

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, MAY 2, 2017
TOWN HALL 84 SOUTH MAIN STREET
ROOM 207/209 – 7:30 P.M.**

Members present: Robert de Jongh, Charles Dimmick, Will McPhee, Kerrie Dunne, and Thom Norback.

Members Absent: Dave Brzozowski and Earl Kurtz.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:30 pm.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

Members present were Robert de Jongh, Charles Dimmick, Will McPhee, Kerrie Dunne, and Thom Norback.

IV. DETERMINATION OF QUORUM

There were enough members present for a quorum.

V. APPROVAL OF MINUTES Regular Meeting – April 18, 2017

Motion: To approve the minutes of the Regular Meeting of April 18, 2017 with corrections:

Pg. 5 L11 should read “Ms. Simone stated (concerning the Webster property on”, L23 “[there” to “where”, L38 should read “Chairman de Jongh asked”; pg. 7 in all locations “boarder” to “border”; pg. 9 L46 should read “Mr. Kurtz asked about how”; pg. 10 L22 “comprise” to “compromise.”

Moved by Mr. Norback. Seconded by Mr. McPhee. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Staff Communication with attachments Re: 8 Edith Place, #2017-002
This communication was reviewed; this item is also on the agenda under unfinished business.

2. Staff Communication with attachments Re: Request for Determination #2017-003, 678 Coleman Road, Subdivision

This communication was reviewed; this item is also on the agenda under new business.

3. Staff Communication with attachments Re: Request for Determination #2017-004, 387 Mt. Sanford Road, Permitted as Right, Timber Harvest and Drainage/Watercourse Improvement

This communication was reviewed; this item is also on the agenda under new business.

4. Staff Communication with attachments Re: Request for Determination #2017-005, Marion Road, House

This communication was reviewed; this item is also on the agenda under new business.

VII. INSPECTION REPORTS

1. Written Inspections

a. 195 Lanyon Drive

Ms. Simone reported a letter was sent to 195 Lanyon Drive; she explained a complaint was received from a neighbor about trees that had been cut between the two properties.

Ms. Simone said looking at the 1990 site plan approval there are wetlands on the property however there was no encroachment line established at that time and no requirement that anything be marked so there are no plaques on the property.

Ms. Simone explained the new owner – she sent the letter asking them to contact staff and they have not contacted her.

Ms. Simone stated she didn't believe there was any further cutting as of the last time she checked so she asked for feedback from the Commission. She said her suggestions that she had was to send a certified letter telling them they are aware of the cutting – that they can't continue to cut without getting approval from the Commission; send them a copy of the site plan and identify where the wetland boundaries are.

Mr. Norback and Ms. Dunne agreed with what Ms. Simone proposes to do (send a letter).

Dr. Dimmick also agreed stating that staff unusually shows remarkable judgement.

2. Staff Inspections

a. 125 Mountain Road

Ms. Simone said that there was a staff inspection of 125 Mountain Brook Circle – she received a phone call regarding erosion controls – they were compromised and she will go back out to inspect them this Thursday.

b. 8 Edith Place

Ms. Simone explained she went out to the property at 8 Edith Place on Saturday, April 22, 2017 with two Commission members and staff – this item would be covered under unfinished business.

c. Quinnipiac River

Ms. Simone said the information she sent out about the Quinnipiac River emergency scour repair on Friday, April 21, 2017; she explained they the different sizes and tonnage of stone on the upside stream of the site of the abandon pipe; and at the location of the splash pad.

Ms. Simone stated the scour hole was immense. She provided the Commission an update regarding what she saw onsite regarding

the amount of material dumped bucket by bucket full - needed to fill in the hole.

Dr. Dimmick asked if there was any plan to remove where that pipe is.

Ms. Simone stated yes. She explained the plan all along has been that they were going to remove that abandon 30" pipe and they were going to do that before they took the dam out in Meriden but then they decided to take the dam out first which then led to the scour problem; so they are working on plans to remove the abandon line and then replace the active line which is underneath the street line so they are trying to balance all that out.

Mr. Norback commented the own Dr. Dimmick foresaw this happening.

Ms. Simone agreed.

Dr. Dimmick said he was giving that as a warning hoping they would do something to prevent that from happening.

