

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, NOVEMBER 6, 2012
TOWN HALL 84 SOUTH MAIN STREET
ROOM 210 AT 7:30 p.m.**

Members present: Robert de Jongh, Charles Dimmick, Kerrie Dunne, Earl Kurtz, Thom Norback, and Sheila Fiordelisi (arriving at 7:32 p.m.).

Members absent: Will McPhee

Staff: Suzanne Simone

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called to roll.

Members present: Robert de Jongh, Charles Dimmick, Kerrie Dunne, Earl Kurtz, Thom Norback, and Sheila Fiordelisi (arriving at 7:32 p.m.).

IV. DETERMINATION OF QUORUM

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

**V. APPROVAL OF MINUTES – Regular Meeting – October 16, 2012
Site Walks – October 23, 2012**

Chairman de Jongh said the Commission typically dispenses with the approval of the minutes until later on in the meeting but he thought that its best since those minutes will be probably be referenced during the context of the meeting tonight that they be addressed early on.

Chairman de Jongh called for a motion to approve the minutes from the October 23, 2012 site walks and October 16, 2012 regular meeting.

Motion: To approved the minutes with noted corrections from October 16, 2012 regular meeting.

Page 3 L20 “a silt of” to “silt on”, L24 “staff” to “staff inspection”; pg.5 L22 “with” to “within”; Pg. 18 L33 “recued” to “recused”; Pg. 22 L38 “direct” to “dirt”; Pg. 23 L14 “since” to “sense”.

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

Motion: To approve the minutes of October 23, 2012 site walks as prepared by staff and distributed to the Commission.

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

V. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Notice of Violation to Bob Ceccolini, Park and Recreation

This communication was reviewed.

**2. Re: Unauthorized Activities at Mixville Recreation Area, Notch Rd.
Bond Release Request**

Re: IWWC App. # 2011-003, 15 Sherwood Lane, Single Family Dwelling

This communication was reviewed. Ms. Simone stated this item is under new business tonight.

3. Staff Communications:

Re: IWWC App. # 2012-028, Notch Road

This communication was reviewed. Ms. Simone stated this item is under new business tonight.

4. Parks Department Maintenance Notification

Re: Removal of Fallen Tree at Mixville Park

This communication was reviewed.

Ms. Simone stated that the form that was submitted is based on the Public Works Department form for maintenance so if the

Commission has any comments –then if not she continue on to the next communication.

5. **Staff Communications**
Re: **Unauthorized Activities at Mixville Recreation Area, Notch Rd.**

This communication was reviewed. Ms. Simone stated that this issue will be addressed under enforcements.

6. **Staff Communications**
Re: **IWWC App. #2012-029, Willow Street**

This communication was reviewed. Ms. Simone stated this item is under unfinished business tonight.

Handed out at tonight's meeting:

7. **Engineering Department Comments**
Re: **Wetland Crossing at Mixville Park**
IWWC App. #2012-028

This communication was reviewed.

8. **Four Eagle Scout Photos**
Re: **Wetland Crossing at Mixville Park**
IWWC App. #2012-028

The Commission reviewed the photos.

Chairman de Jongh asked that the record show that Ms. Fiordelisi arrived at 7:32 p.m.

VII. INSPECTION REPORTS

1. **Written Inspections**

Ms. Simone stated there were no written inspections.

2. **Staff Inspections**

- a. **828 Bethany Mountain Road**
Re: **Complaints**

Ms. Simone reported the Commission that they had been receiving complaints again for 828 Bethany Mountain Road.

Ms. Simone said the Commission may remember that this is a property where they have horses – they came before the Commission for a determination of the location of the barn.

Ms. Simone said the first complaint that she received was accompanied with a photo from the neighbor who sent an email showing that are wooden planks nailed to a downed tree and was curious under what provision of the regulations this was authorized; she said she was familiar with the area and said she explained that this is evidence of children playing around a downed tree and that there's no pending enforcement action.

Ms. Simone reported that the second part of the complaint had to with clearing of vegetation in a wetland. She said it does appear as though some vines were cut back but it was not clear cutting – the issue of clearing vegetation was brought up to the Commission at the time when they (the property owners) came in for the barn so the Commission was aware there was activity.

Ms. Simone said that at that time the property owners had expressed interest in allowing the horses to get to the back portion of their property but she did not find anything that was cause for concern.

Dr. Dimmick commented that if it's for agricultural use and they are using it for that reason and they are not disturbing the soils.

Ms. Simone said she did not see any evidence of disturbed soils just the vines that had been cut back in one area.

b. 350 Knotter Drive

Ms. Simone reported that there was an inspection of the erosion controls at 350 Knotter Drive.

c. 382 South Main Street

Ms. Simone reported that at 382 South Main Street there are on-going inspections for the erosion controls there. She said there may be further information brought to the Commission about the potential to dewater a hole that's been excavated on the site but that will coming up at a later date.

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 this item is on the agenda for monitoring purposes.

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

Ms. Simone reported at the last meeting she had mentioned that she had recalled they were required to plant Dogwoods by October. She said she checked the file – they are required to plant them by May 2013.

Ms. Simone said she did go by the site and the site is no longer being infringed upon so it seems as though there are currently in compliance with the permit.

Chairman de Jongh asked if there was any communication sent to the party involved about the October date as opposed to May.

Ms. Simone said that was her mistake – the date was always May 2013, she just recalled in was October 2012 but that she did plan on sending the property owners a heads-up letter in early spring reminding them.

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

Ms. Simone stated this item is under unfinished business tonight.

5. **Unauthorized Activities in a Regulated Wetland Area** FT 10/23/12
Bob Ceccolini – Park and Recreation Department
Mixville Recreation Area, Notch Road (41/13)

Bob Ceccolini was present.

Commission members were in receipt of a 22 page Mixville Park pictorial and maintenance history report submitted by Mr. Ceccolini.

Chairman de Jongh said he wanted to read a summary into the record just to get the facts down that they are going to be discussing a little later on:

**To: Cheshire Inland Wetlands and Watercourses Commission
From: Commission Staff
Re: Notice of Violation
Summary for the November 6, 2012 Meeting read into the Record
Mixville Park, Notch Road: Clearing
Date: November 5, 2012**

Site Conditions and Notice of Violation: On October 17 Staff observed active clear cutting activities along the north bank of the Upper Pond and one of the two vegetated islands located in the Upper Pond. Staff observed a man on a large island, cutting down trees and shrubs with a chainsaw. Stacks of cut trees and shrubs were evident on the large island and the north bank of the Upper Pond. Staff contacted Parks Director, Bob Ceccolini and learned the work was being conducted by a volunteer, Bob Else, under the direction and authorization of the Parks Director.

On October 17, 2012 a Notice of Violation was issued to Bob Ceccolini requiring the work to cease immediately.

On October 18, 2012 Staff visited the site and discovered that in addition to the north bank of the upper Pond and the large island, the entire north bank of the Ten Mile River at the entrance to Upper Pond and the east bank of the Upper Pond had also been cleared. Mature tree and shrub stumps were evident. The thick scrub understory was observed in neighboring vegetated areas; the cleared areas lack any vegetated understory, with only a few trees and shrubs remaining.

The breadth of the clearing area suggests that the clearing activity was conducted for a period of time prior to being observed and noticed on October 17, 2012.

Staff observation of the cut and stacked woody material indicated the trees and shrubs cut were native species, likely providing food and shelter to wildlife in addition to retaining sediment along the bank, prohibiting sediment from entering and accumulating within the pond, benefits which were stated in the December 1, 2010 environmental report issued by Milone and MacBroom, reviewed by the IWWC in late 2010 and early 2011 in support to the pond dredging application #2010-029.

Three photographs taken by Staff were emailed to IWWC members on October 18, 2012 which depicted the breadth, location and result of clear cutting.

On October 23, 2012 all IWWC members visited the site (two separate walks) and observed the areas of vegetation removal.

Inquiry and Town Record Regarding Clearing at Mixville Pond: In the summer of 2011 Staff was contacted by Mr. Bob Else requesting a meeting to discuss his suggestions regarding the use of Mixville Park. Staff met with Mr. Else and during this conversation it was revealed that Mr. Else was aware of IWWC Permit #2010-029 for the removal of sediment and requested modification of the plans to include vegetation clearing and the construction of berms and island connections, all in support of his hobby of dog training. Staff informed Mr. Else that the described proposed uses requires a permit from IWWC and that Mr. Else should contact Mr. Michelangelo (then Public Works Director) to learn of the Town's interest in supporting

Mr. Else's hobby and documenting the proposed uses in an application to the IWWC. Mr. Michelangelo informed Staff that the Town would not entertain seeking a modification of IWWC permit #2010-029 for Mr. Else's personal interests. Staff did not have further contact with Mr. Else and the matter was not pursued by either him or the Town, In early 2012 Public Works submitted an application to change the method of dredging to hydraulic dredging, a less intensive method. Mr. Else's interests were not addressed in this or any application to the IWWC.

On December 7, 2011 the Parks and Recreation Commission, attended by Mr. Ceccolini and Mr. Else, discussed Mr. Else's proposal to clear vegetation along the banks of the waterbodies at Mixville Park. Neither the IWWC nor Staff were aware of the proposal or decision to authorize a citizen to clear-cut native shrubs and trees along the Ten Mile River, Upper Pond and large island in the Upper Pond.

Materials dated December 1, 2010 submitted in support of permit #2010-029 included an environmental report conducted by Milone and MacBroom, Inc., which identified the islands to remain vegetated and categorized the areas affected as Littoral Plant Zone Communities. The vegetation composition of the Upper Pond and both islands were identified to contain native species. The report indicates that the Upper Pond has high function and value and the

indication that the plans for sediment removal from the pond did not include clearing vegetation along the Upper Pond, large island of the Upper Pond or the Ten Mile River. The plans did not propose the impact to vegetation along the banks of the Ten Mile River therefore the existing vegetation is not described on the site plan or contained in the map legend.

