

**REGULAR MEETING MINUTES**  
**WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION**  
**TUESDAY FEBRUARY 6TH, 2024 7:00PM**  
**HYBRID MEETING – COUNCIL CHAMBERS AND ONLINE**  
Online webinar: <https://us02web.zoom.us/j/85435818689>

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Chairman Morando called the meeting to order at 7:0 p.m.

**1. ROLL CALL**

Chairman Morando, Secretary Towers, and Commissioners S. Fraysier, K. Elder, C. Elkins, R. Williams, B. Stearns and alternate Commissioners M. Cote and J. Adamson.

Also present was Wetland Agent, Chloe Thompson.

**2. PUBLIC COMMUNICATIONS** (3-minute limit on items other than Public Hearings) – None; communications closed at 7:03pm.

**3. BUSINESS MEETING**

o **MINUTES**

Commissioner Elkins made a **motion to approve the minutes as amended for January 3<sup>rd</sup>, 2024**.  
Commissioner Towers seconded the motion. **Vote 9-0-0**

o **OLD BUSINESS**

• **Application 23-192: Clover Street, Town of Windsor - Cricket Field Improvements**

Rob Newton, P.E. from BSC Group addressed the Commission as the representative for this application. R. Newton provided another summary of the project presented initially presented in the January Meeting.

Commissioner Fraysier asked if R. Newton to clarify the peak discharge from the site. R. Newton stated that the decrease in discharge is due to the addition of more pervious soils to the site, which will improve the overall drainage of this saturated field.

Commissioner Adamson asked if any of the underlying impervious soils were going to be removed. R. Newton stated that only the existing top soil will be removed before adding the pervious soil.

Commissioner Elder asked if there were any stockpile locations on the site. R. Newton stated that they do not currently have any areas designated but the limits of work will be clearly marked in the field, and there will be erosion and sedimentation controls around the downslopes. W.A. Thompson

noted a stockpile area to the south of the construction entrance. R. Newton stated that this area could be used as well, and E&S controls are in the construction plans.

Commissioner Towers asked what the soil types were on site. R. Newton stated that they are very dense clay soils. Commissioner Towers asked if adding the pervious soil will be sufficient to improve the drainage rather than removing this soil. R. Newton stated that an analysis was done to ensure this would be effective.

Commissioner Williams asked what the increase in elevation will be in the field. R. Newton stated that the field will increase an average of two feet across the field, but it will not be a consistent increase for every area.

Commissioner Elder made a **motion to approve application 23-183: 23-192: Clover Street, Town of Windsor - Cricket Field Improvements**. Commissioner Fraysier seconded the motion. **Vote 9-0-0**

○ **NEW BUSINESS**

- **Permit Modification to application 22-143: 29 Windsor Ave, VHB & Dijon LLC. - Mixed Use Development & Wetland Mitigation**

W.A. Thompson stated that this application was just submitted, and staff has not had an opportunity to complete a full review.

Anna Loss and Jeff Galarneau addressed the Commission as the representatives for the application. A. Loss gave a brief summary of the Commission's previous approval of this application and explained what this modification is proposing in regard to the wetland mitigation areas. A. Loss stated that they are looking to add a new electric vehicle charging station, which will impact a previously approved restoration area.

Chairman Morando asked if charging stations were previously proposed. J. Galarneau stated that charging stations were not part of a previous approval beyond a few in the previously approved parking area; this charging area is entirely new. Chairman Morando asked if the stations were a requirement from another Commission. J. Galarneau stated that he was unsure. A. Loss apologized as their lead engineer had a conflict with tonight's meeting and could not be in attendance. Commissioner Towers asked how many charging stations were being proposed. J. Galarneau stated that there are a total of 20. Commissioner Stearns asked if the charging stations were diesel driven. J. Galarneau stated that he did not know the answer to that question but he will have John Furman provide a response. Commissioner Fraysier asked if the utility plan showed the charging station having any electrical connections. Commissioner Elder stated that he did not see this on the utility plan.

W.A. Thompson stated that the Commission can either request the applicant to come back at the next meeting with the answers to these questions. Commissioner Stearns stated that his concern with diesel is the proximity to wetlands and how this would omit pollutants as well as being very noisy.

A. Loss stated that these charging stations will not impact existing wetlands, but it will impact the wetland mitigation area that has not been constructed yet. W.A. Thompson asked if there was a site plan showing how the proposed contrasts from what was previously approved. A. Loss stated

that there is not, but that could be provided. W.A. Thompson stated that this would be something she would like to have on record.

