

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING  
THURSDAY, NOVEMBER 7, 2019  
TOWN HALL – 84 SOUTH MAIN STREET  
COUNCIL CHAMBERS – 7:30 P. M.**

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Chairman de Jongh informed all present that this meeting was being film recorded.

**I. CALL TO ORDER**

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

**II. PLEDGE OF ALLEGIANCE**

The pledge of allegiance was recited.

**III. ROLL CALL**

Ms. Dunne called the roll.

Robert de Jongh, Charles Dimmick, Earl Kurtz, Dave Brzozowski, Thom Norback, and Kerrie Dunne were present. Member not present was Will McPhee.

Staff member Suzanne Simone was present.

**IV. DETERMINATION OF QUORUM**

Chairman de Jongh determined there were enough members present for a quorum.

**V. APPROVAL OF MINUTES – Regular Meeting – October 15, 2019**

**Motion: To approve the minutes of the October 15, 2019 regular meeting with corrections:**

Pg. 5 L21 “close” to “closed”, L34 “there” to “their”; pg. 6 L6 “his” to “this”; pg. 17 L13 “is” to “if”, L39 “can’s” to “can’t”; pg. 8 L15 “say” to “se”; pg.9 L18 “curved” to “curb to”; L24 “points” to “joints”, L44 “or” to “of”; pg. 10 L44 “won’s” to “won’t”; pg. 13 L21 and 23 “grading” to “gradient”, L39 delete “an have”; pg. 14 L7 “medication” to “modification”, L42 “re – zoom” to “resume”.

Moved by Mr. Kurtz. Seconded by Ms. Dunne. Motion approved unanimously by Commission members present.

## VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. CT DEEP Notice of Violation to George Noewatne, Director of Public Works and Engineering Re: Culvert Lining Project at the Marion Road Crossing of Cuff Brook
2. Staff Communication w/Attachments Re: IWWC Permit # 2019-026, Napolitano, Marion Road Resubdivision
3. Staff Communication w/Attachments Re: IWWC Permit # 2019-027, West Johnson Ave. Site Plan, Medical Office Building
4. Permit Application # 2019-029, Bonnie MK Donato, 35 Sudol Court
5. Staff Communication W/Attachments Re: IWWC Permit # 2019-029, 35 Sudol Court, Annual Mowing in Upland Review Area
6. Request for Determination, Tom Grimshaw & Robert Meister, 470 & 490 Riverside Drive
7. Staff Communication w/Attachments Re: Request for Determination # 2019-028, 470 & 490 Riverside Drive
8. National Water Main Cleaning Company Response to CT DEEP Re: Cuff Brook, October 30, 2019

Handed out at tonight's meeting:

9. Materials relating to application on the agenda re:
  - a. Marion Road - Natural Diversity Database report
  - b. Marion Road – wetlands report
  - c. Marion Road – show cause documents

## VII. INSPECTION REPORTS

1. Written Inspections – N/A
2. Staff Inspections
  - a. Marks Place anonymous call – staff reported she received an anonymous call regarding cutting taking place on Marks Place; after investigating the report it was found that there were no issues at the property site.
  - b. Lanyon Drive – staff reported that she inspected the site, verifying the area of cutting and placement of flags; she reported that the property owner asked about more cutting – staff informed

property owner that any more cutting needs to come back to the Commission for their approval.

- c. City of Meriden – staff reported she was contacted by the City of Meriden regarding the forestry project and extent of cutting taking place on the neighboring property; staff said the project scope is similar to that of other forestry projects.
- d. Cornwall Avenue – staff reported that the Cornwall Avenue (Ed Barnett) site is stabilized and the Commission is continuing to get erosion reports.
- e. Talmadge Road – staff reported tree cutting was taking place on Talmadge Road and the property owner was asked to stop; upon investigation it appears more site work was done so its likely a show cause hearing will be set for the next meeting.

#### VIII. ENFORCEMENT ACTIONS

- 1. Notice of violation/Cease and Desist Order SC 3/19/19  
Violation of IWWC Permit #2019-001  
Ed Barnett  
569 Cornwall Avenue  
Assessor's Map 63, Lot 66

Chairman de Jongh reported this item is status quo; staff is continuing to receive inspection reports.

- 2. SHOW CAUSE HEARING  
Notice of Violation/Cease and Desist Order SC 8/06/19  
Unauthorized Activities in a Watercourse SC 9/03/19  
Town of Cheshire Public Works/Engineering SC 9/17/19  
Marion Road/Cuff Brook SC 10/01/19  
Assessor's Map No. 25, Lot No. 16 and ROW SC 10/15/19

George Noewatne of the Public Works Department was present.