The environmental report and site plan do not indicate evidence of annual clearing instead the report suggests the vegetation border, classified as scrub shrubs, was thick and somewhat impenetrable. These thick understory conditions are currently visible on the small island and along the Upper Pond and Ten Mile River banks in the locations not cleared in October 2012.

Mr. Ceccolini has suggested that clear cutting is an ongoing activity in this park and in the recently cleared areas specifically. On November 2, 2012, Mr. Ceccolini submitted a 22 page document with photographs and narratives regarding the history of vegetation management at Mixville Park. Review of town documents does not reveal any request, application, approval or notification to the IWWC, as prescribed in the Cheshire Inland Wetlands and Watercourses Regulations, regarding clearing of vegetation within a watercourse, wetland and upland review areas at Mixville Park.

The Notice of Violation for clearing at Mixville Park is on the agenda of the November 6, 2012 meeting under Enforcement Actions.

Chairman de Jongh said he thought that everyone has a copy of the notice that went out to Mr. Ceccolini – he said he also thought most of if not all of the Commission members by now have seen the conditions on site.

Chairman de Jongh said “I for one when he went out the site was appalled at the conditions that were there.” He said clearly activity was taken without an application.

Chairman de Jongh stated he has instructed Ms. Simone to go back into the records to double check to see whether or not activities such this as well as activities that have involved scouts doing activities that required at least notice to this Commission, had applications and followed the Commission’s traditional procedures as a Commission and to his knowledge not one had anything but everything they (the Commission) required.

Chairman de Jongh said this is a situation that is not only very surprising but extremely disappointing.

Chairman de Jongh said one of the things that he wanted to ask Mr. Ceccolini was who authorized the work to be done – who was involved in the work that was done. He said they have noticed pictures of activity that was done in that area and not a single town person was involved in any of the work whether it was a scout project or whether it was the work that was done for the clearing so he was curious to who decided that this work can be done and why wasn't this Commission as least conferred and discussed with on this project.

*****At this point in the meeting there was an audio recording malfunction. This portion of the minutes was transcribed from the recording secretary's notes. Approximately three minutes of recording was lost.*******

Bob Ceccolini, Parks and Recreation Director addressed the Commission.

Mr. Ceccolini explained to the Commission that he (Bob Ceccolini) authorized volunteer Bob Else did work at Mixville Park.

Mr. Ceccolini stated that he did not have IWWC permits authorizing the work to be done.

Mr. Ceccolini stated that Bob Else went above and beyond regular clearing activity.

Mr. Ceccolini explained to the Commission that they do commonly cut brush at Mixville to keep the area open.

******Recording Resumed******

Mr. Norback said by what Mr. Ceccolini has said and what the Commission has seen - Mr. Ceccolini in essence is a defacto steward of that park.

Mr. Ceccolini stated correct.

Mr. Norback said and indeed the pond.

Mr. Ceccolini agreed.

Mr. Norback asked Mr. Ceccolini if it was within his field of expertise to recognize this as a delicate area from a wetlands standpoint – is this something that he had ever trained for – is it something within his area of expertise or are we (the Commission) expecting more out of him (Mr. Ceccolini) then his job permits or within his job description; or is there someone else that should be involved.

Mr. Norback said he did not mean this as a failing – he asked if in fact was it something that he (Mr. Ceccolini) doesn't have expertise in and he might not have known what to do.

Mr. Ceccolini stated for the record that “he does not have expertise in that. I've never been trained in it or gone to school for any of that so - but that's no excuse – the park is under my stewardship like you said and I should have known that we couldn't cut some of that brush or gone close to the water and done certain things without permits.”

Chairman de Jongh said the thing he has a problem with Bob – the thing that really and when he was looking through his (Mr. Ceccolini's) response to the communication coming from this Commission – he was struck by the fact that he (Mr. Ceccolini) had pointed out in his verbal commentary “a continued disregard for the integrity of the wetland area and it's not like this is the first time where you (Mr. Ceccolini) had come for us to ask for work to be done – I'll use Bartlem Park as an example whether it be soccer fields or what have you and there were sensitive area you (Mr. Ceccolini) had to come before us – there was one than one occasion.

I've been on the Commission for more than 26 years – more than one occasion Park and Rec's has come before us because of an area that required some sensitivity and an application was acquired and what we require as a Commission is not new and yet over almost 15 years work has been done in an extremely sensitive area even outlined by professionals like Milone and MacBroom who charged with trying to put an environmental report for the dredging of Mixville Pond so this is not new and I'm just – I'm flabbergasted that work is being done; 'a' not by a paid representative of town but by a volunteer who has no clue except he wants to make a place visible for his dogs to train which why would we take town property and do something that benefits one person – that makes no sense to me at all – as a tax payer it doesn't make any sense to me.

So I'm sitting here really – I'm battling trying to understand that you're Parks and Rec's has the charge with maintaining the parks

and the recreation facilities of the town – this Commission is charged with responsibility - preserving those not for your (Mr. Ceccolini) tenure or my tenure but for generations beyond and the work that was done was identified as being sensitive and just blatantly – just cut down and that’s makes – I’m angry, I’m frustrated and I’m really, really angry that there was a total disregard for what was evidently sensitive areas – it’s a very important wetland corridor and it’s been destroyed.”

Ms. Dunne said and in this case to her it doesn’t seem to be a just continuation of what’s happened in the past – it seems like an escalation of what’s happened in the past in that gravel was brought into the pond first of all and that – we are not just talking about brush we are talking about trees being cut down – its seems more so than what has been done in the past.

Mr. Ceccolini stated there has been clearing in the past – there have been trees or large brush cut in the past. He said he would say this “was more aggressive than what we normally get and what they normally do.”

Mr. Ceccolini explained that Bob Else was an employee of the town – part of his job was working at Mixville – he was a part of the department so he’s not like a stranger to us.

Mr. Ceccolini said his (Bob Else) idea of having the berms built and having an area for the dogs to run down there was denied so that was not part really from our thinking that he was going be able to do what he came to the Parks Commission and asked to do with his dogs which was to build a couple of arms out into the pond so that the dogs would run from one arm to the other and then he (Bob Else) also mentioned that fisherman could use it or whatever but that was – he came to our Commission and made that appeal and the Commission had suggested than if he (Bob Else) wanted to pursue that to go see Suzanne (Ms. Simone) and I think he did – go see Suzanne and Joe Michelangelo and he was told not to do it.

Ms. Simone asked if she could just clarify that the timing of that is that he (Bob Else) came to our offices first because in the minutes when he goes to Parks and Rec he talks about that he received maps from us which he did – we showed him the approval for the dredging so he was aware that the permit was granted and then he went to the Parks and Rec Commission in December 2011 and discussed his plan to clear. She said in those minutes she did not see any indication that any portion of his proposal was denied or even

approved – it just seems to be discussion but she did not know if this was the complete record.

Mr. Ceccolini stated that they (Parks and Rec) did not approve of his (Bob Else) plan at the Parks and Rec meeting.

Ms. Dunne stated that they did not approve or deny – there was just no action taken. She said she could not find anything.

Chairman de Jongh said he did not see anything in any of the minutes from the Park and Rec meetings going back through the November – December and the meetings the IW Commission had copies of – he said he did not see any discussion and subsequent denial of a request it was just simply discussion – as there was discussion about the dog park - so it was just kind of lumped in with everything.

Mr. Norback said he thought “to the layman a lack of approval means denial” so he (Bob Else) may have thought of it has a denial when it just really wasn’t an approval so even though it did go through the process – it didn’t fly and thought of it then as a denial.

Ms. Dunne said then that means he (Bob Else) shouldn’t have done it.

Chairman de Jongh said even if I’m not openly told I can’t do it – but I’m not given permission to do it the end result is still the same – “don’t do it.”

Ms. Simone stated for the record that “Mr. Else was told explicitly by me that this needed a permit – that what he was interested in pursuing and what the Public Works Department was interested in applying back to this Commission on his behalf that it required a permit.” She said they (Public Works) went through the plans and showed him (Bob Else) what was approved, showed him areas and talked about what he wanted to be done out at that park and “it was very clear – it was clearly pointed out to him that that required a permit.”

Mr. Norback asked “did he (Bob Else) ask what was later done – the clearing – was that only a part of what he was requesting or was that totally what he was requesting – was he asking for more.”

Ms. Simone said when he (Bob Else) spoke with me – he wanted to have areas cleared as well as berms created in the pond.

Mr. Norback said and the berms were not created.

Ms. Simone stated no.

Mr. Norback said ok that's what he was getting at – its perception so I'm not sure what he (Bob Else) was thinking.

Ms. Simone said not that she was aware of (the creation of berms).

Chairman de Jongh stated “the thing that most aggravating for me and frustrating for me is that we have an area that was sensitive and had extremely high value of reducing the sand that had never – I mean the road sediment that comes off and dispense into Mixville Pond that whole area coming down from – I don't know if its south – I'm losing track of the – I'm just saying the area that was cleared acted as a filtration system to prevent that sediment from coming into Mixville Pond – that filtration system is gone now and the wildlife habitats are gone, the native species are gone which allows for invasive species to now become situated in the area and once that takes hold its very difficult to get rid of some of that stuff.

It's literally changed the integrity of that whole area and for what – for what – there's just no reason for it and add to that and although this is not what we are talking about here it's certainly part and parcel of it – the presentation that we had to us two weeks ago about the boy scout project – having gone out there with Suzanne and the other Commission members saw the same thing as well and then going on the scout's own website that had 337 pictures of how this thing was done - I came away from that with a total distrust and that's not a personal comment – that's a professional comment – total distrust of the presentation that was given to us two weeks ago about that project because 'a' there were no town officials present on that project when it was done; 'b' there were trucks that were pulled right into the Mixville Pond crossing right by the Ten Mile River and that little finger; we don't know whether or not the stone that was put down as a base for those cement pads was the proper stone because a lot of it has already been eroded away and the integrity of some those blocks are suspect already – this is less than six months after the project was done.

