

THE TOWN OF



GRAND ISLAND

MIKE MADIGAN
COUNCILMAN

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GRAND ISLAND
NEW YORK
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To: Town Clerk
From: Mike Madigan
Subject: Public Notification of Violations by NYS Parks (Mark Thomas) and Town Supervisor
Date: 11-April-2018

Dear Town Clerk: Please place the following item on the Regular Town Board Meeting scheduled for 8:00 PM Monday April 16, 2018:

On 09-December, 2016 Town Supervisor McMurray received a SEQR Lead Agency Designation Request from NYS Parks that required review and action by the Town of Grand Island Board regarding the West River Parkway Connector Trail project within 30 days of receipt.

This request was never provided to the Town Board – a serious violation considering that failure to respond within 30 days forfeits the Town's involvement in this process and denied the Town any input regarding their serious concerns with this project (The Town rejected the Parkway Closure plan prior to this request).

As per DEC regulations this Lead Agency designation process provides the opportunity of the involved party (the Town of Grand Island in this case) to provide input on concerns with the project and the opportunity to communicate information that could influence a determination of significance – an action that may have impacted this project and may have changed its course. This opportunity was denied the Town and its residents by Supervisor McMurray who had no authority to do so.

This communication was in violation of the agreed to communication process requiring all communication, both to and from NYS Parks, regarding this project, must include Mike Madigan (Town Council) and Nate McMurray (Supervisor). This communication was not copied to all and the impact was denial of the Town of Grand Island to participate in the above noted process.

The above noted communication process was developed due to several improper actions and violations by both the Supervisor and Mark Thomas/NYS Parks associated with this project and was designed to prevent continued violations.

Mike Madigan
Grand Island Town Council



STATE OF NEW YORK)
TOWN OF GRAND ISLAND) ss.
COUNTY OF ERIE)

To Whom It May Concern:

I, HEREBY CERTIFY, *That at a meeting of the Town Board of the Town of Grand Island, held on the **Sixth of September, 2016** a Resolution was adopted, of which the following is a true copy:*

A RESOLUTION SUBMITTED BY:
SUPERVISOR: NATHAN D. MCMURRAY
COUNCILMEMBERS:
RAYMOND A. BILLICA, CHRISTOPHER K. ARONICA,
BEVERLY A. KINNEY, MICHAEL H. MADIGAN

West River Greenway Connector Trail Bike Path – Option 4 Multi-purpose Bike-Pedestrian Trail Project Status Update

Councilman Madigan provided a timeline update on the NYS West River Greenway Connector Trail Bike Path.

A motion was made by Councilman Madigan, seconded by Councilman Billica to designate Nathan McMurray and Mike Madigan as the primary contacts representing the Town of Grand Island for all NYS matters related to the following:

- West River Greenway Connector Trail Bike Path
- Beaver Island State Park
- Buckhorn State Park

These persons should both be invited and or included in meetings and be included in communications with NYS representatives related to these matters where input is requested from the Town of Grand Island.

These persons will be responsible to keep the Town Board apprised of on-going projects and or any proposed projects and associated project planning associated with these parks.

A letter will be sent to the NYS Parks representatives communicating this designation and requesting that all future communications requiring input from the Town of Grand Island be channeled through both of these designated persons.

APPROVED Ayes 5 Billica, Aronica, Madigan, Kinney, McMurray
 Noes 0

*IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of the Town of Grand Island, Erie County, New York the **Twelfth of September, 2016.***

ATTEST
Patricia A. Frentzel
PATRICIA A. FRENTZEL
TOWN CLERK



Nathan McMurray

From: Nathan McMurray
Sent: Friday, December 16, 2016 11:35 AM
To: Cyndy Montana
Subject: FW: West River Greenway Connector Trail - LWRP review request
Attachments: 2016 12 09 Lead Agency Package mailed out.pdf

From: "Terbush, Karen (PARKS)" [REDACTED]
Date: Thursday, December 15, 2016 at 9:06 AM
To: Planning Board <PlanningBoard@grand-island.ny.us>
Cc: Cyndy Montana <nmcurray@grand-island.ny.us>, "Mistretta, M. Victor O'Brien" [REDACTED]
Subject: West River Greenway Connector Trail - LWRP review request