Chairman de Jongh asked if staff had any idea about the time line is on this.

Ms. Simone stated no - when they've met and talk about timeline it's always that it's going to happen very soon.

Dr. Dimmick said right now their doing emergencies work which is unauthorized because it's an emergency; he said they may wind up making a new rock dam there.

d. 1400 Waterbury Road

Ms. Simone said at 1400 Waterbury Road there's been activity near or in the upland review area – this is right along the Ten Mile River.

Ms. Simone explained they renovated the house and put up a fence but they're piles of soil, wood chips and tree stumps and they've added to it. She said in speaking with the chair they agreed to have a show cause hearing and have them come before the Commission.

Chairman de Jongh said its best to have an open conversation about what his intentions are instead of trying to guess.

VIII. ENFORCEMENT ACTIONS

1. Notice of Violation/Cease and Desist Order SC 12/06/16
House 2 Home Construction, c/o Mr. Edward Barnett
Unauthorized Activities in a Regulated Wetland Area
509 Mountain Road
Assessor's Map 62, Lot 4

Ms. Simone explained she received an update from Ryan McEvoy that she saw in her inbox just before the meeting; she hasn't had a chance to review it for the erosion controls.

Ms. Simone said for the next meeting she'll do a review of this situation and see where we're at; review certain aspects of the (project) and she'll go through the files and see where they are.

Chairman de Jongh said his understanding is that they are not permitted to do any kind of activity on this now in terms of building.

Ms. Simone stated they are allowed to build; the cease and desist was modified to allow them to build but there's other work – soil got into the upland review area – trees were but so things need to be rectified as far the proximity to the wetlands.

IX. UNFINISHED BUSINESS

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|---------------------------|-----|----------|
| 1. Permit Application | APP | 2017-002 |
| Premal Nanavati | DOR | 4/18/17 |
| 8 Edith Place | SW | 4/22/17 |
| Site Plan – Tree Clearing | MAD | 6/22/17 |

Chairman de Jongh stated he didn't think Mr. Nanavati was here.

Chairman de Jongh explained this was subject of a field trip by staff, Dr. Dimmick and Mr. Norback and the purpose of that was to work with the applicant to identify the trees he was orally telling us he was going to be cutting down.

Chairman de Jongh said as he understood it – the tenner of the conversation somewhat changed. He asked if Thom or Dr. Dimmick wanted to comment.

Mr. Norback said he found him (the applicant Mr. Nanavati) to be elusive; he didn't stick to one story – it was a revolving request and evolving reasons why he wanted to take the trees down.

Mr. Norback it was uncomfortable at best; in his opinion he didn't seem forth right – he was hard to follow.

Dr. Dimmick said in looking there were some trees that we obviously dead so those are no problem with those but there are a couple of others (that are okay); except that there's fill placed around three of them.

Mr. Norback said he mentioned that to him – you could see the dirt was (actually) debris from a patio renovation – and that he (Mr. Nanavati) mentioned he wanted to put some more fill in even though he originally said his intent was not to make the yard bigger but hen when staff asked if he wanted to modify his permit and include some filling – they didn't get an answer; he (Mr. Nanavati) said if they were there to talk about every tree and every tree and every little bit of dirt then the discussion was over.

Chairman de Jongh said he understood that he (Mr. Nanavati) made a comment something to the affect that he wanted to know what the penalties were if he were to go ahead and proceed with the activities.

Mr. Norback stated he (didn't hear the comment) because he exited when he was told (by Mr. Nanavati) that the discussion was over.

Dr. Dimmick said he didn't remember his (Mr. Nanavati) exact wording.

Ms. Simone said that was the gist of it.

Chairman de Jongh said in talking with staff he thought that was basically the comment that he made – 'what were the penalties I (Mr. Nanavati) would have to pay if he went ahead and pursued the work without a permit.'

Ms. Simone stated they are no clearer now as to an understanding of which trees he is asking to cut – they were characterized as dead

trees and we explained to him for (dead trees) he could go ahead and cut those and he didn't need a permit; the dead branches on the ground – he could pull those out – the dead trees (2 of them) could be cut without a permit – but he (Mr. Nanavati) seem to insist that the trees that had “x's” on them were dead.