So we don't know whether or not that was done properly- whether the stone that was put down had any kind of oil base to it and whether or not that's in anyway caused some damage to the Ten Mile River – it totally was done contrary to the way this Commission

would have allowed it to be done and that's one of the reasons why I asked Suzanne to go ahead and take a look at projects in the past – but we have had Eagle Scouts come before us – give us an application – we gave them direction 'here's what had to be done – those are the steps that they followed' - this wasn't done this way at all – it wasn't done this way at all. So not only did it create a barrier now where free flowing water went from one side to another side but I think it damaged the integrity of that area.”

Dr. Dimmick stated the other thing looking at the photos of that – things were done there that would have required either an Army Corp permit or a waiver of an Army Corp and as far as he knew the Army Corp of Engineers was never contacted so this is more than just a local thing – it's now a Federal violation.

Dr. Dimmick stated for the record that he thought unfortunately they are going to have to notify the Army Corp of what's happened because we have an obligation – a legal obligation to notify when they notice a violation of Army Corp regulations – we may have to add that to what we are doing.

Chairman de Jongh said he just thinks it's like pulling a thread in the tapestry – the more they got into this Bob (Mr. Ceccolini) the worse it got.

Chairman de Jongh said the pictures submitted by Mr. Ceccolini – although they were an attempt to try to respond to the narrative that staff had put together, “only further supported that the findings that they saw on site but this had been going on for a long, long time and it's a total disregard for the process that this Commission has held every other citizens in this town to – the biggest problem that we have it the perception that the town has a separate set of values – a separate set of standards and we've tried to dispense with that perception as much as we possibly can and this whole thing flies in the face of that.”

Mr. Ceccolini stated he agreed. He said like Chairman de Jongh said, he has been to the Commission before with other parks and other events, other projects that have come up through the years; usually it's Bartlem because it's a new park and there's additions and there's things that come up there and this being a long, long – probably the longest standing park in town – Cheshire Park might be longer standing than this but those two – the maintenance that has been done there over the years has been kind of the way we just kept doing it and it was wrong to do it.

Mr. Ceccolini stated with that being said – the Eagle Scout project – almost every Eagle Scout project that comes in – not every one of course has to something to do with wetlands so some of them just come in – they go to the Parks Commission or they'll come to me and then they get approval.

Mr. Ceccolini said when he saw Suzanne (Ms. Simone) – she sent me the email about the material that was dumped in – so I did go back to the scout and talked to him and he talked the guys on the Parks group – at the same time that his project was going they were doing drainage work at Mixville – we had some open trenches we were trying to fit drainage on that ball field and so there was a pile of stone there – it was 1.5" stone and there was ¾" stone that our guys had for drainage so I know that's where he got the stone from – was the pile of ¾" stone.

Dr. Dimmick said well it's in the main pond now – it's washed out of the bridge area.

Mr. Ceccolini stated that quite a bit of it has washed out.

Mr. Ceccolini said because like you said, the current has moved some of these blocks. He said everything we go look at it – whether its rip rap, whether it's rip rap of the slaps – it always looks a little different – the water current is always pushing against it. Some of the slaps get uneven.

Mr. Ceccolini stated that we have had to go in – lift up a slap and change the rip rap underneath to bolster up a corner or whatever so we've tried to stay up on that. He said we've had to do it two or three times but the walk way across has a great addition to the park and he hoped that they could keep that; a lot of people use it – a lot of people enjoy it.

Chairman de Jongh said he thinks they need to keep the issues separate because we'll be talking about that walkway later on in the meeting so I think we should keep the two issues separate. He said he brought them together simply because it was a continuation of the same thought process and that's the reason why I tried to the two together.

Chairman de Jongh said they have an issue right now with the clearing – it's a serious issue.

Chairman de Jongh said he was trying to separate himself as a citizen of the town as well as a public official of the town and as a private citizen – what troubles me is if you (Mr. Ceccolini) were an individual who had created this we would have had legal recourse to have you put it back and you would have had to pay the cost of that. He said “the problem that we have as you being a public official is guess what – we paid for it no matter what – and I’m not happy about that as a tax payer of the town – I’m not happy about that.

Chairman de Jongh said personally speaking, ideally what I would love to see as my own personal preference – it’s got nothing to do with the Commission but as me as an individual – I would love to see the cost of this having out of the Parks and Recreation Commission but we can’t have any say as to how dollars are spent in the budgetary process unfortunately but that’s the way I would love to have to see it happen”; have the funds come from Parks and Rec but that’s not for me to say that’s the Town Council.

Chairman de Jongh said “I for one – I want the area restored – personally speaking.”

Dr. Dimmick stated “with native species.”

Ms. Fiordelisi said she was just curious as to who paid for the clearing and then the removal of the chips and so forth after the work.

Mr. Ceccolini said the removal of the debris was done by the Parks group.

Ms. Fiordelisi said so the Town of Cheshire paid for it – the tax payers.

Mr. Ceccolini said yeah – we had the Parks guys go down there and chip up the brush that was piled up.

Ms. Fiordelisi asked who paid for the clearing.

Mr. Ceccolini stated the clearing was volunteered.

Mr. Norback said the main thing he was stuck by – he had to tell you is – is the stewardship of the pond if it is outside of your field of expertise – are we asking too much of Mr. Ceccolini – are you in your position aware of the fragility of that eco system – is there may be a

disconnect there because he didn't have the training to know that it was detrimental.

Ms. Dunne stated "none of our citizens have the training in fact nobody in Cheshire has this training – I mean some of us don't have the training – we still expect people that are sitting back here to follow our rules and come before us so I don't think that ignorance – particularly somebody who has been doing this for so many years and has been before this Commission that that's an excuse."

Mr. Norback said all he was doing was trying to get perspective on this.

Chairman de Jongh said as Bob (Mr. Ceccolini) pointed out, he has been before us with projects at Bartlem Park and things like that and he referenced Bartlem Park being a newer park than Mixville – the bottom line is you certainly recognize the need to come to before us when there were sensitive areas that had to have work done.

Chairman de Jongh said so the newness or the age of the park has nothing to do with it – "it's the sensitivity of the area and if you are unsure as to what you're going to do – you just don't go ahead and do it and hopes it ok. I would think that that you would be able to come to people and say 'I'm not sure to do on this – what do you think?' and that's exactly what Suzanne's position is for. What the environmental planner is assigned to do is try to give guidance to people who don't know. So I understand what you (Mr. Norback) are saying and right - we're not asking him to be a hydrologist but we are asking him to just follow a procedure which has been followed before – he has followed that before and Bob admitted to that."

Mr. Norback said that indeed is his point (regarding Chairman de Jongh's hydrologist comment).

Chairman de Jongh said what really is surprising and frustrating at the same time is knowing that – this still went on and it went for according to the pictures ten-fifteen years – all the time. He said he knows it was part of the maintenance program but even the town knows to come before us to say 'we want to maintain a drainage or we want to maintain 'x' and they come before us for a permit – Parks and Rec never does that or had not done that in this instance.

Mr. Norback said he was not trying to look for a motivation – I'm just looking for where the failing was and it may have been a lack of education.

Chairman de Jongh said he thought it was more – and he did not mean to speak for Bob (Mr. Ceccolini) – I think the failing was in applying the same mind set as you do at Bartlem Park to all of the areas that you are charged with the stewardship of and using the same litmus test across the board.

Mr. Ceccolini said if he could speak to the point that Tom (Mr. Norback) may have been alluding to - “I don’t like – I don’t enjoying coming here - coming to this meeting and you probably won’t see me again unless I have to do a – you know ask for a request for some project – we will no longer cut at Mixville unless we have a permit to do it and just recently a tree fell down at Mixville...”

Dr. Dimmick said that is emergency maintenance.

Mr. Ceccolini said no – they have not touched it – we haven’t touch because we put the form through so from now on we’re not going to do anything until I get permission to do it at any park yet along – you know just Bartlem or any of the newer parks but I understand where you are coming from.”

Mr. Ceccolini said “I understand what’s happened here and it’s my fault.” He said you know over the years and I put in that report –we had gone in the last 20 years from Cheshire Park and McNamara – McNamara has gotten bigger – we added fields to Quinnipiac; we’ve added fields to Bartlem Park – we’ve added a linear trail in town and we’ve added one guy to the Parks group.

Mr. Ceccolini said so what I do to supplement that is use neighborhood groups and use CYB and lacrosse and football to do projects – we use scout groups – we had 200 kids from Cheshire Academy doing a volunteer on a Saturday morning to clean-up parks.

Mr. Ceccolini stated that without all these groups I don’t think I could get it done and we get a lot of accolades on our fields and I try to allude to that in the report that I think we are one of two or three towns in the whole state that have organic fertilizer programs on all of ball fields.

Mr. Ceccolini said we’re trying to good things – we’re trying to maintain and we’re trying to be as cost effective as we can for the town.

Mr. Ceccolini stated I'm not fighting every year for a new guy in my budget – I've asked over the years – I've been denied.; that's ok I find other ways to do it.

Mr. Ceccolini said we have used volunteers – we used other departments at Mixville over the years so I don't want to keep belaboring it – you won't see this problem again. He said if you tell me to rectify it and do some plantings – whatever you tell Suzanne or if she tells me is that we have to plant – we'll find a way – we'll get it cleaned.

Chairman de Jongh said he thought it was general consensus and he did not want to speak for everyone else but – certainly Charles (Dr. Dimmick) had mentioned that what has to happen is we've got to get the area back in the original – the integrity that was originally there because it definitely serves a function – it serves a very valuable function now if that interferes with people are fishing and stuff – it's an inconvenience for them but we're not trying to create a fishing pier we're trying to make sure there's a habitat there for wildlife as well as again, for preserving those areas for generations to come.

