



**Motion: To approved the minutes with corrections from the August 7, 2012 public hearing and regular meeting.**

**Public Hearing: Pg. 5 L48 delete “Squire”; Pg. 7 L8 “when the application was originally” to “with the original application”; pg. 8 L15 “flue-bands” to “flood plains”, L19 “nut” to “but”, L21 “Tymowa” to “Timakwa”, L39 “poor” to “porous”, L40 “every” to “very”; L42 “reels” to “rills”; Pg. 13 L31 after “about” add “what”, L33 “if” to “is.”**

**Regular Meeting: Pg. 2 L13 delete “no”; Pg. 9 L27 “spares” to “sparse”; Pg. 13 L49 “interrupting” to “interpreting”; Pg. 14 L42 “as” to “has”; Pg. 26 L42 “are” to “far”; Pg. 31 L16 “boarder’ to “border’; Pg. 32 L43 after “Commission” add “member.”**

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

## **VI. COMMUNICATIONS**

- 1. Letter to LRC Group  
Re: Wetland Determination for Elim Park, Cook Hill Road**

**This communication was reviewed.**

- 2. Correspondence from Blue River Engineering. LLC  
Re: IWWC Application 2012-024, Stormwater Drainage Swale Repair for  
Consolidated Industries, 677 Mixville Road**

**This communication was reviewed.**

- 3. Letter of Withdrawal from Ricci Construction  
Re: IWWC App. 2012-015, Subdivision of 261 Cook Hill Road**

**Ms. Simone stated this communication was a letter of withdrawal for the Ricci application.**

- 4. Letter from Baillie & Hershman P.C.  
Re: 151 Willow Street**

**This communication was reviewed – this item is under enforcement actions.**

- 5. Engineering Comments  
Re: IWWC Application# 2012-022, Cornerstone Church, Waterbury Road**

**This communication was reviewed – this item is on the agenda under unfinished business.**

**VII. INSPECTION REPORTS**

**1. Written Inspections**

**Ms. Simone stated there were no written inspections.**

**2. Staff Inspections**

**a. 490 West Main Street**

**Ms. Simone stated there was an erosion control inspection of 490 West Main Street. She explained that Stop and Shop is beginning that project for the gas station and they posted their bond and they have their erosion controls in place.**

**b. Elim Park**

**Ms. Simone said that Elim Park has completed their permit for the expansion of their facility including a parking lot. She said they will be seeking a bond release before this Commission likely at the next meeting. All of the site conditions have been met.**

**c. 815 Allen Avenue**

**Ms. Simone stated there was a site inspection of 815 Allen Avenue – that's the Pasqualoni property which was the subject of a few permits from this Commission and Mr. Pasqualoni was asking for the Town to do some additional work including bringing in fill in a wetland area for the Town sent him an official notice that they would not be pursuing that and would not be bringing fill onto his property but that they would work with him on some of his other requests which do not involve wetlands.**

**d. Maple Avenue**

**Ms. Simone said there was an inspection of Maple Avenue – this was an enforcement action from 2009-2010 for the MacMillan property and this issue the town attorney has been seeking court fees which the town had accrued having to do with this enforcement action and the town has now received some funds from the property owner so now that is complete.**

**VIII. ENFORCEMENT ACTIONS**

- 1. Unauthorized Activities in a Regulated Wetland Area SC 5/04/10  
Dr. Robert Henry and Maria Passaro-Henry  
12 Mountaincrest Drive**

Chairman de Jongh stated that this is on the agenda for monitoring purposes.

- 2. Unauthorized Activities in an Regulated Wetland Area SC 4/03/12  
Philip and Robin Tiso  
9 Summer Hill Court**

Chairman de Jongh stated that this item is on the agenda for monitoring purposes for this Commission.

- 3. Unauthorized Activities in an Regulated Wetland Area SC 8/07/12  
CMJ Willow, LLC c/o Chad Horning  
151 Willow Street (56/196-1)**

Will McPhee recused himself from this portion of the meeting at 7:36 p.m.