Chairman de Jongh said the purpose of having him come before us at the last meeting – was to have him explain to us what he intended to do and he thought the purpose of some of the Commission members and staff going out there was to work with him to help him meet his objective.

Chairman de Jongh said he was inclined because of his failure to try to work with this Commission and the comments that may or may not have been made at the end of the conversation – he was incline that we issue a cease and desist order that way nothing can be done until he comes and talks with us about what's going on.

Chairman de Jongh said he'd throwing out a suggestion – is that we need to let him know that nothing can be done until he begins to cooperate with us; we will work with him.

Chairman de Jongh said clearly he's put fill in an area where there should be no fill based on the pictures staff has given us – he (Mr. Nanavati) has two different elevations where the fill is placed – he said he thinks there are more details that we need – he's not sure what we can do going forward but he thought we needed to make it clear to him (Mr. Nanavati) that he's not able to do anything until he comes back before us.

Ms. Simone said what if she was to write him a letter identifying things that still need to be clarified in the application such as exactly which trees and also before the Commission can entertain this application there are site conditions that need to be addressed.

Dr. Dimmick commented about the markers placed for the non-encroachment line – he (Mr. Nanavati) tried to tell us the markers were not in the right place.

Chairman de Jongh said if we're going to send a communication out there has to be some wording in there to let him know if he chooses to go ahead with this project without the Commission's approval it can result in some litigation.

Ms. Dunne said she thought the Commission should be careful not base what we are saying based on the conversation – we should base it on the facts that we know or the facts that we don't know and in that letter layout what we need to know and that he (Mr. Nanavati) said should take no further action until he (Mr. Nanavati) comes before us again.

Ms. Simone said she'd draft a letter and send it you Chairman de Jongh and Charles to review.

Chairman de Jongh said to send it to all Commission members.

X. NEW BUSINESS

1. Request for Determination RFD 2017-003
Apex Developers, LLC
678 Coleman Road
Subdivision

Attorney Anthony Fazzone was present on behalf of the applicant.

Attorney Fazzone addressed the Commission. He explained the staff report covers pretty well exactly what they are looking for – this Commission approved wetlands activity and issued a wetland permit for a subdivision off of Coleman Road.

Attorney Fazzone said that subdivision was ultimately approved by the Planning and Zoning Commission and the applicant was appealed – the approval was appealed in court and the court found that the Planning and Zoning regulation under which the decision was made – they found that it was vague so they upheld the appeal and that basically vacated the Planning and Zoning approval.

Dr. Dimmick said it didn't vacate all of the approvals.

Attorney Fazzone stated – no, it did not.

Dr. Dimmick said then you don't need to come in front of us.

Attorney Fazzone said he's trying to cover all of the bases. He said Planning and Zoning has adopted a new regulation that comes effective on the 12th of this month and the applicant intends to file the same application that was filed before with the same wetlands activities that were there before; he said there were some minor

engineering comments that were incorporated into the final Planning and Zoning plans but nothing that had anything to do with wetlands or the upland review area.

Dr. Dimmick said so you need a letter from us – a determination that a new wetland permit is not needed – the existing permit is valid.

Attorney Fazzone said then that goes to Planning and Zoning and we satisfy the statutory requirement ordinance – the statutory requirement can't be a basis for a further appeal.

Motion: That the Commission issues a determination that the existing permit is valid and no additional permit needs to be issued.

Moved by Dr. Dimmick. Seconded by Ms. Dunne. Motion approved unanimously by Commission members present.

2. Request for Determination RFD 2017-004
Brennan Sheahan
387 Mt. Sanford Road
Permitted as Right, Timber Harvest & Drainage/Watercourse Improvement

Brennan Sheahan, a forester with Hull Forest Products Inc. was present.

Commission members viewed the maps of the area of the proposed timber harvest project.

Mr. Sheahan explained he submitted a notification of a timber harvest to the wetland commission for a jurisdictional ruling for a timber harvest located behind 387 Mount Sanford Road owned by Paul and Kristen Bowman.

