

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING  
TUESDAY, NOVEMBER 19, 2019  
TOWN HALL – 84 SOUTH MAIN STREET  
COUNCIL CHAMBERS – 7:30 P. M.**

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**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, Will McPhee, Thom Norback, and Kerrie Dunne were present.

Member not present was Dave Brzozowski.

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 – November 7, 2019**

Chairman de Jongh called for a motion to approve the minutes.

**Motion: To approve the minutes of the November 7, 2019 regular meeting with corrections: page 8 L41 “in complete” to “incomplete”; page 9 L12 “engineering” to “engineer”.**

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

**VI. COMMUNICATIONS**

Ms. Simone reviewed the following communications:

1. Letter to Daniel Czyzewski, Flip It, LLC Re: Show Cause Hearing for 2085 Plank Road – Ms. Simone sent a letter after the show cause hearing offering to sit down with them to go through what the

Commission had discussed and what was expected for the December 3<sup>rd</sup> meeting.

2. **Notice of Violation to George Noewatne, Public Works Re: IWWC Permit 2019-008A, Unauthorized Activities in a Watercourse, Marion Road, 11/13/19**
3. **Status of Notice of Violation issued 11/13/19, to George Noewatne, Public Works**

**Handed out at tonight's meeting:**

4. **Photos of the site inspection at 569 Cornwall Avenue – will be discussed under enforcement actions**
5. **2085 Plank Road – staff inspection photos for 20185 Plank Road; will be covered under enforcement action**
6. **Copy of an email from the town attorney regarding the notice of violation.**
7. **Cuff Brook report – an inspection report from Dan Melnik, the engineer from Milone and MacBroom, who is monitoring the activity at Cuff Brook on Marion Road.**
8. **George Noewatne sent information and response letter that was sent to the State of Connecticut Water Permitting and Enforcement Commission regarding Marion Road/Cuff Brook**

**VII. INSPECTION REPORTS**

1. **Written Inspections – there were no written inspections.**
2. **Staff Inspections**
  - a. **Staff received a complaint about clearing taking place on Tuttle Avenue – it was an anonymous complaint that gave a range of addresses which activity was taking place - staff went by those properties – could not see anything from the road and didn't hear anything as far as hearing anything being cut; the person then contacted the office again asking what the update was and was informed we could not find what the activity was and was asked to give the address of where this was taking place or provide more details – they said they'd think about that and let us know.**
  - b. **Complaint and follow up inspection for 195 Lanyon Drive – Ms. Simone said the Commission may remember a permit was granted for cutting of trees alongside the driveway – the permit holder had contacted her and showed her that the trees had been flagged which was in their stipulation – there were no concerns**

and they were told they could proceed – they have been cooperative and double and triple checked – apparently there was an issue with an neighbor – the police were involved; she met with both parties trying to straighten things out – and did verify that the work they were proposing to do and they were starting to cut what was covered in the permit and that was relayed back to the neighbor who expressed concern – so this may be ongoing but at the very least the people at Lanyon Drive are in compliance with the permit and there is no issue with that.

- c. A complaint was received about Windsor Court – there are no details involved in that it just notifies that there was something that had occurred a while ago without any details, so staff is asking for more details on that.
- d. Marion Road/Cuff Brook inspection - staff was out there for all of the days that the work was taking place – and most recently regarding the violation that they will get to under enforcement.
- e. An inspection of Plank Road with photos attached which can be talked about under enforcement.
- f. An inspection of 569 Cornwall Avenue which can be talked about under enforcement.
- g. Roaring Brook – staff reported the town owns open space there – a couple of times they’ve received complaints of water backing up in that pond and backing up to properties on Mountain Road; previously the public works department had gone out and cleared the culvert – they got a call again saying it was backing up and it was pretty high so staff had gone out there with public works - watched them as they had operated some equipment and they did a good job.
- h. Discussion Point