#5
53 pages [REDACTED]

Dear Chairman Starzynski and members of the Grand Island Planning B

As you may be aware, NYS Office of Parks, Recreation and Historic Preservation (State Parks) is proposing a multi-use pedestrian/bicycle trail along the West River. After a thorough analysis of several alternatives; our preferred plan is to close the West River Parkway to motorized vehicles and use the existing pavement of the Parkway for most of the trail alignment with a new segment of trail from Beaver Island State Park to the West Oakfield Road intersection. The existing segment of parkway to be repurposed will be resurfaced with an asphalt overlay to provide a smooth riding surface and the new pavement will be restriped to define directional lanes for the new path. The project includes resurfacing and enhancements to the existing parking lot located near West Oakfield Road at the back entrance to Beaver Island SP and pavement improvements and enhancements to the overlook parking areas at Fix and Whitehaven roads. We have completed a State Coastal Consistency Assessment Form for this project. We have also reviewed the proposed action relative to the LWRP for Grand Island approved in 2006 and feel that it is consistent.

I have attached a Copy of the Lead Agency package mailed out to interested/involved agencies on Dec. 9. This package includes a detailed description of the project, a location map and plans for the new section of trail, a full EAF Part 1, and a completed State Coastal Assessment Form.

In accordance with Article 42, please provide a consistency review of this proposal with respect to the LWRP for the Town of Grand Island.

If there are any questions, or additional materials that we can provide to help facilitate this review, please feel free to contact me a call at [REDACTED] or [REDACTED]. For more detailed questions about the project, the local contact is Mark Mistretta [REDACTED].

Karen B. Terbush
Environmental Analyst 2
NYS Office of Parks, Recreation
& Historic Preservation
Environmental Management Bureau
Albany, NY 12238



**Parks, Recreation
and Historic Preservation**

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

December 9, 2016

TO: Potentially Involved/Interested Agencies:

NYS Department of Environmental Conservation
NYS Department of Transportation
NYS Department of State – Coastal Consistency Unit
Town of Grand Island
US Army Corps of Engineers

NAME OF ACTION: West River Greenway Connector Trail

LOCATION: West River Parkway
Town of Grand Island
Erie County

SUBJECT: SEQR Lead Agency Designation

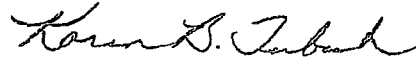
The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) is proposing a multi-use pedestrian/bicycle trail overlooking the west channel of the Niagara River. The trail will be approximately eight miles in length and connect Beaver Island State Park to Buckhorn Island State Park. The new trail will close an important gap in the Niagara Greenway trail connecting Buffalo to Niagara Falls and enhance and promote public access in an underutilized area of the Niagara River shoreline. Several alternative alignments were considered for the project. The preferred alternative consists of closing most of the West River Parkway to motorized traffic and reusing the existing pavement as the proposed path. The existing segment of the parkway to be repurposed will be resurfaced to provide a smooth riding surface and the new pavement will be restriped to define directional lanes for the new path. The low volume of traffic currently using the parkway will be diverted to local roads. A new section of trail approximately 2,800 feet long will need to be constructed near the Beaver Island State Park end of the parkway. More details on the project and alternatives considered can be found in the attached materials.

This action is subject to review under the State Environmental Quality Review Act (SEQR). The action is a Type I action in accordance with thresholds in 6 NYCRR Part 617, the rules and regulations implementing SEQR. Enclosed are a copy of a Full Environmental Assessment Form (Part 1), and attachments including a location map, schematic plans for the new section and a New York State Coastal Assessment Form.

OPRHP intends to serve as Lead Agency for this project in accordance with SEQR. Please complete and return the attached form to me at the above address or via fax (518-474-7013) or e-mail to Karen.Terbush@parks.ny.gov by January 9, 2017. Please include a description of any permits or interest you may have with respect to the proposal as well as any comments, additional information or concerns you feel need to be addressed. OPRHP has not yet made a determination of significance.