Mr. Sheahan said this activity is taking place in two towns – Hamden and Cheshire – the area indicated for harvest in the town of Cheshire – there are no wetlands associated with the timber harvest areas – there is Brooksvale Stream located on the western side of this property under the buffer strip incorporated - within 150' of a do not cut area so there will be no activity in and around that stream; all precautions will be taken place and best management practices will be taken by the subcontracting timber harvester to make sure that there's no type of erosion for any reason heading down towards that stream.

Mr. Norback asked if the area would be delineated – marked where the buffer will be – and identified before the clearing.

Mr. Sheahan said the buffer strip will be delineated; the timber harvest area will be identified by the painting of the trees.

Dr. Dimmick asked if there were wetland activities in Hamden.

Mr. Sheahan said there are wetland activities in the sense of – as permitted as of right we are crossing three interim perennial stream channels to do this timber harvest.

Dr. Dimmick as if they were all within 50' of the Cheshire town line.
Mr. Sheahan stated they all are within 50'.

Mr. Sheahan said he didn't know if they had the map in front of them - Cahill Road is an abandon old town road – that road has no mitigation for water control measures for the stream so over the years its decayed and the perennial stream just meanders wherever it feels like it wants to meander.

Mr. Sheahan said in the case of the timber harvest we have to cross that meandering perennial stream which flows seasonally when the wetlands up above which are located at Brooksvale Park are fully charged – there's a discharge of that perennial stream so we will cross using corduroy crossing – temporary bridge structures and that will be part of the timber harvest in the town of Hamden.

Ms. Simone said just to clarify on the map where it says the approved three ditches for watercourse and it's actually points into Hamden.

Mr. Sheahan said yes – the other side of that black is defined as Cheshire and Hamden (on Mount Stanford Road).

Mr. Sheahan showed on the map the boundary and town lines; he explained they'll be working in Hamden on 30 plus acres to the west of this area.

Ms. Simone said that's not show on this map.

Dr. Dimmick said you you're using this access road which is just over the line in Hamden.

Mr. Sheahan explained that Mr. Bowman owns the entire road.

Mr. Sheahan showed Commission members the topo map showing there's a timber harvest taking place in the towns of Hamden and Cheshire and all the material is going down old Cahill Road which is in the town of Hamden – the ditch crossing will take place in the town of Hamden – the harvesting timber in the town of Cheshire is shown on the map.

Mr. Norback asked what type of vehicular traffic is going over those bridges.

Mr. Sheahan said logging equipment – skidders. Trucks will come in off of Mount Sanford Road and the staging area will be right down near Mount Sanford Road on his client's property and all the forestry activity will take place on that planning area.

Mr. Sheahan stated all activities are temporary – there are no permanent structures – no fill – no excavation.

Chairman de Jongh said in the past the Commission has had good experience with timber harvest projects.

Dr. Dimmick said past concerns with timber harvest activities in Cheshire have been when they were cutting close to the wetlands under our jurisdiction.

Motion: That the Cheshire Wetlands Commission having examined the proposed timber harvesting activities finds that the activities do not need a permit from this Commission.

Moved by Dr. Dimmick. Seconded Mr. McPhee. Motion approved unanimously by Commission members present.

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| 3. | Request for Determination Ryan McEvoy, MMI Marion Road House | RFD | 2017-005 |
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John Bowman of 1575 Waterbury Road was present.

Mr. Bowman explained that they are requesting permission for a subdivision partially located on Marion Road.

Dr. Dimmick said and the new parcel cutting out has no wetlands.

Mr. Bowman stated there are wetlands on the lower side of the parcel however it is not within the building activity.

Ms. Simone stated based on the shape of the parcel there are some wetlands – shown on the plan – she said the applicant is not looking to do anything in that area; there’s a driveway and existing culvert and they are not proposing any changes to that.

Dr. Dimmick said he didn’t see a problem with (what’s proposed); he has no proposed activities within or anywhere near the wetland.

Motion: That the Commission has determined that proposed activities do not need a permit within the context of the regulations.

Moved by Dr. Dimmick. Seconded Mr. Norback. Motion approved unanimously by Commission members present.

XI. ADJOURNMENT

The meeting was adjourned at 7:59 pm by consensus of Commission members present.

Respectfully submitted:

**Carla Mills
Recording Secretary
Cheshire Inland Wetland and Watercourse Commission**