Chairman de Jongh read the following summary of findings into the record:

“That the Cheshire Inland Wetlands and Watercourses Commission (IWWC), having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners’ knowledge of the area, site visitations, and after review of written information provided by the applicant on this application and during the course of public meetings, finds the following:

1. That inland wetlands and watercourses of the State of Connecticut and the Town of Cheshire are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed.
2. That the Cheshire Inland Wetlands and Watercourses Regulations, in effect since June 2, 1974 are enforced by the Cheshire Inland Wetlands and Watercourses Commission, per town ordinance.
3. That on May 21, 2019 the IWWC issued permit #2019-008 to the Engineering Department/George Noewatne for the spray application of cementitious material within the culvert of Cuff Brook under Marion Road.
4. Stipulation #1 of IWWC permit #2019-008 states, "Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records."
5. Stipulation #2 of IWWC permit #2019-008 states, "No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission."
6. Stipulation #3 of IWWC permit #2019-008 states, "The erosion controls shall be properly installed prior to the commencement of activities and shall be monitored, inspected and repairs made when needed." The Engineering Department was allowed to monitor and manage this permit, as Don Nolte, Engineering Operations Manager had earned a good standing with the Commission by demonstration of an understanding of and appreciation for best management practices in the pursuit of environmental resource protection.
7. That on July 18, 2019, at approximately 3:20 p.m., Commission Staff was notified by the CT DEEP Spill Division of an illicit discharge into Cuff Brook of the cementitious geospray coating the streambed and banks of Cuff Brook. The CT DEEP Spill Division was contacted by a resident complaining of dead fish and a grey coating within and along the streambank of the Cuff Brook from Marion Road to the east. This was the first and only

notification that Commission Staff received regarding the illicit discharge into a watercourse as a result of this project.

8. That the CT DEEP Fisheries Division inspected the site on July 18, 2019 at approximately 4:15 p.m. and counted over 100 dead fish, including native brook trout, and subsequently stated it would take 3-5 years for the population to recover from this illicit discharge.
9. The IWWC Chairman submitted a Freedom of Information Request for photos, documents and emails regarding this project. The photos supplied to the IWWC Chairman included photos taken by Michael Caffrey, Engineering Technician, (date range from July 16, 17 and 18, and 19, 2019) showing the spray application of cementitious material within the Cuff Brook culvert as water was flowing through the culvert, which was an obvious deviation from the approved site plan and stipulations of permit #2019-008, a deviation neither Michael Caffrey nor the Engineering Department were authorized to make. Michael Caffrey was on site and documented the violation but did not stop the contractor from conducting this violation.
10. That in the timeline of George Noewatne's August 2, 2019 Report on Cuff Brook Michael Caffrey informed Don Nolte of the illicit discharge into Cuff Brook on July 18, 2019 at 10:40 a.m.
11. The FOI Request discovered that on July 18, 2019 at 10:50 a.m. Don Nolte sent an email to the Contractor stating: "Your crew is working without any e & s controls that could result in wetland enforcement problems and the need for them to clean up the stream bed (and I don't want to have to attend a violation hearing with you if not corrected and caught. Please be sure they bring the dirt bag, silt fence, and some haybales tomorrow and follow best management practices." In the timeline of George Noewatne's August 2, 2019 Report on Cuff Brook, this email was sent after Michael Caffrey informed Don Nolte of the illicit spill into Cuff Brook, and Don Nolte did not visit the site, did not shut down the site and did not contact the appropriate authorities to stop the migration of the illicit discharge further downstream.
12. That Don Nolte allowed the contractor to begin site work without correct installation of the approved dewatering pit (as noticed by DEEP and admitted to by the contractor), allowed the contractor to work without the required erosion controls in place (as noticed

in a July 17, 2019 and July 18, 2019 emails sent from Don Nolte to the contractor and photographs taken by Michael Caffrey) and allowed Michael Caffrey to document IWWC permit violations without taking action. Engineering Department Staff did not have the authority to modify the IWWC permit, nor allow the work to begin without the required approved erosion controls in place.

13. That a Show Cause Hearing was opened on August 6, 2019 and has remained opened for the following meeting dates: September 3, 2019, September 17, 2019, October 1, 2019, October 15, 2019 and November 7, 2019.
14. That George Noewatne, Don Nolte and Michael Caffrey attended and provided testimony at only the August 6, 2019 Show Cause Hearing.
15. That Don Nolte stated to the Commission at the August 6, 2019 Show Cause Hearing that he had visited the site for “a total of 15 minutes” throughout the project.
16. That the Commission found discrepancies between George Noewatne’s written narrative and attached photos, indicating that spraying may have been conducted in the flow of Cuff Brook even earlier than the known illicit discharge date of Thursday July 18, 2019.
17. That George Noewatne’s narrative documents lack of compliance with IWWC permit #2019-008 from the beginning of the project, and that experienced supervisory staff had knowledge of the site conditions being inconsistent with the permit and that an illicit discharge occurred and no action to halt or remedy the site conditions was taken by Engineering Department Staff.
18. That IWWC permit #2019-008 was suspended on August 6, 2019.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission considering these facts stated on the record, finds that the Town of Cheshire Engineering Department violated IWWC permit #2019-008 and was deficient in the management of this permit. Both field staff and supervisory management failed to not only adhere to the stipulations of the permit, but also failed to employ standard best management practices, which the IWWC is aware the Engineering Department is cognizant of, as they had previously demonstrated

those skills and abilities, which is why the Commission previously allowed the Engineering Department to manage their IWWC permits.'

