

REGULAR MEETING MINUTES
WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION
WEDNESDAY MAY 8TH, 2024 7:00PM
HYBRID MEETING – COUNCIL CHAMBERS AND ONLINE
Online webinar: <https://us02web.zoom.us/j/85435818689>

Chairman Fraysier called the meeting to order at 7:03 p.m.

1. ROLL CALL

Chairman Fraysier, Vice Chairman Elder, Secretary Towers, and Commissioners D. DeCarlo, C. Elkins, and B. Stearns.

Also present was Wetland Agent, Chloe Thompson.

2. PUBLIC COMMUNICATIONS (3-minute limit on items other than Public Hearings) – None; communications closed at 7:04pm.

3. BUSINESS MEETING

○ **MINUTES**

Commissioner Towers made a **motion to approve the minutes for April 18th, 2024**. Commissioner Elkins seconded the motion. **Vote 6-0-0**

○ **OLD BUSINESS**

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

Chairman Fraysier stated that it still does not seem appropriate to take action on this application with the outstanding violation, and several Commissioners agreed. Chairman Fraysier asked W.A. Thompson how long this application could be tabled. W.A. Thompson stated that extensions to the initial time period for consideration can be extended for a maximum of 65 days, therefore the June meeting would be the latest the application could be tabled to.

Commissioner DeCarlo made a **motion to table application 24-196: 4 Walters Way, Thomas DeFranzo – 16' x 31' shed, due to the outstanding violation**. Commissioner Elkins seconded the motion. **Vote 6-0-0**

4. HEARINGS

Chairman Fraysier made a **motion to revise the agenda order and address violations after the hearings**. Commissioner Towers seconded the motion. **Vote 6-0-0**

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

W.A. Thompson read Section 7.3 of the IWWC Regulations states:

“All supporting information for an application must be submitted to the Agent no later than noon six days prior to the date of the meeting. Information received after that date shall be considered untimely and will be postponed until the next meeting.”

W.A. Thompson explained that the reasoning for reading this is because she has been receiving a significant amount of information very close to the meeting date, if not on the same day of the meeting. This untimely submission of material does not allow the Commissioners or staff to properly review the material prior to the meeting; in order to consider this issue most efficiently, the materials must be submitted by the deadline as stated in the regulations. Several Commissioners complained they were confused by the materials forwarded to them via email; several other Commissioners stated they were unable to review emailed materials before the meeting.

W.A. Thompson stated that in accordance with the advice of town council, Tim Fitzgerald (present) and discussions with the DeFranzo’s attorney, David Sherwood (present), it is recommended the Commission continue the show cause hearing to the following meeting. This would allow the consultants to finish and submit the wetland report to the commission so all of the details could be discussed at one time.

Commissioner DeCarlo stated that with this violation, there appears to be a consistent habit of receiving materials after the deadline, and asked W.A. Thompson if this could be upheld; materials submitted after the deadline would not be considered at the June meeting. W.A. Thompson stated that this deadline for the June meeting is May 29th at noon.

Attorney David Sherwood, representing the DeFranzo’s, stated that they would like to request a meeting with Commissioners on site to observe soil borings with the soil scientist, their engineer, the DeFranzo’s and himself present as well. Vice Chairman Elder stated that he would like to review a submitted wetland report before attending a site visit. D. Sherwood stated that the wetland report would be submitted no later than this coming Monday [May 13th]. D. Sherwood stated that they feel it’s important the Commission observe the property, and this would also address W.A. Thompson’s concerns with fill in the wetlands. This site visit may address all of the concerns the Commission has.

Commissioner DeCarlo asked what specific information the Commission has yet to receive. W.A. Thompson stated that the Commission requested a wetland report in September, and later added an additional request for a forensic wetland delineation to be conducted and reported on. This analysis would be to investigate where filling may have occurred, what the soil types are in regard to origin and could be used to estimate the amount of fill. T. Fitzgerald stated that D. Sherwood explained the Commission would have this information by Monday, and suggested it might be helpful for Commissioners to attend the site visit to observe the soil borings with the soil scientist. Commissioner DeCarlo noted that they would have one of the two outstanding items on Monday, the report, and then on site they would be able to observe the collection of information for the second report of the forensic wetland delineation. Commissioner DeCarlo expressed concern with actually receiving the wetland report by the promised date of Monday. D. Sherwood stated that

the Commission previously set a deadline to submit this material on May 15th, and they were able to submit some of that earlier as it was email to the agent yesterday. Vice Chairman Elder suggested a meeting be scheduled pending the submission of material requested; if material is not requested by the proposed date, then meeting on site will not be held.