Commissioner Fraysier asked how close the retaining wall will be to the wetlands. J. Galarneau stated that it will be roughly 6.5 feet from the closest wetland flag. Commissioner Fraysier asked what degree of excavation will be needed to install the wall, and if this will impact the wetlands. J. Galarneau stated that they have a line on the plans showing the limit of disturbance which is outside of the wetlands. Commissioner Fraysier stated that this line is directly adjacent to the wetland boundary. Commissioner Elder stated that the limit of work line is directly on the wetland boundary line on sheet C-3. Commissioner Fraysier asked what type of footing will be installed for the wall. J. Galarneau stated that it will be keystone segmental wall. Commissioner Fraysier asked what alternatives were considered to reduce the impacts to the wetlands. J. Galarneau stated that they are using the minimum isle drive width per zoning regulations. A. Loss stated that relocating this station would have resulted in greater wetland impacts. Commissioner Fraysier asked if the site was being constructed already. J. Galarneau and A. Loss said that to their knowledge, it is not. W.A. Thompson inquired about the minimum number of charging stations required for the site per the public act. J. Galarneau stated that he does not know what the minimum requirement is. Commissioner Elder stated that given the details on the wall, excavation to install this would require encroachment into the wetlands. Commissioner Elder added that on sheet C-7 the erosion and sediment controls are within the disturbance line, and they should be on the outside of the disturbance line, which could also encroach into the wetland limits. Commissioner Elder stated that more information is needed on how this retaining wall would impact the wetlands. J. Galarneau stated that they will provide this information.

Commissioner Towers asked why the charging stations were moved to this location. J. Galarneau stated that this allowed for additional stations which the previous location could not accommodate.

Commissioner Fraysier asked for detail on the soils in the wetland mitigation areas. A. Loss stated that around wetland #3 is a mix of asphalt and open field; there is a steep slope that would abut a swale along the rear of the development. Commissioner Fraysier noted that the mitigation area will also impact wetland #2. A. Loss confirmed that this wetland was being impacted, however this is a very disturbed wetland with very low functions and values. A. Loss stated that the changes to the wetland mitigation area are shaded in a light blue color on the plans, which is to offset the loss of mitigation area caused by the addition of the charging station. J. Galarneau added that this will offset the drainage calculations as well. Commissioner Fraysier asked if there was any increase in discharge as a result of the charging station. J. Galarneau stated that he did not know the answer to this.

Commissioner Fraysier asked if there was any consideration to shift the charging station to reduce wetland impacts. J. Galarneau stated that they chose this position to be convenient for users. Commissioner Fraysier and Chairman Morando stated that they agree with Commissioner Elder, and feels as though there is more information needed for the Commission to approve this modification.

Commissioner Towers made a **motion to table the permit modification to application 22-143: 29 Windsor Ave, VHB & Dijon LLC. - Mixed Use Development & Wetland Mitigation**, pending answers to additional questions from Commissioners. Commissioner Elkins seconded the motion. **Vote 9-0-0**

There was a brief break, resuming the meeting at 7:55

- **Application 24-196: 4 Walters Way, Thomas DeFranzo – 16' x 31' Shed**

W.A. Thompson stated that there is an outstanding wetland violation on the property which should be addressed before the application is acted upon. W.A. Thompson explained that the application could be tabled until after the active Cease & Desist is addressed, or the application can be withdrawn.

Tom DeFranzo of 4 Walters Way addressed the Commission as the representative for this application. T. DeFranzo stated that he does not want to withdraw the application. T. DeFranzo stated that as a response to the Cease & Desist, he has submitted this application for the unpermitted shed.

T. DeFranzo explained a history of erosion occurring on the site. T. DeFranzo further provided more information on the Cease & Desist show cause hearing. W.A. Thompson explained that the Commission is currently on the subject of the application, and not yet in the agenda to where the Cease & Desist is being discussed. T. DeFranzo continued to discuss erosion.

W.A. Thompson reminded the Commissioner that an outstanding violation is something they may take into consideration when acting on an application per section 7.6 of the IWWC Regulations.

Chairman Morando asked what to expect in regard to the application at the next meeting. W.A. Thompson stated that this would depend on the progression of the C&D, but regardless, there is no formal action to be taken at this meeting (other than acceptance). Once applications are received, the Commission has 60 days to consider the application, so they would have to decide on how to process this before that date.