Attorney Jay Hershman, Ballie and Hershman of 290 Highland Avenue, Cheshire and Chad Horning, of 305 Maple Avenue, Cheshire were present.

Mr. Kurtz said since there is no application here and he was sure people were glad to talk – he asked what the Commission’s role or what was the procedure was on this item. He said he was very happy to have someone come here to speak but where are they with this.

Ms. Simone said at the last meeting the Commission had determined that they would need to bring an application in. She explained that Attorney Hershman and she had been speaking and he has indicated that he is willing to do that he just wanted to talk to the Commission first before submitting any application so that’s why he’s here tonight – here for discussion.

Mr. Kurtz said so the Commission is just to listen.

Ms. Simone stated yes.

**Attorney Hershman addressed the Commission. He said at the last meeting there was some discussion regarding the activity at 151 Willow Street and one point he did not have the opportunity to make was that their position is that this was permitted as a matter of right under section 4.1a subsection 4 of the regulations which states basically that its incidental use and maintenance section.**

**Ms. Simone asked Attorney Hershman if he had that section in front of him and if so he could read it to the Commission.**

**Attorney Hershman read the section “as of right uses: subject to section 4.2 of these regulations the following operations and uses shall be permitted in inland wetland and watercourses as a matter of right; sub-section 4 ‘uses incidental of the enjoyment and maintenance of residential property – such property is defined as equal to or smaller than 80,000 square feet i.e. the largest minimum residential lot permitted anywhere within the town and which contains a residence. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant amounts of material from or into a wetlands or watercourse or diversion or alteration of a watercourse.”**

**Attorney Hershman said some of the discussion at the last meeting revolved around whether or not this was a significant amount of removal and whether the brush and vegetation that was removed was something that you would typically find in a wetland.**

**Attorney Hershman said he was not sure – obviously he has not seen the minutes so he’s not sure what’s reflected in those but he believed the Commission had determined that it was not significant and that staff said there were no plants that would typically be found in wetlands that would be removed.**

**Attorney Hershman said so their position was that this was permitted as a matter of right.**

**Chairman de Jongh said while he was not present – he was out of town on business for the last meeting – he said he did go through the minutes and read the conversation back and forth between yourself (the applicant) and the Commission member and while he thought on the surface section 4.1 section 4 does allow the homeowner some latitude to doing some stuff on his or her property**

– he thought that paragraph that talks about the exclusion of the deposit of significant amounts of material from or to or into the wetland watercourses – probably the area that the Commission has the most problem – and that’s why as a Commission they require, particularly work done within 50’ of a wetland to have that information before them before work is done so that they can make that determination – it’s not a determination made by the homeowner and there have been situations where they have allowed activity to take place.

Chairman de Jongh said he did not remember a recent application that came before them where there were some trees that were done right on the edge of a wetland area and they allowed some clearing but they would not allow, for example, the removal of a tree that would have disturbed the down slope coming into the wetland so while he understood where he (Attorney Hershman) was coming from, from the perspective it should be the homeowners option or the homeowner has the right to make some changes it really rests in the hands of this Commission to determine whether or not that right should be reviewed by this Commission and agree with you or say – no I think we need more information before we give permission to that and he thought that’s where the discourse was between parties.

Attorney Hershman said he certainly understands it and acknowledges that and he said Mr. Horning acknowledges that he should have come to staff prior and checked but now that the work is done – he said they faced with the question as what to do.

Chairman de Jongh said he thought one of the issues that was raised as he read in the minutes was – now that the vegetation, for example, has been removed from the canal – one of the after effects if you will of that removal if you will is direct sunlight coming into an area that would remain cool because vegetation would provide shade etc. He stated he was not a water expert so he was just reading what the notes say.

Chairman de Jongh said he thought there was some validity to the temperature that’s controlled by ground cover and things like that and again that’s one of the reasons why they try to have some control over what’s happening.