Chairman de Jongh invited Mr. Noewatne to address the Commission.

Mr. Noewatne addressed the Commission stating he was here tonight to give an overview of what's happened since the deficiency at this property; and that he met with the Chairman and he made it clear he should let the Commission what's been going on in the department and engineering division; improvements and changes in the following areas have been made to ensure this never happens again.

Mr. Noewatne said they sent the engineering technician to formal training – an all-day training on erosion control field day and seminar sponsored by the Southern New England Chapter of the Soil and Water Conservation society and will seek out additional training.

Mr. Noewatne explained that the department has adopted environmental control standards and protocols (copies handed out to Commission members); the standard environmental protocols is going to be the basis for all our future environmentally sensitive projects going forward and likely non environmentally sensitive projects - it's going to be the basis a supervision and monitoring of all projects and all encompassing; he said if the commission would like to form a subcommittee, or individually or as a committee recommends changes to that document - we'll take all input.

Mr. Noewatne stated for the record it has been adopted by the department - it can be changed at any time - and we will certainly listen to the commission (regarding changes).

Mr. Noewatne said they've conducted numerous internal discussions to talk about how this happened and what can be done to - to change it and the protocols will help that; and discussing roles and responsibilities and all sorts of things so we know who needs to act at what level and who needs to know there are problems.

Mr. Noewatne explained they developed draft response to the DEEP notification violation; all he commented that on the Aug. 2nd date in the summary report as noted by Chairman de Jongh he thinks was

actually July 16; he thinks there was an error in his report saying the uptick it didn't begin until July 17th but it was the 16th.

Mr. Noewatne also said they have reviewed the dewatering options presented by Milone and MacBroom who were retained by the Commission to review the report; all parties involved met out at the site to determine which avenues to pursue and the option they would like to pursue has been presented to the Commission.

Mr. Noewatne reported they've contracted with Milone and Milone to conduct on-site inspections and are working to schedule with National Water Main to presume work next week pending Commission's approval; and they prepared a draft letter to DEEP regarding the violations that the dewatering plans were reviewed and alternative options were discussed.

Commission members received from Mr. Noewatne a copy of the Town of Cheshire Department of Public Works and Engineering Environmental Control Inspection Standard Protocols dated November 5, 2019.

Mr. Noewatne talked more about the need his is department and staff to how they can improve by following the standard protocols.

Mr. Noewatne stated that the Public Works and Engineering department is going to do more training because he doesn't want to see anything like this happen again.

Chairman de Jongh asked if there was a reshuffling of positions in the department.

Mr. Noewatne said yes – things were changing until proper training was in place.

Chairman de Jongh asked if the training was new (to the department).

Mr. Noewatne said the training is new but that others have attended other training sessions.

Chairman de Jongh questioned why the field inspection reports were in complete but signed by Mr. Caffrey.

Mr. Noewatne explained that changes were made to report reviews before being signed.

Mr. Kurtz asked Mr. Noewatne if he was an engineer.

Mr. Noewatne stated he was not an engineer, but that Walter Gancarz was an engineering (he reviewed materials).

Mr. Kurtz talked about the former town manager stating that the town must be treated like other applicants; and that a professional engineer needed to make sure the job was undertaken correctly; he said in his personal opinion – the town was no different that anyone else (the town should have to follow the same rules, requirements and standards as all other applicants); especially since they are the ones reviewing engineering plans for applicants but not following the same standards.

Chairman de Jongh commented about one of the requirements must be to have an outside engineering firm for all projects.

Mr. Norback asked about the town reviewing plans, but they are not engineers (themselves) but they are reviewing engineering plans (for applicants' projects).

Chairman de Jongh reported he met with the town manager and Mr. Noewatne recently and that there is a lost of trust (from the Commission) and that its going to take a lot to regain that (trust); he went on to say that all work is to be verified by a professional engineer.

Dr. Dimmick said he thought that he, Ms. Simone and Mr. Norback, based on their skills and experience should review the Public Works and Engineering “Environmental Control Inspection Standard Protocols” document presented by Mr. Noewatne to see if anything else was needed and that they could (if necessary) form a subcommittee to review the protocols presented.

Mr. Noewatne explained that plans are being reviewed by Walt Gancarz, engineer for the town, and he is signing off on all plans.

Chairman de Jongh restated that the relationship (between the Commission and Public Works and Engineering) has been damaged and it will take a long time to restore.

Mr. Norback commented that he hoped there would be no animosity between departments (wetlands office and public works) because of this matter.

Mr. Noewatne assured the Commission public works department would continue to work with the wetland's office; and that there were no issues.

Mr. Noewatne made every assurance to the Commission that a situation like the one they are in would never happen again – staking his job on it.

Chairman de Jongh publicly commended Suzanne Simone for her efforts on matter.

Motion: That the Commission closed the show cause hearing.

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

Ms. Simone explained that in order for any activity to proceed, the Commission would have to release then reinstate the permit.