If you have any questions regarding this project, please feel free to contact me at (518)474-8765.

Sincerely,



Karen Terbush
Environmental Analyst 2 .

cc: Mark Thomas
Ron Peters
Mark Mistretta
Victor O'Brien



**Parks, Recreation
and Historic Preservation**

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

December 9, 2016

RE: SEQR Lead Agency Determination
West River Parkway
West River Greenway Connector Trail

Dear Interested/Involved agency:

Please complete, sign and return this form as soon as possible for the above mentioned action. Please indicate whether your agency has a permit or approval or has comments on the proposed action and return **no later than January 9, 2017** to: Karen Terbush, Environmental Management Bureau at the address above, or e-mail to: Karen.Terbush@parks.ny.gov.

Agency: _____

Name of responsible person: (please print) _____

Concur with New York State Office of Parks, Recreation and Historic Preservation acting as Lead Agency? Yes _____ No _____

Permit or Approval Required? Yes _____ No _____

If yes, Nature of permit or approval required: _____

Additional Comments:

Mike Madigan

Subject: FW: Request for Remedy Associated Mark Thomas and his Unethical and Inappropriate Actions that have had a serious impact on the Town Of Grand Island.

Attachments: SEQR Lead Agency Designation Request.pdf; Grand Island Town Board Vote against Option 3 Aug 02 2016.docx; DOC080316-08032016093053.pdf; Town Of Grand Island Resolution and Letter Regarding West River Parkway; Grand Island Vote for Bike Path Option Four on Aug 15 2016.pdf; FW: Resolution; FW: Mark Thomas post meeting - meeting on 09-Nov-2016; RE: Grand Island W River Prkwy Bike Path Mtg Minutes Aug 5 2016 v1.docx

From: Mike Madigan

Sent: Wednesday, April 11, 2018 1:50 AM

To: 'Jacobs@nysenate.gov' <Jacobs@nysenate.gov>

Subject: Request for Remedy Associated Mark Thomas and his Unethical and Inappropriate Actions that have had a serious impact on the Town Of Grand Island.

Senator Jacobs: The below documents the unethical and inappropriate actions taken by Mark Thomas and his associated NYS Parks Department associated with the Parkway Bike Path Project. The below supports the fact that a communication process was agreed to by Mark Thomas's office to prevent continued unethical and inappropriate actions that impacted the Town of Grand Island and its residents.

The first attachment above is an e-mail communication associated with the Mark Thomas managed Parkway project, a communication that likely was one of the most critical communications to the town of Grand Island and its potential impact on this project. Mark Thomas did not comply with the agreed to communication process that was designed to prevent continued unethical actions by him and his project team- this documentation was discovered through a citizens FOIL request and was presented to me this week.

The communication was not copied either to the entire GI Town Board or to The Town Supervisor and Myself as agreed by Thomas and his team. This e-mail contained the SEQR Lead Agency Designation request that is time sensitive and must be completed within 30 days of receipt or the involved party (The Town of Grand Island) forfeits its responsibilities related to SEQR and any influence it may have on altering or improving the associated project.

The impact was the Town of Grand Island Board never received and never had the opportunity to act on this request.

This request was withheld from the Town Board by Mark Thomas and the Grand Island Supervisor (see below similar unethical actions and history).

It must be noted that the Grand Island Town Board had rejected the Parkway Closure prior to this request for reasons that included environmental concerns and that both Mark Thomas and the Town Supervisor knew that approval of Lead Agency Designation was unlikely by a majority of the Town Board.

Thomas and McMurray knew that the potential was high for a Positive Declaration by the Board if presented with this opportunity. A positive declaration may have, if approved, halted or drastically altered this project. Grand Island was denied this opportunity as a result of Thomas's and McMurray's actions.

Mark Thomas's and the Grand Island Town Supervisor's actions resulted in the expiration of this opportunity for the Town of Grand Island and this resulted in the default assignment of Mark Thomas and his office as the Lead Agency – benefitting Thomas.

