

DRAFT

**ENVIRONMENTAL PROTECTION BOARD
CITY OF STAMFORD
MINUTES OF THE JUNE 13, 2024
SPECIAL MEETING
CONDUCTED VIA INTERNET AND CONFERENCE CALL**

MEMBERS PRESENT:

Leigh Shemitz, Acting Chair
Laura Tessier, Member
Todd Gambino, Member

MEMBERS NOT PRESENT:

Gary H. Stone, Member (Chairman)
Thomas Romas, Alternate Member
Stephen Schneider, Alternate Member

STAFF PRESENT:

Robert Clausi, Executive Director
Courtney Fahan, OSS, Land Use Bureau

Dr. Shemitz called the Special Meeting to order at 7:30 p.m. Seated to vote for the meeting were Dr. Shemitz, Ms. Tessier, and Mr. Gambino.

○ **PUBLIC HEARING**

Amendment of the Inland Wetland and Watercourses Regulations of the City of Stamford

Dr. Shemitz opened the Public Hearing on the proposed amendments to the Inland Wetland & Watercourses Regulations of the City of Stamford by laying out the ground rules by which the hearing will be conducted, including asking that each speaker limit their comments to three minutes in duration and avoid detailed repetition of previous speakers' comments. Dr. Shemitz then recognized EPB Executive Director Robert Clausi to give a brief presentation on the development of the draft regulations that are under consideration this evening, the main changes from the current regulations, and the public comments received to-date.

Mr. Clausi began by noting the contents of the current "Inland Wetland and Watercourses Regulations" adopted fourteen years ago by the Stamford Board of Representatives were actually developed by the members and staff of the Environmental Protection Board between 2004 – 2006, so they are due for an update. The current members of the EPB and staff have been working on this comprehensive update of the regulations for the past 6 months. The May 9, 2024 draft regulations that are being considered this evening have been reviewed and were found to be acceptable by the City's Office of Legal Affairs this spring.

The draft regulations and notice of tonight's public hearing were then sent to the Connecticut Department of Energy & Environmental Protection as is required by state statute. These documents were also sent to the City of Stamford Engineering Department, Parks & Recreation Commission, Department of Health, Planning Board, and Zoning Board 30 days prior to tonight's hearing as required by the Stamford Code of Ordinances. A courtesy copy of the draft regulations and notice of tonight's public hearing were also sent to the Stamford Board of Representatives on May 17th.

Copies of the draft regulations, Stamford's current regulations, a mark-up showing where the proposed amendments have been made to the current regulations, the Connecticut Department of Environmental Protection's 2006 Model Regulations, an explanatory memo, and notice of tonight's public hearing with meeting login instructions were posted to the EPB webpage on May 13th. Hard copies of these documents were also provided to the Stamford Town & City Clerk and the Ferguson Library. Finally, notice of the public hearing was published in the *Stamford Advocate* on May 30th and June 4th as required by the EPB's current wetland regulations.

Mr. Clausi concluded his introductory comments by noting any regulation revision approved by the EPB must then be adopted by the Stamford Board of Representatives and noticed in the *Advocate* before they will take into effect.

Mr. Clausi then highlighted the main changes incorporated into the draft regulations:

1. The draft regulations align more closely with the Connecticut Department of Environmental Protection's 2006 Model Regulations than do the current regulations. The regulations of most towns in the state follow the Model Regulations.
2. The draft regulations incorporate legislative amendments made by the Connecticut General Assembly since 2006 that relate to the regulation of inland wetlands and watercourses. Mr. Clausi screen shared a list of the regulation section numbers where these changes can be found because these changes were not called out on the mark-up showing the changes to the current regulations that were posted on the EPB website and distributed to interested parties. The Legislative Advisories cited can be found on the "Legislation, Regulation, and Case Law" page of the Inland Wetlands & Watercourses section of the Connecticut Department of Energy & Environmental Protection's website.