Chairman de Jongh said he could not speak for the Commission but he thought if there was some way to be able to create some kind of barrier for that canal. He said he understood removal of poison ivy

and stuff like that – he said he has a ton of it in his backyard and his grandkids come and he gets concerned about so he thought there certainly was some maintenance that would come about from that but he thought what they need to have is some kind of barrier between the edge of the property and the canal and he thought that's really what this Commission would look to see is what can be done to kind of restore some kind of barrier to prevent dumping of clippings and things like this into what would be a watercourse – that's really what they have control over or what they have concern with.

Attorney Hershman said he certainly understood that and as he stated at the last meeting the property was vacant for a while so there was no maintenance and so it became overgrown.

Attorney Hershman said if the Commission would like – they would agree to go back to staff and submit the application but certainly they wanted to at least have the opportunity to make their case.

Chairman de Jongh said he appreciated that and they should have had the opportunity to do that last time – he said he thought there was a misunderstanding in terms of the communications.

Chairman de Jongh said he they could work with staff – he said they are not saying the work that was done was not permitted but the Commission would like to know what is happening so they can put a rubber stamp on it.

Chairman de Jongh said the determination of significance by the Commission decides whether or not there's going to be a public hearing and there wasn't enough done to require a public hearing per say but he did think there was a need to have those details as to what was going to be done, how was it going to be protected in the act of doing those activities – those are the kinds of things that were missing for the Commission.

Chairman de Jongh said he would encourage the property owners to work staff and get the paperwork together and try to put this file together has completely as they can so everyone walks away from this thing happy.

Attorney Hershman said that's fine. He said just so he was clear – the Commission would like them to proceed with a formal application.

**Chairman de Jongh said he thought they needed to do that simply because if they did not then there would be the precedent that has been set and the Commission tries to avoid that at all cost – to avoid a precedent of allowing activity without having an application and then the Commission deciding on whether or not that activity can or can't go forward – that step is missing in this process and in the absence of that step it creates that void where someone is going to say 'well you did it over here how come you can't do it over here' and as you (Attorney Hershman) in your field once there's a little gap now someone tries to draw a wedge in that and make it even bigger so the Commission tries very hard to try to keep the process as systemic as possible and they try to make it as easy on the homeowner as possible too – they don't want to drive up the costs for them as well and in many cases the Commission has eliminated the fees on certain things.**

**Chairman de Jongh said he was not saying that was what was going to happen in this case but they do try to understand both ends of the spectrum and make it easy for everyone involved.**

**Chairman de Jongh said he did think and he was speaking for himself and not the Commission – it's up to the Commission to decide whether or not an application is necessary but he thought that it would make sense to have that and have the file complete with that paperwork in the file.**

**Mr. Kurtz said since they are discussing this can they make a suggestion as to what they would like to see happen or wait for the application or not.**

**Mr. Kurtz said it seems like all they need is to plant some shrubs – some arborvitaes or plant some vines so the screen is reestablished. He said he did not think it needs a soil scientist.**

**Chairman de Jongh said he agreed – he did not think that it does (need a soil scientist). He said he thought if they worked with staff – he said he thought Suzanne was more than capable of helping you to re-establish what kind of barrier would be permitted to help the property owner as well to help this Commission feel comfortable with the end result. He said they are not asking them to put up an 8' fence so nobody can get through but the same token he thought it would be beneficial for both parties.**

**Attorney Hershman said there is still screen that was there from the vegetation that was there but they could certainly discuss that – he said he needed to discuss that with his client.**

**Chairman de Jongh asked if there were any other questions or comments from Commission members.**

**Mr. Norback said for the record he said he agreed with Mr. Kurtz and Mr. de Jongh – he thought what they are really looking for was an opportunity prior to the work and having lost that opportunity – he said he did not think it was unreasonable of the Commission or the property owner to try to get over this gently and certainly as Mr. de Jongh said they don't want to leave a gap in the system – not to say about asking for permission or forgiveness but it really doesn't help with what they are trying to accomplish here – he said he thought Attorney Hershman seemed to understand that and he thought staff has been very helpful**