3. **Notice of Violation/Cease and Desist Order  
Violation of IWWC Permit # 2019-008  
Unauthorized Activities in a Watercourse  
Town of Cheshire Public Works/Engineering  
Marion Road/Cuff Brook  
Assessor's Map No. 25, Lot No. 16 and ROW**

Dr. Dimmick read the motion into the record:

Motion for Release of Cease and Desist:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors relevant to the issuance and release of the subject Notice of Violation, including Commissioners' knowledge of the area and review of the record on this matter, finds the following:

1. That on May 21, 2019 a permit was issued to the Town of Cheshire Engineering Department for spray application of cementitious material within the Cuff Brook culvert at Marion Road.

2. That on July 23, 2019 a Notice of Violation/Cease and Desist Order was issued to Town of Cheshire Engineering Department and hand delivered to George Noewatne, Public Works Director for conducting a violation of permit #2019-008 and the Cheshire Inland Wetlands and Watercourses Commission regulations.
3. That on August 6, 2019 the IWWC held a Show Cause Hearing and suspended IWWC permit #2019-008.
4. That on October 15, 2019 the IWWC received and reviewed an application to modify permit #2019-008, which improves upon the erosion control plan for this project, including the on-site project monitoring from a third party, contracted licensed professional engineer.
5. That in order for the IWWC to take action on the proposed site plan modification, permit #2019-008 must be reinstated before a modification can be approved.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby release and discharge the Notice of Violation/Cease and Desist Order issued to TOWN OF CHESHIRE ENGINEERING DEPARTMENT, GEORGE NOEWATNE dated July 23, 2019 for the sole purpose to allow the Commission to consider and act on the modified site plan identified as application # 2019-008-A.

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

Reinstatement of the permit:

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission (IWWC), having considered the factors relevant to the suspension and reinstatement of the IWWC permit, including Commissioners' knowledge of the area and review of the record on this matter, finds the following:

1. That on May 21, 2019 a permit was issued to the Town of Cheshire Engineering Department for spray application of cementitious material within the Cuff Brook culvert at Marion Road.

2. That on July 23, 2019 a Notice of Violation/Cease and Desist Order was issued to Town of Cheshire Engineering Department and hand delivered to George Noewatne, Public Works Director for conducting a violation of permit #2019-008 and the Cheshire Inland Wetlands and Watercourses Commission regulations.
3. That on August 6, 2019 the IWWC held a Show Cause Hearing and suspended IWWC permit #2019-008.
4. That on October 15, 2019 the IWWC received and reviewed an application to modify permit #2019-008, which improves upon the erosion control plan for this project, including the on-site project monitoring from a third party, contracted licensed professional engineer.
5. That in order for the IWWC to take action on the proposed site plan modification, permit #2019-008 must be reinstated before a modification can be approved.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby REINSTATE the PERMIT #2019-008 issued to TOWN OF CHESHIRE ENGINEERING DEPARTMENT, GEORGE NOEWATNE for the sole purpose to allow the Commission to consider and act on the modified site plans identified as application # 2019-008-A.”

Moved by Mr. Kurtz. Seconded by Ms. Dunne.

Motion approved unanimously by Commission members present.

There was discussion regarding the DEEP action pertaining to the violation. Ms. Simone explained that was a separate action and the town was okay to move forward since the agencies are independent of each other.

4. Notice of Violation/Cease and Desist Order  
Violation of IWWC Permit #2019-006  
Ricci Construction Group  
Fenn Road  
Assessor’s Map No. 91, Lot No. 132

Ms. Simone reported that since the cease and desist order was place into effect, there’s been no activity on the site and the work has not started yet.

5. **SHOW CAUSE HEARING**

Notice of Violation

SC 11/07/19

Unauthorized Activities in the Wetland & Upland Review Area

Daniel Czyzewski (Flip It LLC)

2085 Plank Road

Map 32, Lot 32

Daniel Czyzewski was present.

Mr. Czyzewski explained he was before the Commission because he received a letter for a show cause hearing and cease and desist for a property that's been under construction for the last few months; he said the exterior of the project is complete except for the vinyl siding; he said they submitted all of the permit that was requested from building to zoning to Chesprocott health – with a review by all departments to move forward.

Mr. Czyzewski said the letter requested that silt fence be installed which they did between yesterday and today; the property has already been seeded and construction is completed on the exterior except for the vinyl siding.

Mr. Czyzewski said the letter states the lot had been cleared of trees – he said he has before and after photos showing the silt fence and photos showing the listing of the property and the before photos they took throughout the project showing the majority of the bushes around the property – this lot was cleared once upon a time; the building was existing – its not new construction they just added an addition to the upper sections.

Mr. Czyzewski said he had photos to show and there was a row on the west side showing Pine Trees that was not in this wetland map that was provided that were taken down; on the wetland side of things they can see the silt fence put up and anything behind the silt fence is still on place.

Ms. Simone explained this item came to her attention through the building department – and a permit was issued for interior work on the property and it was reported that when that department went out to do an inspection they noticed the area around the house had been cleared - the soils map shows that is directly within an wetland area and looking at the property the soil has been recently disturbed – the maps show this is part of a wetland area that is part of a larger contiguous wetland area so that's how it came to our attention; the aerial photos there are trees in that area; so the soils map shows this is directly within the wetland area – and it appears there's been recent activity based on the exposed soil.