- 4.3.e. Wording revised per 2011 Legislative Advisory
- 4.3.g. Added per 2011 Legislative Advisory
- 4.4.c. Added per 2011 Legislative Advisory
- 7.9. Added per 2008 Legislative Advisory with some language in c. added per 2010 Advisory
- 7.11. Added per 2009 Legislative Advisory
- 8.4. Added per 2006 Legislative Advisory
- 9.3. Last sentence added per 2007 Legislative Advisory
- 10.8. Added per 2008 Legislative Advisory
- 10.9. Added per 2008 Legislative Advisory with some language added per 2010 Advisory
- 10.10. Added per 2010 Legislative Advisory
- 11.1. Last sentence added per 20212 Legislative Advisory
- 11.6. Some language in first paragraph changed/added per 2012 Legislative Advisory
- 11.6.a. Added per 2011 Legislative Advisory
- 11.6.b. & c. Added to comply with Public Acts 34 and 163 passed in 2021

3. Notable proposed changes in draft regulations from an operational perspective:
 - a. These are inland wetlands and watercourses regulations, so a number of references to the powers and duties of the Environmental Protection Board that go beyond inland wetlands and watercourses, such as administering the City's flood prone area regulations, have been deleted from the draft.
 - b. Section 12 (page 20-21) has been added which allows the Environmental Protection Board to appoint its technical staff as "duly authorized agents" with the ability to expeditiously issue permits for minimal impact minor regulated activities proposed outside of wetlands and watercourses. Duly authorized agents can also extend existing permits for activities outside of wetlands and watercourses and they can issue Cease & Desist Orders for violations of the regulations. Ms. Clausi went into a bit of detail about the benefits that will result of implementing

this authority in Stamford and noted that an August 9, 2023 report by WestCOG entitled “An Investigation of Inland Wetlands Commission Practices in Connecticut” states that over 90% of the state’s inland wetland commissions already authorize the use of such agents.

- c. In bullet point “a” of the definition of “Regulated Activity” on page 4-5 – the upland review area in non-drinking supply watersheds is proposed to be expanded to 50 feet from the current 25 feet. Ms. Clausi stated that this revision will allow the Board to better reduce impacts to the resources it is charged with protecting by focusing staff compliance work on related projects. He also noted that this revision will bring Stamford into line with the *minimum* standard of the surrounding cities and towns.

Mr. Clausi then summarized the public comments that have been received to-date, noting no comments have been received from the general public.

1. The Parks & Recreation Commission responded through their chair, Melanie Hollas, that they have no questions or comments on the draft regulations.
2. Written questions and comments were submitted by six of the two dozen local engineering firms, environmental consultants, attorneys, and others who were sent courtesy copies of the draft regulations and supporting documents. These comments and the staff responses which addressed many of the points raised are on file and have been shared with the members of the EPB.
3. Mr. Clausi stated the Board may wish to consider the following comments in more detail as it finalizes the regulations:
 - a. Engineer Rob Frangione writing on June 3rd and environmental consultant Stephen Danzer writing on June 4th recommend that the requirement that all applicants must submit a biological narrative (sec. 7.7.c. on page 11) be relaxed or eliminated.
 - b. Environmental consultant Aleksandra Moch writing on June 7th recommends expanding the upland review area around wetlands in drinking water supply watersheds to 75 feet or more from the current and proposed 50’ (see definition of “Regulated Activity” on page 4-5) in order to better protect the quality of Stamford’s drinking water.
 - c. Attorney William Hennessey writing on June 12th expressed concerns about the impact of the proposed expansion of the upland review area around wetlands in non-drinking water supply watersheds to 50 feet from the current 25’ (see definition of “Regulated Activity” on page 4-5). Mr. Hennessey also suggested several other edits to correct omissions or revise the wording of some sections.
 - d. Engineer Brian McMahon writing on June 13th echoed the concerns the raised by Mr. Hennessey about the expansion of the upland review area around wetlands in non-drinking water supply watersheds and suggested codifying the “grandfathering” of approvals granted before the effective date of any new regulations with more expansive upland review areas by revising section 20.1 of the draft regulations.

Mr. Clausi concluded his remarks by screen sharing a list of five housekeeping-type edits that he recommends the Board makes to the final version of the regulations that they end up approving. Dr. Shemitz asked the members if they had any questions about what Mr. Clausi had presented and they replied they did not.

Dr. Shemitz then opened the floor to public comments.

Aleksandra Moch, who identified herself as an environmental consultant and Stamford resident, stated her support for the proposed changes to the regulations, including the addition of the agent approval authority and the proposed 50' upland review area in non-drinking water supply watersheds. Ms. Moch suggested the Board consider expanding the upland review area around wetlands in drinking water supply watersheds from the current 50' to a minimum of 75' to better protect these critical water resources.