Ms. Simone informed the Commission she had a few discussion point that she wanted to discuss with them regarding all that’s going on – there’s the permit issue that they’ll get to – there are always maintenance things that they need to get done – the people that are operating this equipment are highly skilled and impressive to watch on how they are able to do stuff – and that has always been done under the maintenance agreement and that she has a good working relationship with some of those people who operate this equipment and they know to call and they call ahead of time – we will discuss things and sometimes she’ll look at the map and she will say ‘that is not even a wetland’ – that’s just an area of ponding so they are able to proceed but sometimes it is a wetland and they give the detailed information

**on what they are going to do – so that has always fallen under the maintenance notification that would come before this Commission.**

**Ms. Simone said just in light of everything that has been going on she just wanted to put it out there – there are maintenance things that still need to be done and that there are people that she has a good working relationship with her department and do reach out and they just best management practices – she asked if this was something the Commission was interested in allowing the continue or if that was something they wanted to modify.**

**Ms. Simone stated she wanted to put her information out there and that she is saying there is a good working relationship.**

**Ms. Simone said this (work) would fall under the maintenance agreement and the forms would need to fill out that before they would go out and do any work they would contact her and fill out the first portion (of the form) and she would bring that to the Commission and then they would allow to do the work.**

**Ms. Simone explained in this instance of the culvert – of just putting something in the culvert and pushing out the debris material.**

**Mr. Norback said it was creative thinking and taking care of things when they needed to be taken care of.**

**Ms. Simone asked if this was something that the Commission wanted to allow to continue (the relationship with the public works department regarding maintenance issues); that they can fill out the form and get approval to do maintenance.**

**Dr. Dimmick said its kind of a blanket permit given under those circumstances - that authorizes our agent to let certain things under that permit to allow certain things to get done without a (formal) permit.**

**Mr. McPhee asked what level of employee personnel are reaching out (to staff) – are they foremen or management (who should be contacting her).**

**Ms. Simone said its management – not located at town hall – (they) are located at the public works garage.**

**Mr. McPhee said so they are following the best management practices – and contact for maintenance; he said he would have to issue with that and was grateful they were following the rules.**

**Mr. Kurtz said he has no problem either and he thought staff had digression (in these matters).**

**Ms. Simone said if they are doing something in violation of the regulations – that would be something that would be stopped; and brought before the Commission.**

**Ms. Simone said she wanted to bring this to the Commission; and that its equipment operators that are needing to do something immediate – something is clogged, and they need to unclog it.**

**Mr. Kurtz said it would be a for emergency event.**

**Chairman de Jongh said based on the example that they have a good working relationship and they are being proactive and notifying staff – the situation they are discussion at late was the antipathies of that – things were done contrary to how things should have been done. He said he agreed - if they are being proactive and there is a level or respect and you have a good outcome – continue with what you are doing.**

#### **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**

**Pictures of the site were provided to Commission members.**

**Ms. Simone reported that the silt fence remains in many of the areas – there is vegetation that is growing mostly along where the silt fence is – there is an area where the silt fence is compromised but there is vegetation growing in front of the fence – she did not observe there was any soil getting past that area; the inspection reports they have received from his engineer indicated the erosion controls were in satisfactory condition and she would say that was the case – they were satisfactory while not ideal – the silt fence is not very taught at least it has vegetation established in front of it.**

**Mr. Norback stated there is minimal grade in front of it towards the wetlands.**

**Chairman de Jongh said that this would be kept on the agenda for continued monitoring and we will see how this progresses the next couple of months.**

- 2. 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 still to her knowledge there is still no movement on creating the road and it's the creating of the road that would require additional erosion controls – they last time she was by there last week nothing was going on.

3. **SHOW CAUSE HEARING**

Notice of Violation/Cease and Desist	SC	11/07/19
Unauthorized Activities in the Wetland & Upland Review Area		
Daniel Czyzewski (Flip It LLC)	SC	11/19/19
2085 Plank Road		
Map 32, Lot 32		

Photos of the property were given to Commission members.

Chairman de Jongh reported S&E controls were supposed to go along the entire perimeter of the property.