There was general discussion of availability to schedule this meeting, concluding that there would be a site visit tentatively scheduled for May 29th at 1pm with the alternative date of May 31st at 10am.

Chairman Fraysier suggested that the cancellation of the site visit only occur if there is a significant delay in the submission of material should the Monday deadline not be met. This issue should be addressed in an efficient manner.

Commissioner Towers stated that regardless of the observations on site all of that information will have to be presented at the next session of the show cause hearing on June 4th. D. Sherwood stated that he wasn't suggesting this not continue to the June meeting, but that on site observations may address Commissioner's concerns.

Chairman Fraysier suggested that the locations of the test pits be identified prior to the site visit. W.A. Thompson stated that she assumed locations would be predetermined, and potential test pits can be identified in some of the areas on the map of overlaid plans where filling most likely occurred. The soil scientist will likely have input on this as well.

Commissioner DeCarlo made a **motion to continue the show cause hearing to the following meeting for Violation 23-115: 4 Walters Way, Thomas DeFranzo – Feb. 6, 2024 Cease & Correct Order.**

Chairman Fraysier seconded the motion. **Vote 6-0-0**

Commissioner Towers made a **motion to schedule a site visit with Mr. DeFranzo's party at 4 Walters Way on May 29th at 1pm, with the alternative date of May 31st at 10am pending the submission of a wetland report.** Commissioner DeCarlo seconded the motion. **Vote 6-0-0**

5. VIOLATIONS

- Violation 24-123: 851 Marshall Phelps Rd, Eric Atanga & Dynamic Distribution LLC. – Cease & Correct Order

W.A. Thompson introduced Napoleon Tetreault to the Commission as the owner of Dynamic Distribution LLC and 851 Marshal Phelps Road.

W.A. Thompson stated that N. Tetreault submitted a copy of a report from DEEP's Emergency Spill Investigator the afternoon of May 8th. N. Tetreault apologized for sending this report so close to the meeting.

W.A. Thompson reminded the Commission of a memo she distributed to the Commission, the property owner and the lessee outlining the issues that needed to be addressed as a result of the show cause hearing on March 19th. W.A. Thompson added additional information on how the environmental testing and assessment should be conducted. W.A. Thompson explained that the stormwater system includes an underground infiltration system, which does not appear to have a "clean-out" component. W.A. Thompson displayed historical site plans of the property that were

attached to the memo, with highlighted areas of where testing could occur. W.A. Thompson explained that the overflow area for this system is a basin and outfall on 839 Marshal Phelps. Without knowing when this system was last maintained, an accumulation of materials increases the likelihood of floatables reaching this basin and outfall discharging to the wetlands. Water infiltrating into the ground could have contained hazardous chemicals.

In regard to the maintenance of vehicles and storage of hazardous material, W.A. Thompson displayed site photos from April 26th and May 3rd which show there is still maintenance of at least one truck cab and a sedan occurring on site. There were also open containers and hazardous materials near this truck and sedan. This was previously reported as being addressed by Eric Atanga, the lessee. W.A. Thompson stated that given this information, progress is not being made toward compliance and encouraged the Commission to require dates of when all of the violations will be addressed.

Commissioner DeCarlo asked what the status was of the Zoning Regulation violations. W.A. Thompson stated that she has reported this to the enforcement officer, but is unsure of the exact status.

Chairman Fraysier noted that the Commission previously required a timeline of when the property owner would address the violations by March 27th. W.A. Thompson stated that she drafted the April 2nd memo to clarify the requirements as she thought there was some confusion on the requirements as N. Tetreault was not present for the show cause hearing.