Brian McMahon, a professional engineer in Stamford, stated reorganizing Stamford's regulations so that they mirror the 2006 Model Regulations is an improvement. He said his experience with agent approvals in other municipalities indicates adding this authority to the Stamford regulations will be a positive change. Notwithstanding the expedited agent approval process, Mr. McMahon expressed concerns about the proposed expansion of the upland review area in non-drinking water supply watersheds to 50' and the burden that may put on owners of small size lots, EPB staff, and the Board. Mr. McMahon suggested it therefore might be advisable to focus any increase in the size of upland review areas to the less densely developed parts of the City. Mr. McMahon concluded by summarizing the concerns he raised in his written comments that approvals granted before the effective date of any new regulations with more expansive upland review areas be explicitly "grandfathered" in the new regulations.

After asking if there were any other members of the public who wished to speak and receiving no response, Dr. Shemitz asked the board members if they felt the record is complete. Both Ms. Tessier and Mr. Gambino answered in the affirmative. Dr. Shemitz agreed and then closed the Public Hearing at 8:07 pm.

The Board then discussed the issues that had been raised by the public in their comments this evening and in the written correspondence that has been entered into the record. Ms. Tessier went through a number of reasons why she supports increasing the width of the upland review area of wetlands and watercourses in the non-drinking water supply watersheds to 50' and noted that this was not an arbitrary change but was carefully thought out during the process of drafting the regulation revisions. Ms. Tessier also stated her support of Ms. Moch's suggestion to increase the upland review area to 75' around wetlands in drinking water supply watersheds. Mr. Gambino asked whether a 50' minimum upland review area is stipulated in some way. Mr. Clausi answered by referring to the upland review area guidelines published by the CT Department of Environmental Protection in 1997, which do not stipulate the widths for upland review areas but rather recommend each inland wetland agency set its upland review areas at widths that allow them to best protect the wetland and watercourse resources in the various parts of their municipality. Mr. Gambino said he, like Ms. Tessier, was supportive of increasing the upland review areas, but recommended these changes be reviewed by the Office of Legal Affairs.

Dr. Shemitz said that Mr. McMahon's recommendation about codifying the "grandfathering" of approvals should also be referred to the Law Department, and Ms. Tessier added her concern about adding an all-inclusive grandfathering clause in the regulations.

The Board directed staff to revise the draft regulations to reflect their comments about the upland review area and grandfathering, edit the five "housekeeping" items Mr. Clausi presented earlier this evening, went through the other outstanding points raised in the correspondence that had been received, and directed staff to:

1. Relax the requirement that all applicants must submit a biological narrative (sec. 7.7.c.), as suggested by Rob Frangione and Stephen Danzer.

2. Consider whether the change to the definition of “Best Management Practices” recommended by William Hennessey is needed since the new Connecticut Stormwater Quality Manual is already cited in section 7.7. of the draft regulations.
3. Rather than remove the word “naturally” from the definition of “Buffers”, as suggested by William Hennessey, revise this definition to read “*Buffers* are undisturbed, naturally vegetated or restored upland areas adjacent to the edge of wetlands and watercourses that help...”
4. Add “Zoning Board” at the end of section 7.2., as suggested by William Hennessey.
5. Keep the currently proposed text in draft regulation sections 7.9.a., 7.9.b., 7.9.c., and 10.9., and add the Connecticut General Statute section number citation and phrase “, as may be amended from time to time” to each section.

Mr. Clausi stated that he will try to get these revisions drafted and reviewed by the Office of Legal Affairs in time for the Board to consider approving the regulations at its June 20th Regular Meeting, but it may have to be carried over to the July Regular Meeting. The board members thanked staff for their work to update the regulations and Mr. Clausi thanked the Board for their assistance and patience in this process.

➤ **ADJOURN:**

Motion/Vote: Upon a motion by Ms. Tessier and second by Mr. Gambino, the Board voted to ADJOURN the Special Meeting of June 13, 2024.

In Favor: Shemitz, Tessier, Gambino
Opposed / Abstaining / Not Voting: None

The meeting was adjourned at 8:36 p.m.

Gary H. Stone, Chairman
Environmental Protection Board