Dr. Dimmick said so we have a violation because we have activities within a wetland area without a permit.

Dr. Dimmick said so we have information that says it's a wetland area so it's up to Mr. Czyzewski to prove its not a wetland area which would require a soil scientist to take a look at this and make a review of what was done and come back with a report to us; otherwise the cease and desist has to hold – there was no permit given for outside work – it was given for interior work so we have a real problem here – and this could get quite complicated.

Mr. Czyzewski said they had the majority of the wetlands on their property – they have a portion of the wetlands – the other two properties are seeded and fertilized and there are no trees on the back side of the property (he has photos).

Dr. Dimmick asked about the relevance of that.

Mr. Czyzewski asked why they have to provide a soil sample when they went through all the departments and got approval from the city.

Dr. Dimmick explained that we (the Commission) was an independent agency – appointed by the town of Cheshire but report by state regulations not town regulations – if you are doing anything in the wetlands or near a wetland you have to come before this Commission to get a permit to do it.

Mr. Czyzewski said they weren't aware this was within a wetland zone so when they applied for the addition they also did exterior work that went through Chesprocott and other departments for work done outside – there was a septic system that went in on the lot and a brand new well went on the lot – he said it was his understanding it should be reviewed by all departments; he commented that when this crosses other departments desks they should know this is with a wetland and to have this reviewed.

Mr. Norback said he believed on a building application and certainly on a zoning application there's a question if its in a wetland area.

Mr. Czyzewski commented that they would not have know (if it was in a wetland area) so they could answer (that question); he said they wouldn't have answered no because they would not have known.

Mr. Norback stated its incumbent upon the applicant to know if there were wetlands on the property or not.

Chairman de Jongh explained the problem you are now faced with is there's a violation on a piece of property and the activity is outside the scope of what you were permitted to do which resulted in a violation which crossed over the lines to the Wetlands Commission - wetlands are based on the soil type on the property so you may not see wetlands but you have wetland soil – there is a violation for

filling and clearing in a wetland area without permission from this Commission regardless of the other departments.

Chairman de Jongh explained in order to move forward we have to find out what area was disturbed – the only way that can be done is if they hire a soil scientist who has the professional knowledge and background to be able to determine by soil types where the wetland began and ended; and be able to tell us how much was damaged they we can look at that information then tell you how to proceed forward and these are the steps you need to take.

Mr. Czyzewski said he wanted to mention that after Suzanne came by the silt fence was put in place – can a visual take place to see that there is no disturbance behind where the fence is.

Mr. Czyzewski stated all the work has been done – the outside is done because of the weather they are up against – its seeded.

Chairman de Jongh said they have a problem – if its determined there was disturbance and trees were taken down in a wetland area – worst case scenario this Commission can have you replant trees in that area and restore it back to its original condition prior to what it was before being cleared; the only way they can determine that is with a soil scientist report saying this is what it was before and this is what it is after.

There was discussion on how to determine what area is wetlands and the wetland delineation; and that a soil scientist would come up with a plan to restore the wetland and that filed information needed to be done.

Ms. Simone agreed to come by and inspect the silt fence; but further field information was needed.

Mr. Norback suggested that Mr. Czyzewski show his pictures to the soil scientist – to address the issue with the clearing as to when it was done.

Chairman de Jongh said – if you own the property – you own the violation – regardless of when it was done – if you own the property you own the violation.

Mr. Czyzewski said the house itself is positioned within the wetlands.

There was continued discussion about what work took place and when the wetland commission was created; and the lot that had been cleared; and the need for a soil scientist report to determine where the wetlands are based on survey.

Mr. Czyzewski claimed they didn't touch the wetlands.

Mr. Norback and Dr. Dimmick both stated a soil scientist report was needed before anything could be done.

Mr. Czyzewski talked about this issue is going to hold up his end of the project.

Chairman de Jongh suggested he work with a soil scientist and get what they need because right now they were at a standstill.

Mr. Brozowski asked if they went to Chesprocott wouldn't they have gone with a site map.

Ms. Simone said she can speak about that, but she could ask Chesprocott for the map.

Mr. Brozowski asked if he went to Chesprocott and showed where they were putting the well and septic system.

Mr. Czyzewski said he personally did not, but the contractor did.

There was discussion about what process Chesprocott followed to determine the location for a well and septic system.

Chairman de Jongh suggested to Mr. Czyzewski that he try to get the soil scientist report as soon as possible so they can address this at the next meeting.

Mr. Czyzewski stated this is not their first project and they have worked with all types of municipalities all over the state on hundreds of projects – he thought this situation would have been brought to their attention prior to them finding out after the project.

This item would be taken up at the next meeting.