**Chairman de Jongh said he appreciated based on how event kind of unfolded he appreciated them coming back and allowing the opportunity - it kind of goes both ways.**

**Ms. Simone said she did have a question – just looking for clarification – the vegetation that was cut back in this case it seems as though that is vegetation of a type that could come back on its own so it the Commission looking for a planting plan moving forward or just permit after the fact so that if there was poison ivy and other ground cover that could come back on its own – but not to say the Commission is looking for poison ivy to re-establish but just whatever ground cover was there that it would come back on its own would that be satisfactory enough for the Commission or is the Commission also looking for a planting plan.**

**Mr. Norback asked wouldn't it be prudent for the Commission, even if it might be a little bit extraordinary – shouldn't they do a field trip so they really know what they are looking at.**

**Chairman de Jongh said he looked at the pictures and it looks like the bank is pretty well cleared from what the pictures showed.**

**Ms. Simone said yes – they were when she was there last.**

**Chairman de Jongh said so he did not know what potential it has for any kind erosion when they get into the wet season – is that evident.**

**Ms. Simone said she has not been back since and that was three – four weeks ago so she did not know what the site conditions are now.**

**Attorney Hershman said its grown back somewhat.**

**Mr. Horning said it's probably about knee high.**

**Chairman de Jongh said so there is still ground cover there.**

**Mr. Horning said yes – it was just trimmed down with a brush hog to the ground and a lot of it has grown back to about knew high and most of the stuff that was cut down was stuff that would die off in the winter and grown back in the spring.**

**Chairman de Jongh said so they have some establishment back of the grown cover that was there.**

**Mr. Horning said yes.**

**Chairman de Jongh said he thought it made since to work with staff – Suzanne is knowledgeable enough to assist.**

**Ms. Simone said she would revisit the site and then they could take it from there.**

**Chairman de Jongh said they certainly aren't going to tell them you're going to have x, y and z there but he thought the general consensus of the Commission is to make sure there was some kind of a barrier there and again there is some stability to that bank and a visible area up to which any kind of activity can take place beyond which you'd need permission from this Commission. He said Suzanne is more than capable of working with them on this if they have no objection to it.**

**Attorney Hershman said no – no objection – he was happy to do that.**

**Chairman de Jongh asked if the rest of the Commission members were satisfactory with this.**

**Commission members agreed it was satisfactory.**

**Attorney Hershman thanked that Commission for the opportunity.**

Mr. McPhee returned at 7:49 p.m.

**IX. UNFINISHED BUSINESS**

- |    |                                |     |           |
|----|--------------------------------|-----|-----------|
| 1. | Permit Application*            | APP | #2012-015 |
|    | Ricci Construction Group, Inc. | DOR | 6/05/12   |
|    | Cook Hill Road                 | FT  | 7/05/12   |
|    | Subdivision – House            | PH  | 8/07/12   |
|    |                                | PH  | 9/04/12   |
|    | *WITHDRAWN: 8/27/12            | MAD | 10/09/12  |

Chairman de Jongh said this item was subject of what was supposed to be a public hearing tonight but again that application was withdrawn.

- |    |                                    |     |           |
|----|------------------------------------|-----|-----------|
| 2. | Permit Application                 | APP | #2012-022 |
|    | Jack Krudwing (Cornerstone Church) | DOR | 8/07/12   |
|    | Waterbury Road                     |     |           |
|    | Site Plan – Addition/Parking       | MAD | 10/11/12  |

Jack Krudwing with PDS Engineering and Construction from Bloomfield was present along with the pastor of the church Eric Bushy and the building committee architect Glenn Gollenberg.

Mr. Krudwing said he was going to very briefly try to give the Commission an overview as to what the project is and then if there's some questions they would like to direct towards the owners then he would defer the Commission's questions to them.

Mr. Krudwing explained that the project was an addition to an existing church that's on Waterbury Road. He showed on the plans the location of the existing church as it's shown here on the site plan and the proposed addition that's being planned.