Mr. Ceccolini said most of his pictures were from the fishing derby which is a little unrealistic because we don't normally have fifty people there fishing but that's when the pictures were taken.

Chairman de Jongh said that's ok.

Mr. Ceccolini said he understood what he (Chairman de Jongh) was saying so we'll preserve it.

Dr. Dimmick said he wanted to share a couple of things and what's involved and why they were particularly upset.

Dr. Dimmick explained that area where they are talking about with the native vegetation where it wasn't just brush cut but where there was larger stuff that has been in there and where it was mentioned it was very, very dense vegetation.

Dr. Dimmick said just as much as they are trying to keep the geese out of the pond we are trying to encourage nesting areas for ducks – and that was a nesting area for ducks. He explained they (the ducks) like it where the shrubs kind of hang over into the water there and move up into that kind of a shelter.

Dr. Dimmick said also that area provides – he said we’ve talked many times about the more shade they have around a pond the cooler the water stays and less likely they are to get algae.

Dr. Dimmick said the third factor is that having that also encourages some shallow water vegetation near the edge. He said when you get the storms – it’s not only the sand that comes down but the muddy water comes down also. The more shallow water vegetation you have the more you trap the mud in the upper pond rather than have that go right over into the lower pond – the mud of course is suspended in the water and travels very quickly. He said anything that would act like a buffer has restrictions.

Dr. Dimmick said so these are all factors – there is also a factor – you (Mr. Ceccolini) talked about the fishing – the tiny fish need that shelter near the bank of the overhanging vegetation to protect them from the larger fish and the snapping turtles and things like that.

Dr. Dimmick stated there were multiple reasons of why that was valuable from an ecological standpoint and for the general health of the pond and for the general purposes of that.

Chairman de Jongh said what he would like to do unless there were other comments.

Mr. Kurtz said he had a question how often does the Park and Recreation Commission meet.

Mr. Ceccolini stated once a month.

Mr. Kurtz asked if they had a meeting since this incident occurred – where you (Mr. Ceccolini) reported to them.

Mr. Ceccolini stated tomorrow night (November 7, 2012).

Mr. Kurtz said he just looked at three meetings (of minutes) and one struck his curiosity – on December 7, 2011 you (Mr. Ceccolini) mentioned and there was no response to it – “that the walkway between the upper and lower ponds was a project that an Eagle Scout just completed and he did a great job.” He asked was that what he calls the stepping blocks between the two ponds – because this was done not in the spring – this was done last fall in 2011.

Mr. Ceccolini said it was done in the fall.

Mr. Kurtz said and the Commission had no response to what was done.

Chairman de Jongh said that is why Bob (Mr. Ceccolini) was before us last Tuesday.

Mr. Kurtz said yes – but the Park and Rec Commission seemed to have no responses. He said because they talk about a walking bridge before and as recalled Mr. Nankin had said they would have to consult the Army Corp about this and yet when he (Mr. Ceccolini) announced the project was done he did not see any more discussion about that issue.

Mr. Kurtz said he was kind of wondering – it seems there're concerned at one point - he asked if there was an understanding between the actual Park and Rec people and the Commission – he said he really didn't know – he said he saw that and it struck him as being kind of strange.

Mr. Kurtz said like he said – I'm looking at the minutes from three different meetings – I'm not looking at every meeting they ever had. He said he imagined there would be some discussion on the Commission when you report the situation now that there have been two violations since the last meeting.

Mr. Ceccolini stated that it's on the agenda for tomorrow night.

Mr. Kurtz asked if thought that it was worthwhile to get of the minutes or maybe to have someone attend the Park and Rec Commission meeting – like Suzanne perhaps or would that be counterproductive.

Mr. Ceccolini said he thought he would be able to carry your message back to them (the Parks and Rec Commission) but it's up to you guys – however you decide.

Mr. Kurtz said what's done is done and Bob (Chairman de Jongh) certainly expressed the surprised to say the least of the Commission members as to the change in the appearance around Mixville but looking toward what are we going to do about it – I'm not saying carry a message that it has to be executed at dawn or something like that but the message about what are we going to do because the Commission has a since that the want the area restored and if they are going to talk about the Park and Rec Commission – are they

going to say – ok we're going to do it or is there going to be a plan – he said they ordinarily require a plan usually by an expert anyways.

Chairman de Jongh said he thought with staff's draft recommendations kind of lay out pretty clearly what the Commission is going to expect.

Chairman de Jongh said while certainly done of us are anxious to attend another meeting – he said he had no problem being at the meeting tomorrow night but he thought Bob (Mr. Ceccolini) can certainly carry the message but having said that he did think though that it's important that when that message is carried the people on the Parks and Recreation Commission are educated about the items that they talk about and making sure that there's a clear understanding that there are rules and regulations of the various Commissions that need to followed – procedures that need to be followed and that's got to be a message – he said he thought the fact that Mr. Kurtz brought up there was a conversation about Army Corp coming in at one point and then nobody ever questioned that again after that is kind of weird.

TAPE CHANGE

Chairman de Jongh said he knew on this Commission if something like that were brought up – it wouldn't go too far without another member on the Commission saying wait a second we had this as an open item on the other meeting – and what about 'x'.

Chairman de Jongh said he hoped that that message carries with it the strong message that there are procedures that need to be followed.

Chairman de Jongh said he wanted to read staff's recommendation to this Commission for consideration into the record:

**“CORRECTIVE ORDER #CO-11-6-2012-A
MR. BOB CECCOLINI, DIRECTOR OF PARKS AND RECREATION
TOWN OF CHESHIRE
NOTCH ROAD
CLEARING OF VEGETATION WITHIN A WATERCOURSE, WETLAND
AND UPLAND REVIEW AREA**

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 13 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire,

Commissioners' knowledge of the area, site visitations, review of town records, review of written information and oral testimony provided by the violator (Mr. Ceccolini) regarding the clearing of vegetation at Mixville Recreation Area and information received during the course of a public meeting, 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 wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.**
- 3. 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.**
- 4. That the Cheshire Inland Wetlands and Watercourses Commission is aware of the potential public interest in aesthetics and access in and around watercourses, wetlands and upland review areas, and that the Cheshire Inland Wetlands and Watercourses Commission is charged by State law and local ordinance with assessing, monitoring and reviewing potential and real impacts to watercourses, wetlands and upland review areas from activities such as vegetation clearing and cutting.**
- 5. That the clearing of vegetation along the banks of the Ten Mile River and Upper Pond, including the large island, of Mixville Recreation Area require a permit from the Cheshire Inland Wetlands and Watercourses Commission.**
- 6. That the Upper Pond and Lower Pond of Mixville Recreation Area are impoundments of the Ten Mile River.**
- 7. That clearing of vegetation along the banks of the Ten Mile River and Upper Pond, including the large island, of Mixville Recreation Area was conducted in October 2012 without the required review and approval of the Cheshire Inland Wetlands**

and Watercourses Commission, as prescribed in the Cheshire Inland Wetlands and Watercourses Regulations.

- 8. That on October 17, 2012 a Notice of Violation was issued to Bob Ceccolini requiring the conduct of vegetation clearing to cease immediately.**
- 9. That on October 17, 2012 Bob Ceccolini informed Commission Staff that the clearing was conducted by a citizen identified as Bob Else, under his authority and direction.**
- 10. That on October 18, 2012 Staff visited the site and discovered that in addition to the north bank of the Upper Pond and the large island, the entire north bank of the Ten Mile River at the entrance to Upper Pond and the east bank of the Upper Pond had also been cleared.**
- 11. That on October 23, 2012 all IWWC members visited the site (two separate walks) and observed the areas of vegetation removal.**
- 12. That on December 7, 2011 the Parks and Recreation Commission, attended by Mr. Ceccolini and Mr. Else, discussed Mr. Else's proposal to clear vegetation along the banks of the waterbodies at Mixville Park. Neither the IWWC nor Commission Staff were aware of the proposal or decision to authorize a citizen to clear-cut native shrubs and trees along the Ten Mile River, Upper Pond and large island in the Upper Pond.**
- 13. That materials dated December 1, 2010 submitted in support of permit #2010-029 included an environmental report conducted by Milone and MacBroom, Inc., which identified the island to remain vegetated and categorized the areas affected by clearing as Littoral Plant Zone Communities. The vegetation composition of the Upper Pond and both islands were identified to contain native species. The report indicates that the Upper Pond has high function and value and the indication that the plans for sediment removal from the pond did not include clearing vegetation along the Upper Pond, large island of the Upper Pond or the Ten Mile River.**
- 14. That the environmental report and site plan associated with permit #2010-029 do not indicate evidence of annual clearing, instead the report suggests the vegetation border, classified as scrub shrub, was thick and somewhat impenetrable.**

15. That the vegetation clearing was not conducted in concert, support or authority of IWWC permits #2010-029 or #2012-005. The clearing activities are in conflict with the above referenced permits scope of protecting the affected vegetated buffers.
16. That the 'Mixville Park: A Pictorial and Maintenance History' dated November 2, 2012 and submitted by Bob Ceccolini documents a history of clearing of vegetation without the required review and approval from the Cheshire Inland Wetlands and Watercourses Commission.
17. That review of town documents does not reveal any request, application, approval or notification to the IWWC, as prescribed in the Cheshire Inland Wetlands and Watercourses Regulations, regarding clearing of vegetation within a watercourse, wetland and upland review areas at Mixville Park.
18. That Milone and MacBroom, Inc., authors of the December 1, 2010 soil and environmental reports have a history of the area and have previously conducted review of environmental conditions in the subject areas.
19. That Section 13 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to prescribe action to remedy and correct the violation.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission, under jurisdiction prescribed in Section 13.3.B of the Cheshire Inland Wetlands and Watercourses Regulations issues the following Corrective Order:

1. The violator(s) shall hire consultants from Milone and MacBroom, Inc. familiar with the application material submitted in support of permit #2010-029 to conduct an environmental assessment of the impact of vegetation clearing along the banks of the Ten Mile River and Upper Pond, including the large island of Mixville Recreation Area. The violator(s) shall provide information regarding the clearing activities to the consultants at Milone and MacBroom.
2. The violator(s) shall coordinate and conduct a site walk Mixville Recreation Area with consultants from Milone and MacBroom and Commission Staff by November 16, 2012.