Ms. Simone reported that was listed in the show cause hearing notice – that the silt fence was to surround the cleared area – going by the property on the 18<sup>th</sup> (November) you can see the silt fence is located in an area – and its not clear to her why it was put in this area – it was put through the middle of a cleared area.

Ms. Simone explained you can also see the extensive clearing that goes far beyond the backyard to where the fence is – it continues on to back there; the septic system area was visible.

Ms. Simone said on the side of the house – in photo one – there is what appears to be a well head – so if the entire back portion of the property needed to be cleared for the well and septic system – that would be very interesting – and certainly he could (Daniel Czyzewski) provide the Commission with the details as to why they needed to take place.

Mr. Norback said when he was before this Commission he said he was going to bring pictures of before and after.

Chairman de Jongh said a soil scientist was going to do a determination.

Ms. Simone said he (Daniel Czyzewski) was going to bring this information to the December 3<sup>rd</sup> meeting to have it mapped out so the Commission could decide what to do.

Ms. Simone said she did reach out to him and sent a letter and offered to sit down with him and go over through all of this before he hired anyone and did this (work); he did receive this letter, but she has not heard from him.

**Mr. Kurtz said he said he was talking about getting permits from Chesprocott before he put the septic system and well in – so maybe he is thinking that's wetlands.**

**Dr. Dimmick recalled him saying he was no where near the wetlands then said at one point the house was in the wetlands.**

**Ms. Simone said she would contact him and ask him to relocate the silt fence to put around the boarder of the cleared area (as per the discussion they had two weeks ago).**

**The show cause hearing would be left open to receive other information.**

- 4. Notice of Violation/Issuance Summary and Review  
Violation of IWWC Permit # 2019-008A  
Unauthorized Activities in a Watercourse  
Town of Cheshire Public Works/Engineering  
Marion Road/Cuff Brook  
Assessor's Map No. 25, Lot No. 55, 62, 69 and ROW**

**Walt Gancarz, town engineer was present.**

**Ms. Simone provided a run through of what transpired at Marion Road/Cuff Brook.**

**Ms. Simone reported that the Commission may recall there was a meeting on November 7<sup>th</sup> – a Thursday and the permit was issued for 008A which would allow for the work to be done at Cuff Brook at Marion Road – Mr. Noewatne was here and provided testimony and gave a document to the Commission identifying that a pre-construction meeting would be held prior to any work on any projects that have a wetlands permits.**

**Ms. Simone stated the Commission did issue the permit and it was also stipulated in that permit there was to be a licensed engineer on staff the entire time – on the project the entire time.**

**Ms. Simone said it was approved – and on Tuesday (November 12) she had reached out to George – sent him a copy of what was approved from the Commission - suggested he read through the stipulations and to let her know if he had any questions or she could go over it with him and asked him if he know what the start date was (of the work); she said a little while after that she received a call asking what was going on on Marion Road – she reached out to George Noewatne – he wasn't available to get the phone – sent an email out to George and to the town manager asking what was going on; didn't hear anything back – went out into the field and saw that the contractor was there onsite – working in the stream and there was no supervision – so there was no third party engineer there – just her and those people – she had asked them who had been there**

– they could not identify who was there but that someone had stopped by – they didn't have any information for contact information or how to get ahold of anybody.

Ms. Simone said she didn't have anything with her as far as document to stop the work then, but she say you need to get out of the stream, and you can work where every else they were going to work – they were installing the silt fence on the other side in the upland area.

Ms. Simone explained she went back to the and tried to reach people and couldn't get a hold of anyone, so she contacted Milone and MacBroom – asked them what the status was and had heard from them that the project had started and that he had been out on site in the morning and that he was going to go back in the afternoon.

Ms. Simone said he eventually heard back from George Noewatne and Don sending her information from emails that had been going back and forth from the Friday previous of organizing what was happening on site and who was going to do what – that then lead to a notice of violation and trying to get information more immediate then see if it was turn into coming for a show cause hearing – asked for a sit down – we had the contractor there, the town manager was there, George, Don Nolte, Walt was there – Bill Volker was there and someone from Milone and MacBroom – that engineer as well as Bob (de Jongh) and at that time we asked questions – why wasn't what the Commission was informed as an adopted policy to now have a preconstruction meeting before a new project – why was that not adhered to.