## IX. UNFINISHED BUSINESS

- |    |                                    |     |          |
|----|------------------------------------|-----|----------|
| 1. | Permit Application                 | APP | 2019-025 |
|    | Town of Cheshire Engineering Dept. | DOR | 10/15/19 |
|    | West Johnson Avenue                |     |          |
|    | Bridge Replacement                 | MAD | 12/19/19 |

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application finds the following:

- 1. That the applicant is seeking a permit to replace the West Johnson Avenue bridge over the Ten Mile River.**
- 2. That the affected private property owners have signed the applications.**
- 3. That the proposed bridge span replacement will use the existing abutments and work will not be conducted in-water, with no direct wetland or watercourse impact.**
- 4. That the June 2019 CT DEEP NDDB identifies species of concern in the area and Sheet 02 of the Site Plan (October 7, 2019) details the site management details to ensure the protection of identified species, which the applicant has stated they will strictly adhere to.**
- 5. That the Town Engineer attended the meeting and stated that the Town of Cheshire Engineering Department has third party licensed professional engineers under contract to be responsible to monitor and manage site conditions and ensure compliance with the permit.**
- 6. That the activities will not have a significant adverse effect on adjacent wetlands or watercourses.**

**Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2019-025, the permit application of Town of Cheshire Engineering Department for site plan approval as presented and shown on the plans entitled:**

**“Rehabilitation of West Johnson Avenue  
(Bridge No. 05495) Over Ten Mile River  
West Johnson Avenue, Cheshire CT  
Permit Plans 1047-52  
October 7, 2019  
18 Pages, Scale Varies  
Prepared By: Milone and MacBroom, 99 Realty Drive,  
Cheshire, CT.”**

**The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the “Conditions”) each of which the Commission finds to be necessary**

**to protect the wetlands and watercourses of the State and the Town of Cheshire:**

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. Prior to the commencement of site work (aside from installation of erosion controls) the Town of Cheshire Engineering Department shall have the third party licensed professional engineer under contract with the Town of Cheshire Engineering Department submit a letter to the IWWC indicating that the erosion controls are installed correctly and in compliance with the permit. Report shall be submitted to the Town of Cheshire Engineering Department and Commission Staff within three days of inspection.**
- 4. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by the third party licensed professional engineer under contract by the Town of Cheshire Engineering Department either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breeches or deficiencies shall be forwarded to a contact individual, as defined above, immediately after inspection. The costs of said inspections to be borne by the applicant.**
- 5. All recommendations from the Connecticut Department of Energy and Environmental Protection regarding protective measures for the protection of Natural Diversity Database species shall be stringently adhered to.**
- 6. Throughout the course of conducting construction activities, and per Section 11.2K of the Cheshire Inland Wetlands and**

Watercourses Regulations, the applicant shall be responsible for ensuring the following:

- a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.
- b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.

7. This permit grant shall expire on November 7, 2024.

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

- |    |                                    |               |
|----|------------------------------------|---------------|
| 2. | Permit Modification                | APP 2019-008A |
|    | Town of Cheshire Engineering Dept. | DOR 10/15/19  |
|    | Marion Road                        |               |
|    | Dewatering Plan                    | MAD 12/19/19  |

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application finds the following:

1. That on May 21, 2019 a permit was issued to the Town of Cheshire Engineering Department for spray application of cementitious material within the Cuff Brook culvert at Marion Road.
2. That this application seeks to modify permit #2019-008 issued on May 21, 2019 which was subject of a Cease and Desist Order, Show Cause Hearing and Permit Suspension by the IWWC and Notice of Violation from the State of CT DEEP.

3. That this modification includes work to be conducted on two additional private properties, and the owners of these properties have signed the IWWC application documents.
4. That the water flow will be diverted according to the below referenced site plan in order to allow appropriate work conditions within the stream channel, with protection of precious water resources as a priority.
5. That the Town of Cheshire Engineering Department provided written a narrative indicating a third party licensed professional engineer will be under contract and will be present on site throughout the duration of work that is proposed to be conducted between two days and two weeks.
6. That when the erosion control plan is strictly adhered to and all permit stipulations are followed the activities will likely not have a significant adverse effect on adjacent wetlands or watercourses.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2019-008-A, the permit application of Town of Cheshire Engineering Department for site plan approval as presented and shown on the plans entitled:

**“Town of Cheshire, Connecticut  
Department of Public Works and Engineering  
Site Plan  
Cuff Brook Culvert Lining at Marion Road Crossing  
Dated: January 19, 2019 Revised: October 9, 2019  
2 Sheets (1/5 and 2/5), Scale Varies  
Prepared By: Cheshire Department of Public Works and  
Engineering”  
And**

**“Letter to Robert de Jongh, Chairman IWWC  
Dated October 9, 2019  
Two pages  
From George Noewatne”**

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the “Conditions”) each of which the Commission finds to be necessary

to protect the wetlands and watercourses of the State and the Town of Cheshire:

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.
2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.
3. Prior to the commencement of site work the Town of Cheshire Engineering Department shall have the third party licensed professional engineer under contract with the Town of Cheshire Engineering Department submit a letter to the IWWC indicating that the erosion controls are installed correctly and in compliance with the permit. Report shall be submitted to the Town of Cheshire Engineering Department and Commission Staff within three days of inspection.
4. Town of Cheshire Engineering Department shall have the third party licensed professional engineer under contract with the Town of Cheshire Engineering Department be on site throughout the project, as offered in the letter from George Noewatne dated October 9, 2019. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by the third party licensed professional engineer under contract by the Town of Cheshire Engineering Department at the end of every work day. All reports shall be submitted to the Town of Cheshire Engineering Department and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. Town of Cheshire Engineering Department is responsible to remedy all breeches or deficiencies identified by the third party licensed professional engineer.
5. Throughout the course of conducting construction activities, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the Town of

Cheshire Engineering Department shall be responsible for ensuring the following:

- a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' where possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.
- b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.