- 3. The violator(s) shall provide the written environmental assessment conducted by Milone and MacBroom, Inc. to the Cheshire Inland Wetlands and Watercourses Commission by submitting the document to the Planning Department by November 28, 2012.**
- 4. The violator(s) shall author a written summary of the violator(s) contributions and cooperation in the development of the environmental assessment and mitigation plan to the Cheshire Inland Wetlands and Watercourses Commission by submitting the document to the Planning Department by November 28, 2012.**
- 5. The violator(s) shall review and become familiar with the Cheshire Inland Wetlands and Watercourses Commission permits #2010-029 and #2012-005. The violator(s) shall provide the commission with written verification that these files were reviewed. Written verification of the violator(s) review of these plans shall be submitted to the Planning Office by November 28, 2012.**
- 6. The violator(s) shall hire consultants from Milone and MacBroom, Inc. familiar with the application material submitted in support of permit #2010-029 to create a remediation plan, including any suggested short term measures in order to secure soil and prevent the establishment of invasive plant species along the banks of the Ten Mile River and Upper Pond, including the large island of Mixville Recreation Area.**
- 7. The Cheshire Inland Wetlands and Watercourses Commission requests a completed remediation plan be submitted by November 28, 2012 to the Planning Office, however if the consultant cannot meet this requested date, the consultant shall provide written confirmation of a date of completion to the Cheshire Inland Wetlands and Watercourses Commission by November 28, 2012.**
- 8. The violator(s) shall attend all scheduled Cheshire Inland Wetlands and Watercourses Commission meetings when the subject of the environmental assessment and remediation plan for Mixville Recreation Area are discussed.**

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

Mr. Kurtz said he had a question regarding Dr. Dimmick's comment about notifying the Army Corp.

Dr. Dimmick said that has to do with some other project – the crossing.

Mr. Kurtz said since Dr. Dimmick brought it up – were they going to wait to talk about it then.

Dr. Dimmick said he that the Chair is now trying to separate these two in terms of the actions proposed.

Chairman de Jongh said since Mr. Else is no longer part of the Parks and Recreation Department – does he attend the Parks and Recreation meetings.

Mr. Ceccolini stated no.

Chairman de Jongh said he was concerned than he (Bob Else) will not have knowledge of the full extent of what he's done so what I would like to have him be a part of that meeting tomorrow night – if this is going to be an open discussion about the situation that's occurred tonight – I think he (Bob Else) needs to be made aware of what's transpired, the effect of what he's (Bob Else) has done and be fully aware of the discussion of this Commission.

Dr. Dimmick said he thought copies of what we've passed to night should be given to him (Bob Else) and to Park and Rec.

Chairman de Jongh said he agreed.

Chairman de Jongh said he thought that they had talked earlier about there being an application before the Commission tonight or a discussion about the application about that crossing.

Chairman de Jongh asked if there were any other discussions about this – he said he knew they had the motion approved and voted on but he thought it's been made clear on how this Commission feels about what's transpired and he hoped the message came through loud and clear.

Chairman de Jongh said Mr. Ceccolini stated publicly that they (the Commission) won't have to worry about this again in the future.

Mr. Ceccolini asked if he could get a copy of the corrective order tomorrow.

Ms. Simone and the Commission members stated yes.

IX. UNFINISHED BUSINESS

1. Permit Application	APP	#2012-022
Jack Krudwing (Cornerstone Church)	DOR	8/07/12
Waterbury Road		
Site Plan – Addition/Parking	MAD	11/06/12

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, previous site visitations, and after review of written information provided by the applicant on this application, finds the following:

- 1. That the current application is for construction of a church addition and associate parking on a 9 acre lot.**
- 2. That the applicant's soil scientist located inland wetland soils on the site, down slope of the proposed development and parking.**
- 3. That the slope is in excess of 34 percent down gradient.**
- 4. That the applicant has agreed to reinforce the proposed erosion controls with wood chips on the upslope side of the silt fence.**
- 5. That the applicant's engineer stated that no direct or indirect activities are proposed within the wetlands or upland review area.**

6. That the Commission declared this application not significant within the context of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2012-022, the permit application of Jack Krudwing/Cornerstone Church for site plan as presented on the plans entitled:

**“Cornerstone Church
Proposed Addition and Site Improvement Plan
1146 Waterbury Road, Cheshire, Connecticut
Dated July 27, 2012; Revised October 1, 2012
8 Sheets, Scale As Noted
Prepared by PDS Engineering and Construction, Inc.
Bloomfield, CT.”.**

And

**“Wetlands and Soil Delineation Drawing
Cornerstone Church, 1141 Waterbury Road, Cheshire,
CT
Dated July 3, 2012
Prepared by Ralph H. Stanton, JR., P.E, R.S., S.S..”.**

The permit is granted on the following conditions and stipulations, 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 commencement of any activities covered in this permit grant, the applicant shall request and attend a pre-construction meeting with town staff to discuss, in part, the construction sequence and site management.

- 4. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the sediment and erosion controls, as shown on the above-referenced plans, shall be filed with the Town Planner's Office prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Office.**
- 5. Prior to the commencement of construction activities, a professional engineer shall certify, in writing to the Commission, that all required erosion and sedimentation controls are in place and functioning as represented by applicant to ensure the prevention of erosion and sedimentation into adjacent wetlands and watercourses. The cost of the professional engineer shall be borne by the applicant. The applicant shall also notify Commission Staff so that Staff may inspect the site to verify that all required controls are in place. Staff may also insist on additional controls if field conditions warrant them.**
- 6. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, 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 breaches or deficiencies shall be forwarded to a contact individual, as defined below, immediately after inspection. The costs of said inspections to be borne by the applicant.**
- 7. A contact individual together with a 24-hour phone number shall be designated with responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within 6 (six) hours of such notice from the sediment and erosion control inspector, as identified above, or the Town of Cheshire.**
- 8. Prior to any clearing, grading, or other construction activities on the site, or the request for a Building Permit, the applicant shall:**

- a. accurately stake and/or flag all clearing limits, as depicted on the above-referenced site plan. Staff may insist on additional markings if warranted by field conditions.
 - b. properly install erosion controls, as depicted on the above-referenced site plan. Staff may insist on additional controls if warranted by field conditions.
9. Throughout the course of conducting construction activities covered by this permit grant, 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.

10. This permit grant shall expire on November 6, 2017.

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

2.	Permit Application	APP	#2012-028
	Town of Cheshire Parks and Recreation	DOR	10/16/12
	Notch Road (Mixville)		
	Wetland Crossing	MAD	12/20/12

Bob Ceccolini was present.

Chairman de Jongh stated that this is the walkway that they alluded to earlier in the meeting.

Chairman de Jongh said again as they had talked about earlier on this – the project itself probably would have been rubber stamped by

this Commission – there’s no question about it. He said he thought what troubles the Commission is the fact that it was undertaken without an application and then when we went out to see the actual project – the completed stage of it, the Commission found a number of areas that would be contrary to the steps that they would recommend to be taken; that’s the visible stuff they saw on the site visit – when they went further and looked at the pictures on how the project was conducted that was “eye-opening” the fact that there were trucks driven into the pond and into that crossing there – it was just “bizarre” and the fact that – and he know Mr. Ceccolini alluded to the fact that he has volunteers that do a lot of the work and he understood the financial reasons for doing that but that would have been ok were there town people on site to survey them – to try to just let them know what can and can’t be done. He said there was no one there that he saw after referencing the pictures.

Dr. Dimmick said and there was no review from the Town Engineering Department who was not too happy about some of the ways things were done because of various reasons.

*******TAPE MALFUNCTION: Minutes for this section of the meeting were recorded from the recording secretary’s notes*******

There was discussion about Commission members reviewing the pictures of the work that took place at the wetland crossing; there was heavy machinery operating in the pond at the location of the wetland crossing; there was stone placed under the stepping pads and the use of that stone and the manner which the concrete stepping pads were place were discussed.

The pictures handed out to Commission members clearly show activity taking place in the wetlands.

Ms. Fiordelisi asked if the Park and Recreation Department oversaw the project onsite.

Mr. Ceccolini said they do oversee the project. He said the Boy Scouts come in with an application that’s reviewed and then they are able to take off with the project.

Ms. Fiordelisi asked for safety reasons should the town oversee the project and shouldn’t there be a waiver of liability in place. She expressed her concern that projects are being done with no town oversight and safety factors are or could be an issue opening the town up for liability suits.

Ms. Fiordelisi stated in her opinion a safety liability waiver should be in place before any volunteer or volunteer group is able to work on a town project.

Mr. Ceccolini said that he is working with the town manager and the town attorney on a liability waiver.

Chairman de Jongh talked about there being issues with the stability and the materials used for the stepping pads used to for the wetland crossing.

Mr. Kurtz asked about the need for the Army Corp of Engineers involvement on this project.

Dr. Dimmick stated he was obligated by a code of ethics to inform the Army Corp of Engineering to let them know about the activity that has taken place at Mixville Pond regarding the wetland crossing.

Ms. Simone stated she also has the same obligation to notify the Army Corp of Engineers regarding the activity that has occurred.

Commission members asked Mr. Ceccolini about the whereabouts of the Boy Scout who undertook this wetland crossing project and if he was aware of the impact the project has had on the wetlands.

Mr. Ceccolini said he was not sure what college the scout was attending; he said he would notify him about the situation.