Commissioner Fraysier asked what was asked at the last meeting during the C&D hearing. W.A. Thompson stated that an existing conditions plan was submitted, and additional information was needed from the wetland scientist on discrepancies in the current plans from those submitted previously. The Commission explained that the protocol for lifting C&D's is to receive an application for the unpermitted structure as part of the corrective action.

Commissioner Fraysier stated that it seems like the C&D has to be addressed before this is acted upon. Commissioner Elkins agreed.

Commissioner Adamson made a **motion to accept application 24-196: 4 Walters Way, Thomas DeFranzo – 16' x 31' shed**. Commissioner Towers seconded the motion. **Vote 9-0-0**

#### 4. Show-Cause Hearings

- Violation 23-115: 4 Walters Way, Thomas DeFranzo – Cease & Desist Order

T. DeFranzo re-explained the erosion occurring on the property that was discussed earlier in the meeting. T. DeFranzo stated that impacts on the property have resulted in the aforementioned erosion, proving a history of the issues and a recent erosion event on his property. T. DeFranzo explained that the amount of sediment in the existing ponds has resulted in flooding of a structure on his property. T. DeFranzo claimed that there was improper construction of an outlet around the time Berrios Hill Road was developed. T. DeFranzo invited Commissioners to visit his property to observe the erosion issues, or he would have his attorneys arrange to have the IWWC view the property. T. DeFranzo stated that he has contacted the Army Corps of Engineers, requesting a site visit as well. T. DeFranzo stated that he also plans to return to the Commission for an application to build a house for his shed.

W.A. Thompson presented a report of her findings through the use of aerial imagery, site photos and the overlay of previously submitted site plans and existing conditions plans dating back to 1995. A summary of this was compiled into a memo and a map provided to the Commission and T. DeFranzo (see attached). W.A. Thompson stated that she has met with two different groups from DEEP to discuss this, received feedback and a site visit with T. DeFranzo will be scheduled with DEEP employees. W.A. Thompson explained that given this information, it is recommended that the original Cease & Desist be revised to include additional wetland impacts that may have occurred on the property. A draft revision was provided to the Commission for consideration.

W.A. Thompson stated that these findings serve as justification for ordering a wetland delineation and evaluation of the remainder of the property as the 2023 delineation was only flagging wetlands “within the area” of the newly constructed shed. There may be additional wetland impacts that have occurred which should be addressed in this enforcement order as well. W.A. Thompson stated that this entire property is within the Natural Diversity Database area, and conducting any of this activity is in violation of state statutes if a request for a report has not been submitted or the results of such are not adhered to. This report from DEEP would need to be considered as part of the approved restoration plan. W.A. Thompson stated that DEEP advised that the IWWC continue to process this violation, and this may or may not result in additional enforcement from DEEP and Army Corps of Engineers. W.A. Thompson stated that the newly constructed shed is located within an area identified as wetlands in 1995, and a “forensic wetland delineation” can be conducted to determine where fill has been placed, and what type of material it is. By identifying the type of material there may be a way to determine if the sediment has occurred from erosion or if it was a foreign or intentional deposition of material.

Commissioner Elder asked if a wetland report was submitted. W.A. Thompson stated that there has not.

T. DeFranzo stated that the sediment from the ponds was removed, totaling around 20,000 cubic yards. T. DeFranzo added that he has removed debris on the site including pipes that were part of a farming operation prior to the area being developed. T. DeFranzo stated that all of the deposition of material is from erosion caused by the Town discharging water onto his property.

Commissioner Williams asked if the forensic soil investigation would show where the sediment has come from. W.A. Thompson stated that hopefully this is something that could be accomplished.

T. DeFranzo stated that the material was sand. Commissioner Williams asked if George Logan has determined this. T. DeFranzo stated that there was a lot of rain this year that damaged his vineyard. T. DeFranzo stated that he doesn't fill wetlands, he creates them because he loves nature.

Chairman Morando stated that the Cease & Desist cannot be lifted as they do not have all of the information needed. Commissioner Elder asked if the shed could be tarped. W.A. Thompson stated that tarping wouldn't be considered a regulated activity, so he could do that.

T. DeFranzo stated that there has been a lot of rain right now and needs to protect his wood, which has no effect on the wetlands. T. DeFranzo stated that he will be contacting the Army Corps of Engineers to prove W.A. Thompson wrong. T. DeFranzo added that W.A. Thompson has known about this for three years.