6. This permit grant shall expire on May 21, 2024.

Moved by Ms. Dunne. Seconded by Mr. Brzozowski. Motion approved unanimously by Commission members present.

#### X. NEW BUSINESS

1. Permit Application APP 2019-026  
A.M. Napolitano LLC DOR 11/07/19  
Marion Road  
Resubdivision, Individual Lots & Wetland Crossing MAD 1/11/20

Dennis McMorrow, PE of Berkshire Engineering and Surveying, LLC in Bantam, CT was present on behalf of the applicant. David Lord, certified soil scientist and environmental consultant from Soil Resources Consultants was present. Andy Napolitano, the applicant was also present.

Mr. McMorrow presented the proposed plan for a 15-lot residential subdivision at 1675 Marion Road; describing the project details including the footage of the roadway, 3 lots sharing a common driveway access, drainage system, detention basin; and noted a few outstanding staff comments that needed to be addressed.

Mr. McMorrow explained the Commission had received a report from the Connecticut Department of Energy and Environmental Protection (DEEP) regarding the presence of Eastern Box and Wood Turtles, Eastern Ribbon Snake and recommended protection strategies for the snakes and turtles.

Mr. McMorrow also presented information regarding the wetland delineation as outlined in Mr. Lord's wetland delineation report showing the wetland location on a map and detailing wetland soil types in the report.

Dr. Dimmick asked about the 3 lots with a shared common driveway; he had concerns about encroachment issues.

Mr. Norback asked about the culverts- and if the existing culvert would be replaced.

Mr. McMorro replied yes – the culvert is proposed to be replaced.

The Commission reviewed more of the plan details, the lot locations, discharge piping; and discussed the need for a public hearing.

Motion: That the Commission declared the proposed activities significant within the context of the regulations, specifically sections 10.2 b, c and d of the Commission’s regulations.

Moved by Dr. Dimmick. Seconded by Ms. Dunne. Motion approved 5-1-0 with Mr. Kurtz voting against the motion.

A public hearing for this item was set for Tuesday, December 3, 2019.

A field trip was set for Saturday, November 16, 2019 at 8:30 am.

- |    |                                     |     |          |
|----|-------------------------------------|-----|----------|
| 2. | Permit Application                  | APP | 2019-027 |
|    | FIP Construction, Inc.              | DOR | 11/07/19 |
|    | West Johnson Avenue                 |     |          |
|    | Site Plan – Medical Office Building | MAD | 1/11/20  |

Guy Hesketh, PE of Hesketh Associates located in East Granby, CT was present on behalf of the applicant. Peter Autunno from FIP Construction was also present.

Mr. Hesketh familiarized the Commission with the site – its located on West Johnson Avenue as shown on the plans – its in the I-2 zone and totals about 26.4 acres and of that wetlands are located to the east and west of the project area – there area about 14.8 acres of wetlands; the plans show the location of the wetland area – there’s a sandy mound in the center of the parcel – they are looking to develop the high and dry area.

Mr. Hesketh explained the location of wetlands surrounding the property; the wetland limits are depicted on the plan and delineated by Soil Science and Environmental Services; there are a couple of watercourses that run through the parcel; some storm drainage – cross culverts crossing West Johnson; the discharge areas are shown on the plans.

Mr. Hesketh talked about the location of the cross culverts; these were the areas in question; the plans show the 50' upland review area – they have activities that fall within the upland review area in the center of the parcel.

Mr. Hesketh said the proposed activity is limited to the upland review area and consists of the construction of a 75,000 SF office building – three story building with a single access to West Johnson Avenue to provide access to the site; he showed the location of the parking areas and parking field.

Mr. Hesketh said paved parking for 320 parking spaces was being proposed and a drop off area because the building is for medical use; there's a dumpster pad for waste and a back up generator is proposed.

Mr. Hesketh explained they are proposing to level the site off and filling the perimeter of the site and they are proposing retaining walls to raise the sides of the area up; he talked about the sandy soil types and the type of drainage pipe, and storm drainage system and crush stone to be used; the infiltration system, and stormwater drainage system and discharge was reviewed – a storm water management report was submitted.

Mr. Hesketh said underground systems were proposed because of the amount of impervious surface; the DOT drainage methodology was used when creating the systems; a comprehensive drainage analysis report was submitted.

Mr. Hesketh said they have proposed water and gas service – from West Johnson Avenue with expanded service – they are working with the utility companies – electric is available in West Johnson Avenue.

Mr. Hesketh explained there is an existing sanitary sewer easement in the area – they are proposed to do a sanitary force main with a small pump station located on site; he described the process to install the pipe needed for the forced main - there would be no direct impacts but that's not for the entire site because they are proposing some direct wetland impacts.