After receipt of the FOILED e-mail and discovery of the critical nature of it – I contacted our Town Clerk's office and requested they contact NYS Parks to request the documentation on file associated with this request.

This request was made at 11:10 on April 10th, 2018. At 12:23 that same day (73 minutes later) Angela Berti of NY Parks sent an e-mail out notifying the Town of Grand that the Parkway closure will occur on April 16, 2018 and soon after that communication it was observed that NYS Parks was rushing to put up signs making this announcement.

It must be noted Senator Jacobs that your office told me that the Parkway would close some time after May 1st and that Councilman Jennifer Baney was told the same information by Mark Thomas when she recently met with him. It appears the timeline was suddenly accelerated – was this due to the request for this Lead Agency SEQR documentation? Do you believe in coincidences?

Regardless of the timing of the announcement – the real issue is the continued unethical actions of the project manager Mark Thomas. We are once again confronted with an ethical breach by him creating a serious situation that detrimentally impacts the Town of Grand Island and its residents. Thomas knew that the Board never received that SEQR designation request – he and his team knew that it was likely that receipt of this legally required request would likely be met with rejection and a possible positive declaration resulting in the possible need to drastically revise his plan. Thomas's non-compliance with the agreed to communication process achieved his goal and avoided what would be a very real challenge to his goal of closing the Parkway. Such breaches in trust, ethics and inappropriate actions is unacceptable and must not be allowed – we must stop such corrupt actions in our Government and reset boundaries to prevent such behavior in the future.

I request the following remedies:

- 1) Place on hold all actions associated with the Parkway Closure until this matter is resolved.
- 2) Request that Thomas's office provide all SEQR related documentation associated with this project from 2016 and 2017. Note: The attached first document states that this project requires completion of SEQR so one must be on file. This request should include providing all SEQR Lead Agency Designation Documents associated with Grand Island.
- 3) Provide the Town of Grand the opportunity that was denied them to respond to the request that Mark Thomas and McMurray withheld and prevented the board from acting on.
- 4) Request a full DOT traffic study associated with the closure of the Parkway – this is almost always required by the DOT when a road is proposed to be closed. This assessment should include traffic pattern assessments and would forecast potential impact on accident rates compared to the existing open Parkway accident rates.
- 5) Mark Thomas should be removed from this project – all credibility has been irretrievably destroyed by him and his actions.

History:

As I have shared with you in prior conversations NYS Parks Mark Thomas and his department has been involved in a number of inappropriate and unethical actions against the Town of Grand Island and against many of our residents.

As you are aware Thomas presented to the town on July 20, 2016 at a large public meeting and posted on line the fraudulent claim that the Town's "Preferred" option was closing the Parkway. Thomas admits he knows that such a claim would require a Town Board majority vote (he served in local government for years) but did not have any such resolution when making this damaging fraudulent claim that misled the public. In a meeting with Thomas that addressed

this fraudulent claim and how it should be prevented in the future Thomas agreed to copy the entire GI Town Board on all future communication regarding the Parkway project.

After a breach in Sept 2016 of the the above agreed communication process associated with the Niagara Reporter Article attacking the West River dock holders, where NY Parks provided supporting documents for the attack article to the Town Supervisor, the attached second motion was passed by the Board requiring all communication regarding the Parkway be copied to both Mike Madigan (GI Town Council) and Supervisor McMurray.

Excerpts:

Please see the e-mail attached – meeting minutes from my meeting on **Aug 3, 2016 with Mark Thomas**. This documents agreement that entire Board must be copied on critical communication. As you can see Angela and Mark agreed to this – in response to a “SERIOUS ERROR”.

▪ It was acknowledged that the recent identification that the Town Board majority had not approved and does not support the Parkway closure was a serious error that should be corrected and similar communication errors must be prevented going forwards.