Mr. Norback asked if they adopted it or it was stipulated.

Ms. Simone stated they had adopted it as a policy – so during that time period when he (George Noewatne) was providing testimony pertaining to this he had indicated that this was something that his office had adopted as a protocol and that was something they would adhered to.

Mr. Norback said so we didn't stipulate we accepted the protocol.

Ms. Simone said she informed him (George Noewatne) that him providing testimony and providing this documents to the Commission is very likely that lead the Commission to have a greater comfort level in issuing the permit but that was not adhered to – she had asked him why it wasn't adhered to - he had stated because it was not a new permit and the sump was already installed; she commented to him that two more sumps were being installed so it is new work – it's a new plan.

Ms. Dunne asked when they had the permit – did the work start without them having the permit.

**Ms. Simone said Walt had reminder her prior to the meeting that he had asked her for a copy of the draft, so she email it to him so its possible that they had a copy of the draft, but they didn't actually know what was approved but they did have a copy of the draft – they were in violation of the permit because no one was on site to supervisor the contractor.**

**Ms. Simone said there were issues of oversight and questions were asked; she said she'd have to say words were given but she did not know if they qualified as an answer.**

**Mr. Kurtz asked if he still had his job (George Noewatne) - he put his job on the line to us – is he still with us.**

**Ms. Simone replied yes.**

**Chairman de Jongh said that's something for the town manager – its not under this prevue.**

**Mr. Kurtz said its stated in the minutes – so its certainly a logical question.**

**Chairman de Jongh stated it's not something for this Commission to answer or address - its outside the realm we could do.**

**Ms. Simone said now when she has gone out to the site the engineer from Milone and MacBroom is always there – may not be the same one – there are two that switch off; the pumps are working – the dewatering is working; they indicated they had gone in and dewatering when the water is starting to leave the stream channel – they go in and pick up fish and carry them across the street and let them go downstream; they started working on the cracks – they were hand craving those cracks and were applying some filler by hand; that is as far as they have gotten so far and they are going to wait for weather – they were going to try for tomorrow or the day after that to do the spray but we do have professional oversight that is really involved and on it and has helped the contractor assess how many pumps – what size pumps and where to place the pumps; and working with the engineer the contractor got a pump that is a permanent pump as opposed to one they take out of the stream and its fueled with vegetable oil in the event there is a spill its not going to be diesel or gas – that its vegetable oil – that was not stipulated it's a good thing they provided that.**

**Chairman de Jongh said he wanted to recognize Walter Gancarz from Public Works – saying he wanted to give an overview of the status of the site.**

**Ms. Dunne asked if the engineer submitted a report.**

**Ms. Simone confirmed yes.**

**Mr. Gancarz addressed the Commission saying he thought he'd update the Commission or answer questions; he said from the standpoint from his office there are some points of confusion – he said previous to meeting with the Commission they had gone out and met in the field with Suzanne and members of his staff, the contractor outlining what was in the proposed plan that came before them (the Commission).**

**Mr. Gancarz said he thought from that standpoint there was the feeling that this is what we plan on doing; he said from a public works standpoint that's where a preconstruction meeting had been held; he said there was a long discussion about this the other day – he said this is how this came to be; second of all we did hire Milone and MacBroom to oversee it and the gentleman had let the site – he was back at the office sending an update memo so there wasn't someone at the site when she came out but since that time they have had someone at the site the entire time; we have had an instruction was given to the contractor that at any point the engineer left the site they were to stop work so there's that kind of lock there.**

**Mr. Gancarz said he has personally been out to the site several times and things are going well as Suzanne described; they basically have done all the hand work and the dewatering system is working very well – the plan is to spray the culver tomorrow – continue to run the pumps overnight which gives it more than adequate time to cure and assess it Thursday morning – if its dry which it should be – at that point they would start to remove the dewatering system; he said they do that in a phased approach – if all goes well within 48 hours from now or less this project will be complete.**