Mr. Hesketh handed out drawings to show direct wetland impacts proposed to take place on the site; there are four impact areas – and alternatives were looked at – some were not prudent because they involved a water course crossing.

Mr. Hesketh reviewed the sedimentation and erosion control plan.

Based on the information presented, the Commission considered the need for a public hearing based on the proposed activities presented by the applicant.

**Motion:** That the Commission declared the proposed activities significant within the context of the regulations, specifically sections 10.2 b, c and d of the Commission's regulations.

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

**A public hearing for this item was set for Tuesday, January 7, 2020.**

**It was suggested by Dr. Dimmick that Jen Beno, the biologist (from Soil Science and Environmental Services) be present on the field trip.**

**A field trip was set for Saturday, November 16, 2019 at approximately 9:00-9:15 am (immediately after the field trip on Marion Road).**

- 3. Permit Application APP 2019-029  
Bonnie MK Donato DOR 11/07/19  
35 Sudol Court  
Site Plan – Annual Mowing of Upland Review Area**

**Bonnie Donato was present.**

**Ms. Donato explained that is was requesting a new permit approval to continue annual mowing within the upland review area; that she had a permit to conduct the mowing but that it was not renewed within the required time frame, so she was applying for a new permit for the same, previously approved activity.**

**The Commission reviewed the permit request and supporting documentation; this item would be acted upon after the required 14 day wait period.**

- 4. Request for Determination RFD 2019-028  
Tom Grimshaw & Robert Meister  
470 & 490 Riverside Drive  
Work Within Quinnipiac River**

**Mr. Grimshaw of 470 Riverside Drive, Mr. Meister of 490 Riverside Drive and John Bate of 454 Riverside Drive were present.**

**Mr. Grimshaw stated for 12 years be was the president of the Quinnipiac River Watershed Partnership; and the improvements they made to the river and that he is very protective of this property.**

**Mr. Grimshaw talked about the debris he removed from the river (tires, motorcycle parts and all kinds of stuff found underneath the soil); he talked about in 1982 he put in a trap rock dock for his canoe;**

and had talked to someone about the need for restoration along the bank.

Mr. Grimshaw explained that he has been conducting work along the riverbank on his property (and knows how sensitive and fragile the area is); and said he had spoken to planning and zoning years ago about this activity – he said he outlined what he was going to do (to secure the bank); he talked about how he approached the project and the type of materials he used – clean fill only and rap rock and aluminum flashing and no machinery do the work; he said 370 tons of rap rock was used.

Chairman de Jongh asked Mr. Grimshaw if he was doing this work now.

Mr. Grimshaw replied – yes.

Chairman de Jongh stated you are doing this without a permit from this Commission.

Mr. Grimshaw stated he had been given permission to do it.

Ms. Simone explained a number of years ago there was a conversation – Mr. Grimshaw called he and discussed work he was doing and at that time she brought the information to the Commission under inspection and information was relayed that Mr. Grimshaw had done the project – he stopped and it was just rock that he was putting along the stream banks – there was no formal application – it was just discussion that some material was put on the stream bank and then it was stopped.

Ms. Simone said what is before the Commission tonight is Mr. Grimshaw is asking to do a project along the stream and it sounds as though work has been done that is more extensive that she has not seen that she is not aware of.

Mr. Grimshaw stated Don Nolte has been out and pictured it.

Chairman de Jongh explained because of the extensive nature of the work and what Mr. Grimshaw is planning on doing he needs to spell out exactly what he is going to be doing; this is not a request for a simple determination – they need an application.

Mr. Grimshaw stated there are a bunch of vernal pools all over the place.

Chairman de Jongh explained staff would help Mr. Grimshaw with the application.

Ms. Dunne said so for now no work should be done.

Chairman de Jongh agreed – no work should be done until they have a chance to hear what is planned to be done in the river.

There was discussion about the survey lines and what was the town's property and what was the property owner's property.

Chairman de Jongh said the property owner need to have the area surveyed to locate the property lines.

Mr. Grimshaw explained he had completed a portion of work already – showing that area on his drawing.

Dr. Dimmick explained that the Commission requires a permit for activities and that they are not an agent of the town – the town appoints us – we answer to a higher authority.

Mr. Grimshaw claimed he call before starting the work.

There was discussion about who had jurisdiction over this area; noting the Army Corp of Engineers could have jurisdiction if they wanted to.

Mr. Grimshaw said they didn't want to.

Chairman de Jongh suggested Mr. Grimshaw work with staff on preparing an application and that no work should continue.

Mr. Grimshaw said they had concerns about another winter of shearing.

Ms. Simone explained she'd mail Mr. Grimshaw the application packet; and they could make a time to sit down to go over it; she talked about the timing this item would make it on the agenda.

Chairman de Jongh stated again, no work should be done.

Motion: That the Commission declared that after review of the information presented the proposed activity would require a permit application.

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

## **XI. ADJOURNMENT**

The meeting was adjourned at 9:34 pm by consensus of Commission members present.

**Respectfully submitted:**

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