▪ **Action:** It was agreed that communication of critical questions and decisions and actions involving input from Grand Island Town Government would be directed to the town board e-mail for the duration of the project **to prevent similar errors in the future (TownBoard@grand-island.ny.us)**

- Mike Madigan asked if the GI Board’s rejection of Option three would impact the decision regarding which option would be progressed.
 - Mike Madigan asked if the Board continued to reject Option three but Approved Option 1 or 2 would that have any greater influence on the state in terms of option 3 being progressed.
 - Mark Thomas indicated that would make it very difficult to progress the town rejected Option three plan rather than progressing with the town approved option.
Mr. Thomas indicated that Town approval is not required but desired.

-----Original Message-----

From: Berti, Angela (PARKS) [<mailto:Angela.Berti@parks.ny.gov>]
Sent: Monday, September 12, 2016 3:27 PM
To: Nathan McMurray <nmcmurray@grand-island.ny.us>
Cc: Mike Madigan <mmadigan@grand-island.ny.us>
Subject: RE: Resolution

Thank you.... I will.

-----Original Message-----

From: Nathan McMurray [<mailto:nmcmurray@grand-island.ny.us>]
Sent: Monday, September 12, 2016 3:17 PM
To: Berti, Angela (PARKS)
Cc: Mike Madigan
Subject: FW: Resolution

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hi Angela,
Please circulate this resolution to Victor and Mark as well.
Thank you,
Nate

From: Nathan McMurray
Sent: Monday, September 12, 2016 1:26 PM
To: Berti, Angela (PARKS) <Angela.Berti@parks.ny.gov>
Cc: Town Board <TownBoard@grand-island.ny.us>
Subject: FW: Resolution

Hi Angela,
Please be advised that the attached resolution was passed at last week's Town Board meeting.
For the West River Bike Path issue, Mike Madigan will officially be a point of contact for you as well. Note there will be no communication with Mike without my knowledge and input and vice versa.
Thank you for all the work you are doing on this. Your perseverance and dedication is very much appreciated.
Highest regards,
Nate

Please read:

From: Mike Madigan
Sent: Wednesday, November 09, 2016 10:01 PM
To: Mike Madigan <mmadigan@grand-island.ny.us>
Subject: Mark Thomas post meeting - meeting on 09-Nov-2016

I met with Mark Thomas immediately following the town board meeting tonight. The purpose of meeting with him was to share with him what I viewed as a very serious concern. I showed Mark Thomas the following:

1). The resolution stating all communication between NYS and Town in either direction was to be copied to both Nate and I.

Mark Thomas stated he was aware of this requirement and that he believed we were adhering to that agreement.

2). The E-mail from Nate sending this resolution to Angela Berti, Nate's follow-up e-mail requesting Angela share his communication with others and Angela's commitment in a response to do so (Sept 12 communication).

3). I next shared two E-mails from NYS which Angela was included where Dock permit holders were identified by name and address and where the rules for having a permit were detailed. These communication occurred on two different days in late Sept.

I then asked if he was aware of the NIMBY article and he stated he was and he was very upset about that article and its content where the dock holders were attacked - he stated that should never have happened.

He then reviewed the dates of the article and the E-mails and stated he was very mad and had to look into this matter.

Mark stated that, as I was aware, that when the three of us met and that separately (not involving me) he had specifically told Angela the dock holders were off limits. He stated that the dock holders were to be completely off limits and he understood my concerns and that he would immediately follow-up with Angela regarding this matter.

I then emphasized to him that this really looks bad and he agreed. I informed him that six of those pictures were of Bonnie Fitzgerald's home and dock- he said he was aware of that. I informed him that Bonnie had contacted Angela

twice regarding option five, she met with the town Supervisor three times regarding option five and she spoke at 3 town board meeting - I told him she has been the most outspoken citizen against option 3 all prior to these communication and the article attacking/targeting her.

I told Mark I was very concerned that our citizens have been targeted to repress their opposition to option 3 and their first amendment rights to freedom of speech.

Mark committed to immediately investigate and follow up with me regarding this matter which he acknowledged appeared to be a very serious concern.

Note: I am sending this E-mail to document this conversation immediately following it tonight.

I will send to board in two days to provide Mark Thomas the opportunity to confront Angela regarding.

Sent from my iPhone