland Agent Thompson to summarize the general aspects of the approved application. Wetland Agent Thompson explained that she had the applicant modify their planting plan and selected species as well as the placement of organic waste on-site.

V. PETITIONS FROM COMMISSIONERS

Commissioner Towers expressed concern with sediment leaving construction sites where large mounds of soil are stored for extended periods of time. This is something Commissioner Towers has been seeing a lot of recently, and asked Wetland Agent Thompson to look into this matter. Wetland Agent Thompson recalled previous sites having issues with sediment blowing off site from wind, and requirements imposed by the town to mitigate this. Wetland Agent Thompson stated that she will bring this to the Engineering Department to get more information in preparation for this year’s construction season.

VI. ADJOURNMENT

Commissioner Schibley made a motion to adjourn at 9:39pm. Commissioner Towers seconded and it passed 6-0-0.

I certify that these minutes were approved on

Marlene Towers, Secretary
Inland Wetlands and Watercourses Commission