Mr. Krudwing showed the location of the wetlands – the buffer as being shown way away from any wetlands and on this particular project there is relatively no impact what so ever.

Mr. Krudwing showed the proposed new site plan that incorporates some extra parking – the parking lot is like this now but it's being expanded.

**Mr. Krudwing said the use of storm techs that are being put into the project so that there will be no increase in runoff – its zero if anything – it's probably less than what is current there now so the question ' do they get zero runoff' – the answer is yes – possibly a decrease.**

**Dr. Dimmick asked to clarify – he said he might presume they increase in peak runoff – obviously there's going to be more water coming off but they are going to control it so there is no increase in peak runoff.**

**Mr. Krudwing said it's being controlled by the storm techs and there's a plunge pool that's being built for beyond the 25 year storm that may occur – so they've tried to alleviate any water issues that may occur on this project.**

**Mr. Krudwing said its fairly simple – there are some catch basins that are shown here on this site plan and as he said earlier there's very little impact what so ever on the current wetlands.**

**Mr. Krudwing said they do have a sediment control line on the map and it shows the stock pile for product that's going to be soil that's going to be torn up or whatever else and then there is fencing that goes around it.**

**Mr. Krudwing said there was some concern as to whether they would be cutting some trees down and they might chip those trees up and limbs and what have you and blow it up along the silt fence so they could get added protection and that's not a bad idea.**

**Mr. Krudwing said so with that in mind he will ask the Commission if they have any questions to direct and he'll have Eric or Glenn answer them.**

**Dr. Dimmick asked if the Town Engineering Department seen all these figures yet.**

**Mr. Krudwing stated yes.**

**Dr. Dimmick asked if they've seen the calculations.**

**Mr. Krudwing said they asked for some additional calculations in a memo that they sent on Friday – they really didn't receive it until this morning because it was faxed to them on Friday. He said it was his**

understanding that the calculations that were in this drainage calculations submittal that they gave the town verifies that question that was asked so if there's additional calculations that are needed he said he guessed they could run some additional calculations to further state their case but he was going to ask the engineer to call the town engineer and ask him what it is that he wants. He said the calculations are in the report to answer the town engineer's question but if more information is needed the project engineer could give him a call.

Chairman de Jongh said he thought what Dr. Dimmick was referring to was a comment they got back on a note from August 31, 2012 as it said the numbers should be used in a narrative which should summarize the storm water drainage design by including both existing conditions and proposed conditions before and after detention and show that there is no net increase in the storm water runoff from the site – and that should be included in the narrative – he said he did not know if that was done.

Dr. Dimmick said the numbers are in that report but they must not be in the form that the engineering department wants.

Mr. Krudwing said it's in these calculations – he said he gave the report to Suzanne last week (Wednesday).

Ms. Dunne asked if it was the 25 year storm figures that were the problem.

Ms. Simone said yes – the engineering department had informed her that they wanted to go out to a 100 year storm so that they could really see that there was no net increase in runoff and also to have a written narrative and that was what they indicated that they were still waiting on.

Ms. Dunne said the report is 25 years and not 100 years.

Dr. Dimmick said he thought they (the engineering department) wanted to know what will happen with a 100 year storm – that's their standard. He said normally if the town engineer is happy with the figures then the Commission is happy with the figures – if they're not happy then they want to make them happy.

**Mr. Gollenberg said he thought what they were asking for is to run the calculation to accommodate the 100 year event and that's what they'll talk to the engineer about doing.**

**Dr. Dimmick said usually that's not too much of a problem because a 100 year the before and after aren't that much different.**

**Mr. Gollenberg said and then if more of a narrative was needed – although a brief narrative is provided at the beginning of this – if something else needs to be added to that then they will do that.**

**Chairman de Jongh thanked Mr. Gollenberg.**

**Chairman de Jongh asked if there were any other questions from Commission members.**

**Dr. Dimmick said they accepted this application last time.**

**Ms. Simone stated yes it was accepted at the last meeting and was declared not significant.**

**Dr. Dimmick said so at this point all there are waiting for is the clearance from various town staff on this and then they can go ahead on this.**