**Chairman de Jongh said he was looking at the notes on the project and they talked about two 3" pumps – he said there was a discussion of a 6" pump.**

**Mr. Gancarz said there is a 6" pump at the top.**

**Chairman de Jongh said he didn't see a mention of a 6" pump in the report that he saw.**

**Dr. Dimmick said he thought it was in one of them.**

**Ms. Simone said Chairman de Jongh was correct – it was not mentioned.**

**Chairman de Jongh said he was surprised the 6" pump was not in the report, but it was talked about last week.**

**Mr. Gancarz said its bigger than a 6" pipe coming out; anyhow it's doing a great job – he said with any luck the work will be done by**

tomorrow and when its fully cured water will be running back through it when they are comfortable its fully dry.

Dr. Dimmick said to get it clear – he asked if he (Mr. Gancarz) was only working part time.

Mr. Gancarz stated yes.

Dr. Dimmick asked how much time per month.

Mr. Gancarz stated about 30 hours (per month).

Dr. Dimmick asked if there were plans to eventually get a full-time engineer on the staff.

Mr. Gancarz said that was a budget discussion – at the immediate time he was not aware of anything.

Dr. Dimmick said he was not talking immediate – in the past he town had worked well when they had a full-time engineering – he was hoping they'd get back to that stage again.

Mr. McPhee asked that it be clarified – its 30 hours a week or a month.

Mr. Gancarz stated a month – about a day a week.

Mr. McPhee asked for all the applications that come before us – and when we say its going before engineering for engineering comments – are you reviewing every one of those applications or is that people in your office.

Mr. Gancarz stated in conjunction with Don Nolte – he and Don do reviews, and they basically discuss them, and they usually go out under his (Mr. Gancarz) signature.

Mr. McPhee asked if he (Don Nolte) was doing those calculations.

Mr. Gancarz said as far as the calculations that's where is spends more of his time – Don spends more of his time looking a basically site work – that type of thing but as far as reviewing the hydraulic analysis/hydrologic analysis – that is where he spends his time.

Mr. McPhee asked if every comment that comes out of that office he is at least signing off on.

Mr. Gancarz replied yes.

Mr. McPhee said whether he has done the work or not he (Mr. Gancarz) has looked it over so we can trust a licensed engineer has signed off on it – on the paperwork.

Mr. Gancarz again replied yes; he said he will said that he has been here since 2013 – we have done a tremendous amount of work – bridges – dams – water pollution control plants – pump stations – prior to this there’s really been not one violation or notice of violation or notice of unhappiness from the Commission.

Dr. Dimmick said he would agree with that – that is why they are so in shock with this event.

Mr. Gancarz said he understood – he said it hasn’t been a cavalier attitude that we don’t care what goes on and really that’s far from the case; he thinks there has really been a sincere effort to meet the goals of this Commission.

Mr. McPhee asked who his direct report is – the town manager or George Noewatne.

Mr. Gancarz replied George.

Ms. Simone said she wanted to clarify that yes – she did meet in the field prior to the application being submitted when this Commission hired Milone and MacBroom to come up with another design – yes she did meet in the field but at that time the application was not acted on by this Commission and she didn’t even think it was submitted to this Commission – she just wanted to clarify that – and said she appreciate that there is effort to minimize and deflect things but she just wanted the record to be clear – yes she did meet – they all met out there but she did not see how that would have been perceived as a preconstruction (meeting) since they were was no permit issued at that time – she just wanted to clarify that.

**IX. UNFINISHED BUSINESS**

- |    |   |     |          |
|----|---|-----|----------|
| 1. | Permit Application                                | APP | 2019-026 |
|    | A.M. Napolitano LLC                               | DOR | 11/07/19 |
|    | Marion Road                                       | PH  | 12/03/19 |
|    | Resubdivision, Individual Lots & Wetland Crossing | MAD | 1/11/20  |

Chairman de Jongh said this was subject of a field trip on Saturday.

Ms. Simone said there will be a public hearing at the next meeting – December 3<sup>rd</sup>.