Commission members repeatedly expressed their concerns regarding the wetland crossing project from an wetlands, safety, lack of compliance from a procedural perspective; that both the Upper and Lower Ponds have been compromised; that native vegetation and wild life habitats were destroyed; the materials used for the project; that there was no town staff overseeing the project activities to ensure they were being done according to town regulations; and that safety measure to protect the wetlands and the volunteers were not in place.

The Commission also talked about the financial liability to have the area restored and that some members would like to see the cost to restore the damage come out of the Parks and Recreation Department budget.

Ms. Simone stated that at the October 16, 2012 IWWC meeting this application was declare not significant within the context of the Commission's regulations.

Ms. Simone read a memorandum from the Engineering Department dated November 6, 2012 into the record.

**"To: Inland Wetlands
From Engineering Department
Subject: Mixville Recreation Center Spillway Walkway**

This office has been asked to compile criteria which it might apply to a review of the referenced project if submitted. The following items are general in nature and, as they are speculative in nature, would be subject to amendment should an application be presented for review.

This office has visited the site and is familiar with the design criteria that went into creating this area years ago during a major dredging of both upper and lower ponds.

This office would typically be looking for the following information in an application associated with this project.

- 1. Detailed plans including a cross section of the spillway area between the two ponds.**
- 2. An Engineer's analysis of the flows both existing and proposed and how the project would affect water flowing through this area both in times of low and high flows.**
- 3. Size and nature of any proposed materials.**
- 4. Probability of scouring and how the proposal might affect the current conditions.**
- 5. The durability of materials used and their resistance to movement under flood conditions.**
- 6. How will the walkway be supported and how resistance to erosion would it be?"**

Chairman de Jongh reading the following motion into the record:

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 and during the course of a public meeting, 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 wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.**
- 3. 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.**
- 4. That the Cheshire Inland Wetlands and Watercourses Commission is aware of the potential public interest in aesthetics and access in and around watercourses, wetlands and upland review areas, and that the Cheshire Inland Wetlands and Watercourses Commission is charged by State law and local ordinance with assessing, monitoring and reviewing potential and real impacts to watercourses, wetlands and upland review areas from activities such as the installation of water crossings.**
- 5. That the Commission is not opposed to the merits of the installation of a water crossing at Mixville Recreation Area and that environmental regulation and recreation are not mutually exclusive, however the regulatory standards outlined in the Cheshire Inland Wetlands and Watercourses Regulations must be adhered to.**
- 6. That the construction of a walkway in between the Upper and Lower Ponds at Mixville Recreation Area was completed in September 2011 without the required review and approval of the Cheshire Inland Wetlands and Watercourses Commission, as**

prescribed in the Cheshire Inland Wetlands and Watercourses Regulations.

7. That on December 11, 2010 several IWWC members attending the site walk of Mixville Park in review of the pond dredging application from the Public Works Department, Commission Staff apprised the attending Commission members of the September 28, 2010 meeting with Commission Staff, Mr. Ceccolini and representatives from the Connecticut Forest and Park Association regarding the potential walkway to be installed between the Upper and Lower Ponds of Mixville Recreation Area.
8. That the Upper Pond and Lower Pond of Mixville Recreation Area are impoundments of the Ten Mile River.
9. That on October 6, 2010 the Parks and Recreation Commission discussed the trail expansion and water crossing. These minutes reflect discussion that a water crossing would require involvement from the Environmental Planner and Army Corp of Engineers.
10. That on December 7, 2011 the Parks and Recreation Commission discussed the construction of a walkway completed by an Eagle Scout in September 2011. The record does not indicate that this project was reviewed and approved by the Parks and Recreation Commission.
11. That on October 10, 2012 Mr. Ceccolini submitted an application for a permit-after-the-fact for the September 2011 installation of a water crossing.
12. That the application did not contain a site plan, an engineer report, construction narrative, and many other listed requirements under Appendix D of the Cheshire Inland Wetlands and Watercourses Commission.
13. That Mr. Ceccolini provided written testimony dated October 10, 2012 and oral testimony at the October 16, 2012 meeting that existing rip rap was adjusted and concrete blocks were placed on top of the existing gravel substrate.
14. That in his October 10, 2012 letter and October 16, 2012 Mr. Ceccolini failed to inform the Commission that stone and sand were deposited directly into the water body.

15. That photographs depicting the construction of the concrete walkway are posted on line and show the direct deposit of stone and sand in the water body, in addition to the use of heavy equipment within the watercourse, equipment including a dump truck, back hoe and front loader.
16. That on October 23, 2012 all IWWC members visited the site (two separate walks) and observed the concrete walkway, which is now shifting and the blocks are being undercut from the flow of water from the Upper Pond into the Lower Pond.
17. That the environmental report and site plan associated with permit #2010-029 indicates the sediment and siltation evident in the Upper Pond, which is at such level requiring the undertaking of dredging.
18. That the deposit of fill in a watercourse and construction of a walkway was not conducted in concert, support or authority of IWWC permits #2010-029 or #2012-005. The deposit of fill is in conflict with the above referenced permits. The deposit of fill in this waterbody is in opposition to the site remedies outlined in the permits granted for the removal of sediment in the Upper Pond (IWWC #2010-029 and #2012-005).
19. That Section 13.5 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to issue a corrective order for the removal of fill deposited in a watercourse.

Therefore, the Cheshire Inland Wetland and Watercourses Commission denies CIWWC Permit Application #2012-028, the permit application of Bob Ceccolini for wetland crossing at Mixville Recreation Area (no site plan submitted) for the following reasons and for other reasons clearly set forth in the record.

I. Environmental Impact

Pursuant to Section 10.2a of the Regulations, the Commission must consider the environmental impact of the proposed action on wetlands and watercourses.

Based on information provided in the Eagle Scout's photo documentation of the installation of the wetland crossing, the Commission finds that stone and sand were directly deposited into one of the largest wetland areas remaining in Cheshire, and which provides high wetland functions including wildlife habitat, flood

control, groundwater use and recharge potential, nutrient and sediment retention and removal and visual/aesthetic quality.

Based on the above information and other factors clearly set forth in the record, the Commission concludes that the applicant has not provided an adequate explanation of the project, materials used, recording of pre and post site conditions or justification for the direct deposit of fill in a watercourse and the potential effects of such both to the ecosystem as well as upstream and downstream habitats and properties. Based on information in the record, the Commission finds that the wetland provides high wetland functions. The Commission concludes that the conducted activities present an unnecessarily high risk of pollution from sedimentation, and further impoundment of a water body.

II. Incomplete Application

Pursuant to Section 7.1 -Application For A Permit To Conduct Regulated Activities of the Regulations, the Commission must consider the application requirements.

The Commission finds that the application is incomplete. The required site plan, engineered reports and construction and time sequence were not submitted to the Commission. Without this vital information the Commission could not determine the exact location of the proposed activities, nor the quantity and type of materials and equipment to be used and in what timeframe the proposed activity would take place.

III. Alternatives

Pursuant to Section 10.2b of the Regulations, the Commission must consider alternatives to the proposed action including a consideration of alternatives which might have a less detrimental effect and which could feasibly attain the basic objective of the proposed activities. This consideration must include, but not be limited to, the alternative of requiring actions of a different nature, which would provide similar benefits with different environmental impacts.

Based on information in the record, the Commission finds that the applicant has not presented adequate alternatives to the application submitted to the Commission and presented at the public meetings.

IV. Measures to Mitigate

Pursuant to Section 10.2g of the Regulations, the Commission must consider measures that would mitigate the impact of any aspect of the proposed activity. Such measures to include, but are not limited to, actions which would avoid direct or indirect impacts or lessen impacts to any wetlands and which could be feasibly carried out by the applicant and would protect the wetland's natural capacity to, at least, assimilate wastes, facilitate drainage, control pollution, and promote public health and safety on this property.

******RECORDING RESUMED******

Moved by Dr. Dimmick. He noted that under findings 11 the wording should be "Mr. Ceccolini submitted an application for a permit-after-the-fact."

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

Chairman de Jongh reading the following corrective action into the record (items # 1-19 were the same as the findings for the denial and were not re-read into the record).

**CORRECTIVE ORDER #CO-11-6-2012-B
MR. BOB CECCOLINI, DIRECTOR OF PARKS AND RECREATION
TOWN OF CHESHIRE
NOTCH ROAD
WATER CROSSING: UPPER AND LOWER PONDS**

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 13 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, review of town records, review of written information and oral testimony provided by the violator (Mr. Ceccolini) regarding the clearing of vegetation at Mixville Recreation Area and information received during the course of a public meeting, 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 wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.**
- 3. 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.**
- 4. That the Cheshire Inland Wetlands and Watercourses Commission is aware of the potential public interest in aesthetics and access in and around watercourses, wetlands and upland review areas, and that the Cheshire Inland Wetlands and Watercourses Commission is charged by State law and local ordinance with assessing, monitoring and reviewing potential and real impacts to watercourses, wetlands and upland review areas from activities such as the installation of water crossings.**
- 5. That the Commission is not opposed to the merits of the installation of a water crossing at Mixville Recreation Area and that environmental regulation and recreation are not mutually exclusive, however the regulatory standards outlined in the Cheshire Inland Wetlands and Watercourses Regulations must be adhered to.**
- 6. That the construction of a walkway in between the Upper and Lower Ponds at Mixville Recreation Area was completed in September 2011 without the required review and approval of the Cheshire Inland Wetlands and Watercourses Commission, as prescribed in the Cheshire Inland Wetlands and Watercourses Regulations.**
- 7. That on December 11, 2010 several IWWC members attending the site walk of Mixville Park in review of the pond dredging application from the Public Works Department. Commission Staff apprised the attending Commission members of the September 28, 2010 meeting with Commission Staff, Mr. Ceccolini and representatives from the Connecticut Forest and Park Association regarding the potential walkway to be installed between the Upper and Lower Ponds of Mixville Recreation Area.**

