

**CITY OF TORRINGTON
INLAND WETLANDS COMMISSION
MINUTES
July 15, 2014**

Present: Jay Bate, Jr., Chairman
Jane Bakker, Member and Secretary
Nicole Bastiannse-Fritch, Member
Doris Murphy, Member and PZC Liaison
Tom Telman, Member
William Storti, Member

Also Present: Rista Malanca, Inland Wetland Enforcement Officer

Not Present: Christine Altman, Vice Chair

1. Call to Order:

Chairman Jay Bate called the meeting to order at 7:00 p.m., Torrington City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT

2. Roll Call and Announcement:

Chairman Bate announced present and serving on the Commission this evening would be Commissioners Jane Bakker, Nicole Bastiannse-Fritch, Doris Murphy, Tom Telman, William Storti and Jay Bate. Also present is Inland Wetlands Enforcement Officer Rista Malanca.

3. Minutes for Approval:

a. 6/17/14

MOTION by Ms. Murphy to approve the 6/17/14 minutes, seconded by Ms. Bakker, unanimously carried.

Two abstentions by Ms. Fritch and Mr. Telman.

4. Old Business:

a. Cease and Correct Order

Property Owner: Michael Morgan c/o 76-80 East Pearl LLC

Location: 76 East Pearl Street

Violation: Maintaining a regulated activity without permits, deposition of material into the Naugatuck River (collapse of retaining wall)

Pat Renzullo, attorney, appeared on behalf of the owner of the property, Michael Morgan. He explained Mr. Morgan voluntarily took steps to prevent further erosion in the river. Mr. Renzullo passed around photographs of the work done by Mr. Morgan. There have been several storms, and the barriers have remained intact. Even this evening, the area remains intact as Mr. Renzullo drove by the area tonight.

Mr. Renzullo stated a USDA grant is not available for this type work, but only for agricultural purposes.

Concern had been expressed regarding the title. Major work has been done to the bridge since 1955 according to Mr. Renzullo. Also according to Attorney Renzullo, there is a sewer line on the property which goes underneath the wall. Maps were submitted at the last meeting, one of which was dated 1912 which does not show the wall or the bridge. There is another map from 1916 which does show a wall, and a third map in 1956 which shows the stream was moved slightly and there was a taking of a portion of the wall. Attorney Renzullo believes it was to put into the bridge and be made part of the bridge structure. It also appears the sewer line was moved. There is no former easement of record for any of the sewer lines. The question remains as to whether the City of Torrington even owns the sewer line on the subject property. This sewer line might have contributed towards the collapse.

Mr. Renzullo said that part of the responsibility belongs with the City. Part of the problem may be from the CL&P guide wires placed into the wall. He is still trying to get information from CL&P to determine how they got permission to put the guide wires into the wall. There was a pole in front of the wall that was never removed during future work. Mr. Morgan has done his part by stabilizing the area.

Mr. Bate responded it is good that Mr. Morgan has begun this work, but there was supposed to be communication between the client and City Engineering this month to go through their records to determine ownership. Mr. Morgan has engaged an engineer to work with the City Engineering Department.

Mr. Bate inquired what else would be done by Mr. Renzullo to determine ownership of the property. Mr. Renzullo responded his client's engineer will continue to work with the City Engineers, and Mr. Renzullo will meet with the City Attorney. CL&P has been put on notice several years ago by Mr. Renzullo and CL&P just ignored them. Eventually CL&P took the guide wires off the wall when Mr. Renzullo said someone was going to get hurt, and then the wall fell down shortly thereafter.

Mike Morgan, property owner appeared. He spoke with his engineer today, who had said a visit was made to City Hall, and records were either missing or had been destroyed. There were so many outside contractors involved in the 1950's after the flood, and there are little to no records. We are dealing with a puzzle here. The Engineer has an appointment on Wednesday. Ms. Malanca noted the first time the engineer came into the Land Use Office was today at 2:30 p.m., and not prior to that.

Mr. Bate noted the wall looks better than it did before, and it is decently stabilized and now we need to move forward. Mr. Renzullo said he needs more time to negotiate matters with the City and he has a heavy schedule now.

Mr. Bate stated this cannot drag on indefinitely and the matter needs to be resolved. This is not a good fix going on for six months and moving into the winter. The City Engineers need to inspect this site. Mr. Bate wants some answers, and wants Mr. Renzullo to meet with the City Attorney before the next meeting to get some answers, so this Commission has something to go on. Mr. Renzullo said the last thing he wants is litigation.

Ms. Malanca stated the wall collapsed on May 1. She spoke with Corporation Counsel Ray Rigat several times, and the legal description of the property is the deeds. It is the City's job to do due diligence to determine ownership, and all the deeds we have show that the wall is on Mr. Morgan's property. The face of the wall is the outside of the wall. The Commission should not determine who is at fault for the collapse of the wall, determination if it is CL&P or the City, is a civil matter, not a wetlands issue.

Ms. Malanca has been speaking with the City Engineer regarding temporary stabilization. In her opinion, the stabilization is not adequate for the problem we have. It would do an OK job if it was addressing stormwater runoff, but the biggest concern is when the river rises. The water can get behind the wall and continue to erode the area. The appropriate motion is to uphold the Order, because it is their property. All the Order says is to make an application to this Commission for the repair of this area, it doesn't have to be to rebuild the wall. There are many options that can be done, with an engineer to plan it. If the property owner wants to put blame on CL&P or the City, that is a totally different matter than where this Commission stands.

Mr. Bates agreed with Ms. Malanca.

Mr. Renzullo said not all the deeds indicate his client owns the wall, as one of the deeds says "to the face of the wall". Further comments from Mr. Renzullo regarding ownership of the wall, cost of the project, etc. Discussion followed.

It was the consensus of the Commission to give the property owner and his attorney another month to resolve this situation, meet with City staff, their engineer, etc. and return to the next Commission meeting with their findings.

MOTION by Ms. Bakker to table this matter until August 19, 2014, seconded by Mr. Telman, unanimously carried.

5. New Business:

- a. Inland Wetlands Permit Modification
Applicant: David Champigny
Location: 19 Windtree Street (246-2-71)
Activity: Modification of existing plan

Mr. David Champigny and Rick Szabo appeared before the Commission. Packets were distributed to Commission members with previous approval, and the modification they are seeking. Also included are deed restrictions and a letter from Dennis McMorrow of Berkshire Engineering.

Mr. Champigny explained the change to the footprint of their house, and referred to Mr. McMorrow's letter.

Ms. Malanca noted the revised plans were sent to the City's Engineering Department and they had no comments on the plan. Ms. Malanca recommended approval.

Commissioners reviewed the supplied materials, and Mr. Champigny and Mr. Szabo answered questions from Commission members, referring to site maps.

MOTION by Mr. Telman to accept and approve the modification for the subject activity/modification to 19 Windtree, seconded by Ms. Bakker, unanimously carried.

6. Staff Report:

Agent Determinations:

Ms. Malanca briefly reviewed the agent determination done at the McDonalds restaurant at 673 Main Street.

7. Adjournment:

MOTION by Ms. Bakker to adjourn at 7:45 p.m., seconded by Ms. Fritch, unanimously carried.