Commissioner DeCarlo asked N. Tetreault if he had a timeline of when each of the issues would be addressed. N. Tetreault stated that he understands the concerns the commission has and thanked them for their efforts. N. Tetreault stated that he didn't think DEEP's investigator was very concerned with the activity on site, and would like to discuss the necessity of some of the requirements.

W.A. Thompson reviewed the details of her memo explaining the outstanding items that need to be addressed. W.A. Thompson also read the observations from DEEP's report. W.A. Thompson stated that this report doesn't suffice for an environmental assessment on what impacts may have occurred to the wetlands or the adjacent land. W.A. Thompson stated that given the exposure of hazardous materials, the scale of the activity on site and the stormwater management conditions, the Commission needs assurance wetlands have not and will not be impacted as a result of these violations.

N. Tetreault apologized for the continued maintenance and storage of hazardous materials and asked what the Commission would like him to do before the next meeting. Commissioner DeCarlo asked N. Tetreault to inform the Commission of when the testing and environmental assessment will be conducted.

N. Tetreault expressed confusion on zoning compliance. W.A. Thompson stated that the zoning enforcement officer will be reaching out in the near future, and the Commission's jurisdiction is related to the stormwater management. Commissioner Towers explained to N. Tetreault that this site was not constructed to accommodate this type of use as this was previously an office building, and the parking lot was only to be have light use of personal/compact vehicles, not commercial trucks and especially not the maintenance of.

There was general discussion on the order of when each item should be addressed and the involvement with zoning violations.

Commissioner DeCarlo made a **motion to address immediate corrective actions as discussed by Friday May 10th, and failure to do so will result in the issuance of citations at \$750 per day for Violation 24-123: 851 Marshall Phelps Rd, Eric Atanga & Dynamic Distribution LLC. – Cease & Correct Order.** Commissioner Towers seconded the motion. **Vote 6-0-0**

Commissioner DeCarlo made a **motion to require the submission of dates by when the remaining corrective actions will be addressed as discussed by Wednesday May 29th at noon, and failure to do so will result in the issuance of citations at \$750 per day for Violation 24-123: 851 Marshall Phelps Rd, Eric Atanga & Dynamic Distribution LLC. – Cease & Correct Order.** Commissioner Towers seconded the motion. **Vote 6-0-0**

- Violation 23-122: 364 Addison Road, Mark Scott – Cease & Desist Order

W.A. Thompson stated that she received an email from the property owner's land surveyor, Brian Denno stating that their soil scientists do not have availability for the next four to five months. W.A. Thompson suggested that perhaps they will have to look for other soil scientists to conduct this work so this issue can be addressed in a timely manner.

There was general discussion about the existing conditions of the site.

Vice Chairman Elder stated that he works in a related field, and there is currently a shortage of soil scientists, therefore the four to five month delay might be the soonest the property owner is able to have this completed. Vice Chairman Elder noted that it appears no further work has been conducted on the property since they were notified such was in violation of the regulations, and suggested the Commission take this effort toward compliance and the lack of soil scientists' availability into consideration.

Commissioner DeCarlo suggested setting a deadline to have the soil scientist confirm the actual date of when the material will be submitted. Should a date not be submitted, then citations will be issued. W.A. Thompson suggested having the soil scientist confirm this themselves in a memo submitted to the agent.

Commissioner DeCarlo made a **motion to require the submission of a date in writing confirmed by the consultants of when requested material will be submitted, by Wednesday May 29th at noon; failure to do so will result in the issuance of citations at \$750 per day for Violation 23-122: 364 Addison Road, Mark Scott – Cease & Desist Order.** Vice Chairman Elder seconded the motion. **Vote 6-0-0**

6. AGENT ACTION

W.A. Thompson approved the following applications since the previous meeting:

- AA24-200: 14 Elaine Mary Drive – 10' x 16' Deck Addition
- AA24-201: 232 Carriage Way – 13' x 20' Shed

- AA24-202: 118 Palisado Ave (Milo Peck) – Playscape Replacement
- AA24-204: 9 Lincoln Way – 12' x 16' Shed