- 8. That the Upper Pond and Lower Pond of Mixville Recreation Area are impoundments of the Ten Mile River.**
- 9. That on October 6, 2010 the Parks and Recreation Commission discussed the trail expansion and water crossing. These minutes reflect discussion that a water crossing would require involvement from the Environmental Planner and Army Corp of Engineers.**
- 10. That on December 7, 2011 the Parks and Recreation Commission discussed the construction of a walkway completed by an Eagle Scout in September 2011. The record does not indicate that this project was reviewed and approved by the Parks and Recreation Commission.**
- 11. That on October 10, 2012 Mr. Ceccolini submitted an application for a permit-after-the-fact for the September 2011 installation of a water crossing.**
- 12. That the application did not contain a site plan, an engineer report, construction narrative, and many other listed requirements under Appendix D of the Cheshire Inland Wetlands and Watercourses Commission.**
- 13. That Mr. Ceccolini provided written testimony dated October 10, 2012 and oral testimony at the October 16, 2012 meeting that existing rip rap was adjusted and concrete blocks were placed on top of the existing gravel substrate.**
- 14. That in his October 10, 2012 letter and October 16, 2012 Mr. Ceccolini failed to inform the Commission that stone and sand were deposited directly into the water body.**
- 15. That photographs depicting the construction of the concrete walkway are posted on line and show the direct deposit of stone and sand in the water body, in addition to the use of heavy equipment within the watercourse, equipment including a dump truck, back hoe and front loader.**
- 16. That on October 23, 2012 all IWWC members visited the site (two separate walks) and observed the concrete walkway, which is now shifting and the blocks are being undercut from the flow of water from the Upper Pond into the Lower Pond.**
- 17. That the environmental report and site plan associated with permit #2010-029 indicates the sediment and siltation evident in**

the Upper Pond, which is at such level requiring the undertaking of dredging.

18. That the deposit of fill in a watercourse and construction of a walkway was not conducted in concert, support or authority of IWWC permits #2010-029 or #2012-005. The deposit of fill is in conflict with the above referenced permits. The deposit of fill in this waterbody is in opposition to the site remedies outlined in the permits granted for the removal of sediment in the Upper Pond (IWWC #2010-029 and #2012-005).

19. That Section 13.5 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to issue a corrective order for the removal of fill deposited in a watercourse.

“Therefore, the Cheshire Inland Wetlands and Watercourses Commission, under jurisdiction prescribed in Section 13.5 of the Cheshire Inland Wetlands and Watercourses Commission issues the following Corrective Order:

- 1. The concrete pads shall be removed and stored in a location outside of watercourses, wetlands and upland review areas by November 26, 2012.**
- 2. The deposited sand and stone material shall be removed using a method approved by the Engineering Department and Commission Staff and the area shall be restored to the grade which existed prior to the construction of the concrete walk way by November 26, 2012.**
- 3. The Director of Parks and Recreation shall verify in writing by November 28, 2012 to the Commission that the items 1 and 2 listed above are complete.**

Moved by Dr. Dimmick. Seconded by Mr. Norback.

Mr. Kurtz asked about item number two and if it was something they were required to do without any guidelines – regarding the deposited sand and stone materials being removed – does that mean go in there with a bucket and dig it out.

Ms. Dunne stated “or with heavy machinery”.

Ms. Simone said the Commission can specify how they want it done.

Mr. Kurtz commented that all of this is to be done by the end of this month and to make a statement about like number two – go in and get it done – he assumed there would a method in place.

Dr. Dimmick asked if Mr. Kurtz wanted to see something like using a method approve by staff or town engineers.

Chairman de Jongh said using town engineers.

Mr. Kurtz stated yes – that that’s important.

Chairman de Jongh said so the wording could read that the deposited sand and stone material shall be removed using methods approved by town engineering.

Dr. Dimmick said they (town engineering) are the only ones who can make sure it’s restored to grade.

Mr. Kurtz said as long as they don’t go ahead and let them do the same things that happened before.

Ms. Fiordelisi said she knew Mr. Ceccolini’s resources were limited however she would like to see somebody oversee it for safety and other reasons to make sure that they are doing it properly.

Mr. Ceccolini stated this work would be done by town staff – it will be done by the Parks crew.

Chairman de Jongh said so they are going to say the deposited sand and stone material shall be removed.

Ms. Simone said that she has it down that it will be restored to grade – yet the engineering department did indicate that we don’t have information that really shows the grade – they can reference other plans that were submitted.

Dr. Dimmick asked if permit 11-29 does that not show the grade.

Ms. Simone reviewed the plans and said it stops and does not show the grade at the location being discussed.

Dr. Dimmick said it has the standing elevation of the upper pond which has to be close to being at grade.

Ms. Simone said it does have some spot elevations.

Chairman de Jongh asked if there were any elevations for the lower pond and anywhere else – because if they know what the upper pond and what the lower pond was then they can pretty much figure it out.

Dr. Dimmick said he thought engineering might be able to figure that out.

Mr. Norback asked staff that they are requiring that this be done by November 26, 2012 – what is the urgency and would there be a better time of year to do it – why November 26th other than to have a specific date but is there any advantage to having it done pre-winter rather than post-winter.

Chairman de Jongh said he was thinking if they do it in the springtime the conditions are going to be worse than they already are– that’s his guess.

Ms. Simone stated the reason why she stated somewhat of an urgency is more from the perspective of – this work was done without the Commission or Engineering Department having the advantage over viewing any materials so they don’t know that the integrity of this area is and if something was to happen where it creates an impoundment up stream or downstream that it could be then – it could come back to the Commission to say ‘you knew there was a violation.’”

Dr. Dimmick said the small stone that was put in there – the longer you wait the longer the more of it is going to be put into the larger pond.

Mr. Norback said he just wanted to ask – he said he didn’t know if this was the ideal time to have it done.

Mr. Kurtz said he sort of agreed with Mr. Norback about the timing – he said he thought it’s a good time of year to do it. He said they need to come up with a method and get this done by the end of this month.

Chairman de Jongh suggested Mr. Ceccolini meet with town staff and the engineering department and come up with methods to get this done.

Ms. Simone said ok.

******TAPE MAULFUNCTION – no recording******

Wording of corrective order number two changed to read “The deposited sand and stone material shall be removed using a method approved by the Engineering Department and Commission Staff and the area shall be restored to the grade which existed prior to the construction of the concrete walk way by November 26, 2012.”

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

3.	Permit Application	APP	#2012-029
	CM J Willow, LLC	DOR	10/16/12
	Willow Street	FT	10/23/12
	Permit After the Fact, Retaining Wall, Fence	MAD	12/20/12
	Clearing & Plantings		

******TAPE MAULFUNCTION – no recording******

Jay Hershman of Baillie and Hershman, 290 Highland Avenue, Cheshire was present on behalf of the applicant and with him tonight was Chad Horning of 305 Maple Avenue.

The Commission reviewed the plans for the permit-after-the-fact activities, the proposed retaining wall, fence, clearing and plantings.

The issue with the retaining wall was addressed and the areas of the proposed clearing were reviewed during the October 23, 2012 site visit.

Attorney Hershman addressed the Commission. He explained that they came up with a plan with staff for the wall that was needed to prevent the house from falling back into the brook.

Mr. Kurtz expressed his concerns about the proposed retaining wall construction. He said he thought the wall was too ambitious an undertaking and said he rather see an simpler design proposed consisting of plantings.

Mr. Horning explained that the retaining wall proposed was designed to release water from behind it – the wall would be constructed using natural stone that had some flexibility to it.

*****RECORDING RESUMED*****

The recording resumed during discussion regarding the area of clearing.

Chairman de Jongh stated that the area they are talking about clearing is somewhere around the southeast corner of the property.

It was noted by several members and Mr. Horning that it was the northeast corner of the property.

Mr. Kurtz said the lot is very long and narrow and runs along the road.

Dr. Dimmick said if they wanted to clear the northwest side that would not too much of a problem.

Mr. Horning said if they noticed on the walk there was a dead tree with vines on it – that’s where they are clearing out the remaining of the vines. He said there are a lot more trees in that area then there are in the rest of the area and none of the trees are going to be cut unless there’re dead and there’s a dead one that actually has fallen and it’s actually fallen across the river - that is what’s going to get pulled out of the and finish cutting it back and then there was one other short dead one near the shed that they are going to cut down that’s probably 20’ high but it’s the same thing – it’s incased in vines and there’s no branches left on it – he said he did not know if anyone noticed that.

Mr. Horning stated for the record that he was not taking the stumps out there.

Mr. Norback said he was wondering where else he was clearing.

Mr. Horning said he just wanted to finish clearing the area because that’s what’s left – the fallen tree and the vines.

Ms. Fiordelisi said as she understood it – it’s not going to be a straight-up wall – it’s going to step back.

Dr. Dimmick said yes – somewhat so that will allow the weight of the wall to press against the slope and balance somewhat the fact the slope is going to try to push it.

Ms. Fiordelisi said right – so it won’t be pushed straight back in immediately.

Mr. Kurtz said in his opinion its major project now between what has done and what they want to do – he said now he thinks it’s a major project but that he didn’t think it required a public hearing.

Mr. Kurtz said he did not think the activity was significant.

Chairman de Jongh asked if the Commission was ready to declare significance on this application.

Motion: To declare the proposed activity not significant within the context of the Commission’s regulations.

Moved by Mr. Kurtz. Seconded by Ms. Dunne. Motion approved 5-0-1 with Chairman de Jongh abstaining due to the fact he was not present at the field trip.

Mr. Kurtz stated going further he would really like to see a buffer of some tall trees.

Mr. Kurtz said Mr. Horning mentioned grass and he asked him what kind of grass but he didn’t get an answer. He said in fact for the whole project he said he thought there was a lack of expert support – it’s “you said – I said – you can see it here – whatever” but he did ask Mr. Horning what kind of grass they were talking about because he was not familiar with a grass that would stay green or blue or stat there all winter.