The Commission agreed to discuss the site walk observations at the public hearing.

- |    |                                     |     |          |
|----|-------------------------------------|-----|----------|
| 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  |

Chairman de Jongh stated this item is subject to a public hearing on January 7, 2020 and was subject to a field trip on Saturday and we can hold off on discussions until the public hearing in January 7, 2020.

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

Chairman de Jongh said this item would be taken up in December.

Ms. Simone stated that is correct because there was not enough time since the last meeting – there needs to be 14 days for the Commission to act and its only been 12 (days).

**X. NEW BUSINESS**

1. **Commission Staff Discussion with Commission: Preparation of Proposed Improvements to Stipulation Language**

Ms. Simone explained she was aiming to review the stipulation language that most often gets applied to permits; she wanted to get some feedback before she went to far in putting things together to show (the Commission).

Ms. Simone said one thing that she thought would be beneficial to the Commission for a stipulation was – instead of relying on someone else to come up with their idea of what an inspection report is – we provide them with a form that they fill out – it would be a standard form – they would need to sign it and attest that erosion controls were in conformance with the plan – that additional things are needed; she explained it would be beneficial because we get reports that are all over the place – some are very detailed and some are one sentence saying everything is okay.

Mr. Norback asked where the original language came from and if there was a professional standard language used by engineers.

Ms. Simone said she could use samples from what engineers use and Dr. Dimmick provided a sample.

Mr. Norback suggested checking to see what other Commissions use – and if indeed there is professional standard.

Dr. Dimmick talked about adding an appendix to the regulations.

There was discussion about a licensed professional engineer signing off on report – and language that as long as it was a qualified party.

**Mr. Norback suggested having the form language reviewed by the town engineer.**

**Dr. Dimmick talked about the types of professions that could sign off on the form – a professional engineer makes it too narrow (it could be a professional soil scientist or geologist).**

**There was discussion about the credibility an engineer has and that they are licensed by the state.**

**Ms. Simone said she'd provide the Commission the language dating back 25 years and new language that clarifies things for permit holders.**

**2. Marion Road/Cuff Brook Public Works Permit Issues**

**Mr. Kurtz said he sent everyone an email with the concerns that he has regarding the issues at Cuff Brook, saying it's not the project itself and he's happy the work has been accomplished – he has questions on how it was handled.**

**Mr. Kurtz said he has questions about the engineering department in Cheshire and he has questions about the Commission's chairperson's authority and responsibility and his prerogatives – he asked Suzanne for help but maybe he should do it himself – and read the enabling rules of order for this Commission – he said he'd like to look at that and have a discussion – in executive session – the questions he has have come up because of what happened.**

**Chairman de Jongh said he had no problem with that.**

**Ms. Simone said she has been considering his email.**

**The Commission discussed their concerns with the town engineering department and if a licensed engineer is signing off on all documents they are getting for projects.**

**Mr. McPhee said it has bothered him over the last 72 hours that Don Nolte is thinking he's a licensed engineer and offering to be on the job – asking is he (Don Nolte) then filling out applications and sending out comments too.**

**Ms. Simone said there's been a change over the last couple months that the Commission is now receives has two sets of initials on it – Don and Walt – that was not the case before.**

**There was discussion about the limited number of hours worked by the town engineer – 30 hours a month.**

**Chairman de Jongh commented that at the meeting he and Suzanne attend it came up that if the engineer couldn't be there Don Nolte offered to be there and Suzanne stated he couldn't be there because he's not a licensed engineer (he can't oversee the project).**

**Mr. Norback said it's his understanding that this is a common practice that some towns sub out the engineering or have a part time engineer – he thought it was becoming a trend.**

**Chairman de Jongh said to Earl and Will's points – there were valid questions that come out from their emails and we should talk about them and fully understand the roles of the people involved.**