**Chairman de Jongh said the Commission has done pretty much what it needs to do except do a final vote on it and staff going ahead and putting together their recommendation but in the absence of the engineering department needs they are somewhat unable to do that so if they (the applicant) could work with them they could probably clear this off the docket in the next two weeks.**

**Dr. Dimmick said in other words – as long as staff tells them everyone is happy then they would prepare wording and the Commission could vote on it as the next meeting and they could walk out with a permit. He said he didn't see any red flags or anything like that – he said normally if they have another town agency still not happy about something they like to make sure they are happy before the Commission goes ahead.**

**Ms. Simone said she did have a conversation with Mr. Parker, the architect and they discussed there will be some trees that will be removed on site and she recommended that if they're going to chip the material that they keep the chipped wood on site and they use**

that to reinforce the silt fence so it seemed as though that was agreeable. She said she wondered if the Commission wanted to see that formalized in the plan at least as a note or just a box indicating that so that it will be shown that it will be reinforced – that is somewhat of a steep slope and she believed putting the word chips along that silt fence would protect it.

Chairman de Jongh said he thought that addendum to the map would be fine.

Dr. Dimmick asked to have his memory refreshed – he said wasn't that artificial fill in part of the old dump or they were quarrying sand or something way back historically in that region.

Ms. Simone said she did not know if the history of the fill in that area.

Dr. Dimmick said some of that was fill and some of that was left because they were quarrying sand and gravel in the 1960s in that area and that is why there's steep slope at that point he was trying to remember.

Mr. Bushy said it was very rocky soil and a lot of sand and rock.

Mr. Gollenberg said that predates them.

Chairman de Jongh said he thought it predates most of us.

There were no other questions or concerns addressed by the Commission or to relay to the applicant.

Chairman de Jongh said he thought with that one piece taken care of then they could instruct staff to put her recommendation together so they can take a look at this at the next meeting and move on from there.

## **X. NEW BUSINESS**

<b>1. Permit Application</b>	<b>APP</b>	<b>#2012-024</b>
<b>Consolidated Industries, Inc.</b>	<b>DOR</b>	<b>9/04/12</b>
<b>Mixville Road</b>		
<b>Stormwater Drainage Swale Repair</b>	<b>MAD</b>	<b>11/08/12</b>

Ms. Simone said to refresh the memory of Commission members – this is an item that came before the Commission for a request for

determination for work after the fact and the Commission had determined that a permit was needed so the swale shown on this application is already in place.

Carla Sylvester of Blue River Engineering was present on behalf of Consolidated Industries.

Ms. Sylvester said as Ms. Simone stated Consolidated Industries installed a rip rap drainage swale for storm water to replace an existing swale that had deteriorated just over time so the foot print is in the same place of where the former swale so they have submitted an application and are requesting approval for the work that was already conducted.

Ms. Simone said the location of wetlands on this map correspond with other soil scientist reports that they have on file so it doesn't show any deviation from that.

Dr. Dimmick asked if they have everything that they need.

Ms. Simone stated yes.

**Motion: To accept the application.**

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

**Motion: To declare the already completed proposed activities not significant within the context of the regulations.**

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

Dr. Dimmick asked staff if she has inspected this.

Ms. Simone stated that she was out at the site when management from Consolidated Industries contacted her and she did go out there and she saw that the area was secure and that the work that was done was designed to prevent any sediment from reaching the Ten Mile River and at that point it seemed to be functioning but she hadn't been back since but she would anticipate it's still functioning.

**Motion:**

**That the Commission instructs staff to go ahead and prepare permit wording.**

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

**Chairman de Jongh informed the applicant that at the next meeting the Commission will actually have a written permit that says the work that they did was permitted after the fact and the file is completed.**

**Dr. Dimmick said they did not have to have someone present at the next meeting.**

## **XI. ADJOURNMENT**

**The meeting was adjourned at 8:04 p.m. by the consensus of Commission members present.**

**Respectfully submitted:**

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