Dr. Dimmick said he knew one that would stay there all winter but it would turn brown on you; you can put in Pampas Grass – the stuff gets 8’tall.

Mr. Horning explained that it would be a non-evasive grass that was cared at one of the local nurseries. He said if the Commission wanted a specific species he could provide one to staff.

Mr. Kurtz said native species was one thing – he was concerned about what it’s going to look like.

Dr. Dimmick said he wants to shade that canal.

Mr. Kurtz agreed and said that’s why he thinks the Arborvitaes are perfect.

Mr. Horning said the downside of the Arborvitaes is the deer can eat them and it they are too shaded.

Mr. Kurtz said Mr. Horning should do his homework on that because the Arborvitae the deer will not touch.

Mr. Horning said true but there's also a cost aspect to this. He said you cut down brush and they are trying to put down grass that is actually going to grow back higher than the brush that was there.

Dr. Dimmick said you could not see that canal from the road originally.

Mr. Kurtz said if the cost was such a problem you could have left the brush there.

Ms. Dunne said as in the past she thought Suzanne could probably help out with this as far as species of grass selected.

Mr. Horning stated that he would be gladly to submit any types of plantings before they are installed before to make sure they meet requirements of the Commission.

Mr. Kurtz stated they need to know that before they vote on anything – conceptually or otherwise.

Chairman de Jongh said they could have it laid out in the stipulations and then the recommendation that staff is putting together.

The Commission discussed in unison their thoughts about how to handle the planting selections.

Mr. Kurtz said personally he is the only one who works with these Pampas Grasses – but he did not think that's what they want to do.

Dr. Dimmick said Pampas Grass spreads very slowly but it's something that's almost impossible to get rid of once you put it in there.

Chairman de Jongh said what they might what to do since they have declared it not significant - they can have staff go ahead and draft a recommendation but as part of that they can have Suzanne work the applicant and between the two of them they can work out the types of ground cover or whatever it is they are going to put down there.

Mr. Kurtz said like he said he did not think the activity was significant but he thought they were owed some concrete explanation of what the proposal really is – like the kind of stone wall - like the cover that's going to put there. He said he is really not trying to make a big deal of it but that was what he first felt and now that the project has expanded he still feels that way and even though he would vote for it but I don't think such a project is necessary for that.

Attorney Hershman said they've expressed that they are happy to work with staff – a plan was submitted to staff and they've expressed that they are happy to work with staff on the type of grass that is planted. He said they've all discussed at the previous meetings it will be a native grass – they've told staff they are happy to follow any recommendation that staff may have regarding the exact species.

Chairman de Jongh said to Mr. Kurtz that they could outline that detail in the stipulations to his satisfaction.

Mr. Kurtz stated ok.

Dr. Dimmick said he could not think of a single native grass that would do that other than Phragmites which is invasive and Reed Carney grass that is has just now been declared invasive also.

Chairman de Jongh said why don't we have staff work with the applicant to craft the wording so that it satisfies the Commission's concerns and allows the applicant to get their approval.

Ms. Fiordelisi said or to install particular trees – right – is that not an option.

Attorney Hershman said the idea that this was previously grass so they were just merely trying to bring it back to the status that it was.

Mr. Kurtz said he disagreed with that that's why he said the Arbagrities because those piles of wood chips are not from grass.

Attorney Hershman said but you have to remember the house was vacant for he believed over a year – there was maintenance – the house was there before the canal.

The Commission again discussed in unison the plantings plant and pre and post clearing grasses on the site.

Chairman de Jongh said why doesn't the Commission allow staff to work with the applicant and come up with proper wording because

they are not going to solve the planting issue tonight. He said staff does have enough knowledge to work with the applicant to get something that's satisfactory for the concerns that were expressed tonight.

Chairman de Jongh said the Commission would allow staff to craft her wording and they could take care of this item on their agenda at their next meeting.

X. NEW BUSINESS

1. **Bond Release Request**
Re: IWWC App. # 2011-003, 15 Sherwood Lane, Single Family Dwelling

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission has considered the request for bond release by Justin Haley for sedimentation and erosion control bond stipulated as part of IWWC Permit #2011-003, and finds the following:

That staff has inspected the area and verifies that all areas are generally stabilized and all conditions of the permit grant have been generally met.

Therefore, the Commission grants the bond release request by Justin Haley for the sedimentation and erosion control bond as stipulated in permit #2011-003.

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

2. **Permit Application** **APP #2012-030**
A.M. Napolitano, LLC **DOR 11/06/12**
575 Mountain Road
Resubdivision **MAD 1/10/13**

Dennis McMorrow, PE, Berkshire Engineering & Surveying, LLC from Bantam, CT was present on behalf of the applicant.

Mr. McMorrow addressed the Commission.

The Commission reviewed the plans for the proposed resubdivision.

Mr. McMorrow said if the Commission looked at the vicinity map they are on 575 Mountain Road and they are on the west side of the road just north of Higgins Road.

Mr. McMorrow explained that A.M. Napolitano has an option on six acres on Mountain Road – 575 Mountain Road has an existing house and a garage, a pond and different sheds and out-buildings on it.

Mr. McMorrow said the wetlands were identified in the field – flags one to twenty six by George Mallet, he is a certified soil scientist from Goshen.

Mr. McMorrow stated the parcel is in an R-80 zone.

Mr. McMorrow said the purpose of this proposal is to do a three lot subdivision on the property – the existing house will be removed on lot two and they are looking to construct three new dwellings.

Mr. McMorrow said he highlighted the wetland lines in pale green - there is an existing pond all the way to the back of lot two; there's an existing pond – part of it's on lot one. He said one of the pond he thought was a very nice amenity – there's a walkway back to it and you can see the existing tree line on it and it was obviously done for that house and you can tell that they are trying to maintain that pond on lot two; he said they felt it was an amenity that should just be on the one property so they do have a very unique property line.

Mr. McMorrow said the orange line is the 50' away from the wetland the regulated activity on this would be the grading for lot one – the house itself they are proposing to stay out of the regulated area – they do have some clearing for that grading – they are showing the proposed tree lines on the map and for mitigation methods they are also proposing a conservation restriction area on that south end of lot one to permanently maintain the vegetation along the wetlands and in the pond area.

Mr. McMorrow said they had a meeting with staff – Tony and Andy Napolitano and myself and Suzanne indicated that the Commission might want non-encroachment tags so they have shown them on the existing tree line around this pond and that area and they've also shown it on our proposed conservation restriction area so when the homeowners purchased the property there will be a physical notice that they are not supposed to clear any farther into those areas.

Ms. Simone said she just wanted to clarify to the Commission – this application is for subdivision as well as site plan for the two properties that have wetlands on them so the depiction of the houses and the location of septic systems – that’s something that is actually being proposed.

Dr. Dimmick stated there are wetlands on all three properties.

Ms. Simone said yes – three properties.

Mr. McMorrow said there are site plans for all three properties.

Dr. Dimmick asked about the existing drainage channel – is there some kind of stream coming into this channel and coming out of one.

Mr. McMorrow said obviously the wetlands were in the wetlands – it’s a manmade pond – that’s just where they actually had put a concrete channel in so it kind of just follows the water in and then out.

Dr. Dimmick said it seems to him there was a stream that went continuously all the way through here at one time flowing more or less north to south but he did not see that detail on there.

Mr. McMorrow said they did not do a topographic survey in the wetlands – generally once they get to the wetlands lien they are obviously trying to stay out of the wetlands and this is a field topographic survey - they topoed up to the wetlands line – they have no intention of doing any development crossing in the wetlands so they just stopped the topo survey at the wetlands line.

Dr. Dimmick said partly he was asking because in terms the wetlands line across here – this is at least subject to passive recreation and now you’d be continuing at least the passive recreation into that area around the pond he presumed so the conditions that exist there would be of interest to us.

Mr. McMorrow stated yes.

Dr. Dimmick said his second question only because he looks at the maps – you have onsite septic – you had test pits – are the test pit results given on another sheets.

Mr. McMorrow stated they are provided in his project report that was submitted – he said it is beautiful sand and gravel.

Dr. Dimmick said not so beautiful that it perks too fast.

Mr. McMorrow said no – Chesprocott said was onsite and they performed their own perks. He said he does most of his work up in the north west corner in Litchfield and the health departments come out and witness the deep hole, leave and you run your own perks but you follow the protocol down here with Chesprocott – they ran the perks – we dig them and presoak them and Chesprocott actually runs them.

Mr. McMorrow said they have presented an application to Chesprocott and they need both your (the Commission's) approval and Chesprocott's approval to go before Planning and Zoning.

Dr. Dimmick said the existing well is to abandoned following state standards.

Mr. McMorrow stated yes and each lot will connect to the municipal water.

Mr. McMorrow said a drilled well you have to fill with bentonite and then concrete in the top.

Dr. Dimmick said there is city water going in there.

Chairman de Jongh asked staff is they had all the information.

Motion: To accept the application.

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

The Commission checked the signatures on the plans.

Mr. McMorrow said the cover page is signed and sealed; he said generally when they submit multiply copies to the Commissions they seal the front page; it has an index and legally that's acceptable.

Dr. Dimmick said the water table is at least 12' down where the house is so you will not have a wet basement.

Mr. McMorrow said no – that's beautiful gravel out there.

Dr. Dimmick said he did not think they'd find it significant but he'd like to see it to make sure they don't have surprises.

Chairman de Jongh said he didn't disagree.

A field trip was set for Saturday, November 10, 2012 at 8:00 a.m.

Chairman de Jongh said Mr. McMorrow presence is fine or if the Napolitanos want to come that's fine too.

Mr. McMorrow said he'll send Andy Napolitano to meet the Commission on Saturday.

Chairman de Jongh said so they'll defer the consideration of significance pending the results of the field trip.

XI. ADJOURNMENT

The meeting was adjourned at 9:25 p.m. by the consensus of Commission members present.

Respectfully submitted:

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