**Mr. McPhee shared his opinion on how this meeting was handled (and commission members interested in attending were not present) – he believe that the town got away with one here – and that it was thought to be a structural emergency – but he said he wanted to see the road closed and have them come back before us just like we would have done with another applicants – and make them go step by step and his role as a member of this committee is he comes in with a business mind and a fair mind and what we do for one we do for the other and he feels that under the direction of the town attorney allowing them to proceed without them coming back here is embarrassing that he doesn't know why the press hasn't picked up on this – that there is no one here to hold them accountable.**

**Chairman de Jongh said he reached out to them (the press) on multiple occasions.**

**Mr. McPhee said if the road was closed someone would notice and maybe George Noewatne wouldn't be with us – how can he be head a department that's called engineer and he's not an engineer – he needs a title change – and that he puts his job on the line - he said there problems with the public works department.**

**Mr. McPhee said he would have liked to see this come back before us and if it meant stopping the project or even postponing it until next year because they didn't do it properly that would have been a better solution; he said he is glad to see the project is proceeding with great oversight and its going to get done but he is more concerned about the precedent that we set and making ourselves liable in the future because we did it this way for the town and this was for others (like Mr. Barnett and Mr. Ricci).**

**Mr. Kurtz said the town attorney helped us out – he didn't agree with him, but it (the work) was done properly.**

**Dr. Dimmick said we did get input from the town attorney and there is a gray area – the town attorney did not find any reason not to proceed.**

**Mr. Norback said the issue was it was just a notice of violation and not a cease and desist – that distinction allowed that level of latitude.**

**Chairman de Jongh talked about the decision was deferred to the town attorney – the decision was made by the town attorney.**

**Mr. McPhee said he wanted to make sure his opinion was on the record - regardless of the law perception is everything and that was his opinion and frustration with his comments and email – he thinks what they are doing with redoing the wording that it makes it difficult for them to screw up – that’s the best way to manage the project.**

**Mr. Norback commented about giving (other applicants) a couple of get out of jail free cards.**

**Mr. McPhee said yes but we stopped them – by having to come back before this Commission.**

**There was discussion about applicants costing themselves time and money by not following their permits.**

**Ms. Simone said the reason the notice of violation was issued and not a cease and desist and show cause was she was really thinking she was missing something – that this cannot be happening – that its less than a week later and that she surely must be missing something – so she didn’t feel comfortable giving them the show cause and shutting them down and waiting for them to come back a week later because she thought she must be missing something; and that’s why is started off as a notice of violation.**

**Mr. Kurtz commented on the reply from the town attorney regarding these issues – that stopping the work and having the meeting took care of the violations.**

**Mr. Norback said that after last week’s meeting – this was strictly relegated to a clerical problem instead of a cultural problem, if you will.**

**There was discussion about the issues with the town doing that they did on the project and the issues with not following to permit.**

**Ms. Dunne asked if we have a separate attorney then public works or do we have the same attorney.**

**Ms. Simone stated it’s all the same attorney.**

**Dr. Dimmick said the letter from public works attorney and our attorney are signed by Al Smith.**

**Ms. Dunne asked don’t we think it would be a better idea to have two separate attorneys in a situation like this.**

**Dr. Dimmick said he agreed – he said he was surprised to see the same attorney.**

**Ms. Dunne said as an attorney, she doesn't see how an attorney could represent two separate parties (in the same case).**

**Ms. Simone wanted to clarify – in the document dated November 15<sup>th</sup> – towards the end there's a memo dated November 1<sup>st</sup> – and is addressed to the Wetlands Commission – and later on attached to that is attachment C which are the standard protocols which were adopted by the public works office – she checked the file and all she has is the protocol that was handed out at the last meeting; she asked if Commission members received that document.**

**Chairman de Jongh said they didn't receive the document – the November 1st.**

**Ms. Simone said the November 1<sup>st</sup> document is addressed to the state and the chairman of the Wetlands Commission – she checked the file and it's not there – so we didn't receive this letter at the meeting.**

**Dr. Dimmick suggested the town attorney be notified about the document that was delivered to us that was not delivered to us.**

**Chairman de Jongh said there are some inconsistencies.**

**XI. ADJOURNMENT**

**The meeting was adjourned at 8:30 pm by consensus of Commission members present.**

**Respectfully submitted:**

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