Commissioner Elkins stated that she feels as though T. DeFranzo is attempting to intimidate the Commission as they have been consistently interrupted while trying to address the violation in accordance with the regulations.

Commissioner Elder asked if there was a way to cover the shed to protect the wood while complying with the Cease & Desist. W.A. Thompson stated that a tarp could be used to cover the shed, or the wood could be relocated. W.A. Thompson added that the construction of the shed itself is the reason for the enforcement order, and while the wood being exposed is an issue T. DeFranzo has, the Commission isn't obligated to consider this; the current issue is the fact that the shed was constructed without a permit and there is evidence of additional unpermitted activity.

W.A. Thompson stated that given the presented information, she recommends that the original Cease & Desist be revised to include additional unpermitted activity within wetlands and watercourses. This revision will allow the Commission to adequately address additional impacts, and require restoration of such. W.A. Thompson stated that the Commission should decide a date at which T. DeFranzo shall provide an estimated timeframe for submission of the requested information. There was general discussion of how this process would transpire.

T. DeFranzo stated that the Army Corps will be visiting his property.

Commissioner Adamson stated that the topics T. DeFranzo continues to speak about appear to be a diversion from the current topic, which is that a shed was constructed without a permit; the conversation regarding the other matters should be an entirely different discussion. Commissioner Williams noted that T. DeFranzo stated he could move the shed.

T. DeFranzo stated that he started to build a smaller shed and then decided to make it larger, and claimed that he did not need a permit for the smaller version of the shed, so he began building. Commissioner Adamson stated that this does not change the fact that it was completed without an IWWC permit. T. DeFranzo stated that if his shed was on wheels similar to Brown's Harvest he

wouldn't need a permit. Commissioner Elkins restated that this has no bearing on the current wetland violation.

Commissioner Fraysier asked what the next step was to address the Cease & Desist. Commissioner Elkins suggested revising the Cease & Desist as proposed.

T. DeFranzo asked again, if the Commission could visit the property.

Commissioner Elder stated that he would like to see more information in regard to the results of the wetland delineation and report including the results from a forensic soil investigation before visiting the property.

There was additional discussion on a reasonable timeline to expect feedback from when T. DeFranzo would be able to produce the requested material.

T. DeFranzo stated that water flows from Merriman Road down into the Farmington River which is a navigable water.

The Commission asked T. DeFranzo if a week was enough time to get an estimated timeframe of when material would be submitted. T. DeFranzo said that he could email a response in the next few days.

Commissioner Elkins made a **motion to revise the Cease and Desist Order issued to 4 Walters Way, to be a "Cease and Correct", and the property owner is to provide information on when requested material will be submitted by February 13<sup>th</sup>, 2024.** Commissioner Williams seconded the motion. **Vote 9-0-0**

## 6. Agent Action

Wetland Agent Thompson reviewed the following agent approved applications:

- AA23-194: 4 Batchelder Rd. – Chiller Unit
- AA23-195: 91 Green Manor Ave. – 8 x 10 Shed

## 7. Agent Reports

## 8. Election of Officers

Commissioner Towers **nominated Commissioner Fraysier for Chair.** There were no other nominations for this position. Commissioner Elkins seconded the motion. **Vote 8-0-0**

Chairman Morando **nominated Commissioner Elder for Vice Chair.** There were no other nominations for this position. Commissioner Towers seconded the motion. **Vote 8-0-0**

Chairman Morando **nominated Commissioner Towers for Secretary.** There were no other nominations for this position. Commissioner Elkins seconded the motion. **Vote 8-0-0**

**9. Petitions From Commissioners**

Commissioner Elkins asked for an update on the violations at 398 Palisado Avenue. W.A. Thompson stated that she has not received any information on the status of this other than that the property owner has stated they are working to submit materials. Commissioner Elkins suggested that an enforcement order be issued given the length of time it has been since the last update from the property owner.

Commissioner Elkins asked for an update on the violation at 364 Addison Road. W.A. Thompson stated that she spoke with the property owner and expressed urgency to submit material requested by the Commission, and they have hired Deno Land Surveying to complete the plans.

**10. Adjournment**

**Commissioner Elkins made a motion to adjourn at 9:24 p.m. Commissioner Towers seconded the motion. Vote 9-0-0**

I certify that these minutes were approved on

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Marlene Towers, Secretary

Inland Wetlands and Watercourses Commission