7. AGENT REPORTS

- 1 Pleasant Court – IWWC Permit Violation

W.A. Thompson explained the nature of this violation, where work exceeded the scope of the permitted activity. The permit issued included the placement of a maximum of 10 cubic yards of screened topsoil, riprap and erosion control matting. After complaints were submitted from staff and another resident, W.A. Thompson conducted a site visit and found roughly 25+ cubic yards of soil was deposited on the slope without sediment and erosion controls, which resulted in some of this topsoil eroding into the floodplain and wetlands immediately adjacent to the Farmington River. On site, W.A. Thompson instructed the property owner to cease work and remove as much of the soil as they could, install sediment and erosion controls and to not bring any additional soil onto the property. W.A. Thompson conducted a follow-up site visit to observe the corrective actions. Since the second visit, the homeowner has completed additional work to control for any potential erosion; the slope is now covered with erosion control matting. W.A. Thompson informed the property owner that this issue will now have to be considered by the Commission, and they will need to acquire a geotechnical analysis per requirements from the Town Engineer.

W.A. Thompson added that at her last site visit, some of the top soil was girdling the trees on the slope. The property owner was informed that this will over time lead to suffocation of the tree and its roots, which will only exacerbate the erosion issue and this needed to be corrected. Further site visits will be scheduled to monitor the erosion, and the Commission should anticipate the submission of an application to fully address this issue in the next few months.

- 425 Day Hill Road Existing Conditions

W.A. Thompson explained the current sedimentation issues at this property, which the Commission previously granted a permit for in October of 2022. Staff has been conducting frequent site visits to ensure all concerns are addressed.

- 22 Regency Drive – Flow Obstruction Issues

W.A. Thompson explained the conditions of this property which may be contributing to flooding issues on surrounding properties, primarily 19 Kenneth Circle to the west. Looking at historical imagery, this property has been in this condition for several decades. Commissioner DeCarlo stated that he has seen this property in person for another matter and suggested that the primary issue might be clogged drainage pipes. W.A. Thompson stated that there is also a surplus of inorganic debris on the property, and has discussed this with our blight officer to schedule a site visit. W.A. Thompson showed site photos from March of 2022. There is a series of fencing, pipes, tires, concrete blocks, etc. that could be collectively contributing to an obstruction of flow.

Vice Chairman Elder stated that it looks like the simplest solution is to have all of this debris removed. W.A. Thompson stated that she discussed this with the property owner when she visited in 2022, but doesn't believe it would be easy for the property owners to remediate the issues without guidance. Vice Chairman Elder asked what the property owner at 19 Kenneth Circle is looking to have remediated. W.A. Thompson stated that this property owner, while in the floodplain, is experiencing frequent flooding of his home and wants some type of action to allow his property to drain.

Vice Chairman Elder asked if there has been any investigation downstream to see if there were any other obstructions. W.A. Thompson stated that there was a complaint of a potential beaver dam further downstream on Meadow Brook that was being addressed by Public Works, but it may be located outside of the Town's maintenance easement which permits access.

W.A. Thompson stated that she was looking for guidance from the Commission as far as the desired or reasonable scale of remediation. Commissioner DeCarlo and other Commissioners suggested starting by removing all debris within a certain proximity of the stream banks and cleaning of any culverts on the property. Additional inspections of Meadow Brook downstream would ensure there are no other contributing factors.

8. PETITIONS FROM COMMISSIONERS

Commissioner Towers asked W.A. Thompson if she was able to find any information on the stormwater infrastructure for Walden Woods. W.A. Thompson stated that our Engineering Dept. has not been able to find any information so far, and suggested Commissioner Towers ask the HOA for any documentation. W.A. Thompson will follow up with the Engineering Department so see if there's additional information they could convey.

Commissioner Elkins asked if there was an update for the erosion issue at Day Hill Dome. W.A. Thompson stated that she visited the site and observed the erosion issue along their access road, and our Engineering staff is monitoring the issue to ensure it is addressed.

9. ADJOURNMENT

Commissioner Elkins made a motion to adjourn at 9:38 p.m. Vice Chairman DeCarlo seconded the motion. Vote 6-0-0

I certify that these minutes were approved on

Marlene Towers, Secretary
Inland Wetlands and Watercourses Commission