

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, SEPTEMBER 17, 2013
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS
AT 7:50 PM**

Immediately Following the Public Hearing

Members present: Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, Will McPhee, and Thom Norback.

Member Absent: Robert de Jongh.

Staff: Suzanne Simone.

Dr. Dimmick served as chairman pro-tem.

I. CALL TO ORDER

Dr. Dimmick called the regular meeting to order at the conclusion of the public hearing at 7:50 p.m.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited at the public hearing.

III. ROLL CALL

Dr. Dimmick stated the roll was called at the public hearing so no need to call the roll again.

Members present were Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, Will McPhee, and Thom Norback.

IV. DETERMINATION OF QUORUM

A quorum was determined at the public hearing.

V. APPROVAL OF MINUTES – Regular Meeting – September 3, 2013

Dr. Dimmick suggested the usual custom which is to postpone the approval of the minutes to the end of the meeting so they can go on with the rest of the business.

There was no objection to postpone the approval of the minutes to the end of the meeting.

At 8:17 p.m.

Motion: To approved the minutes of the September 3, 2013 regular meting with corrections.

Pg. 4 L29 “was” to “for”; pg. 6 L30 “of” to “or”, L32 “of” to “or”; pg. 8 L26 “Opaquely” to “Pasquale”; pg. 9 L23 “deferential” to “differential”; pg. 11 L35 “prevue” to “purview”; pg. 16 L9 delete “it”, L15 delete “di”; pg. 17 L 15 “diving” to “driving”, L22 “their” to “they’re”; pg. 23 L5 “umber” to “under”, L 18 “its” to “it”; pg. 26 L49 “comprise” to “compromise with”; pg. 27 L18 “comprise” to “compromise”; pg. 28 L46 delete “he would not”, L47 delete “its not –”; pg. 31 L 39 “three” to “there.”

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

VI. COMMUNICATIONS

1. CACIWC, The Habitat, Summer 2013 Newsletter (To be handed out at the meeting)

Ms. Simone said the first staff communication is The Habitat newsletter which was handed out at tonight’s meeting.

2. Bond Release Request for IWWC Application # 2011-025, 1392 Cheshire Street – Site Plan, House

This communication was reviewed. This item is under new business tonight.

3. Bond Release Request for IWWC Application # 2013-001, 1072 Coleman Road – Installation of Septic System

This communication was reviewed. This item is under new business tonight.

4. Notice of Violation & Cease and Desist Order for Unauthorized activities in the upland review area – Re: Permit # 2013-005, Subdivision, South Meriden Rd.

This communication was reviewed.

Ms. Simone stated this item is under show cause on the agenda tonight.

5. CT DEEP Training-Soils Training Workshop, 10/23/13 – 10/24/13

This communication was reviewed.

Ms. Simone said the soils training workshop is going to be held on October 23-24, 2013 so if any members are interested let staff know so they can be signed up.

6. Staff Communication Re: Notice of Violation/Cease & Desist Order Academy Rd & South Meriden Road - Permit #2013-005

This communication was reviewed.

7. Staff Communication Re: Town of Cheshire; Black Road Bridge reconstruction – Application # 2013-025

This communication was reviewed.

8. Other – CACIWC Annual Meeting

Dr. Dimmick said as long as you mention The Habitat, he is going to put in a plug for the CACIWC Annual meeting which will be Saturday, November 16, 2013 and you all are encouraged to attend the CACIWC Annual meeting and it's a good chance to hear some good talks, good workshops and contact some of your fellow wetlands commissioners and conservation commissioners from around the state.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspection reports.

2. Staff Inspections

Ms. Simone said there were staff inspections for last week – there were a few that were not mentioned at that meeting which were:

a. Judson Court

Ms. Simone informed the Commission there was a sedimentation and erosion control inspection conducted at Judson Court for a single family house which was found to be in keeping with the permit and they then received their building permit.

b. Cornerstone Church

Ms. Simone said there was a sedimentation and erosion control inspection conducted for Cornerstone Church on Waterbury Road – everything was according to approved plans.

c. Old Lane Road

Ms. Simone said the third item was a bond for sediment and erosion control for the construction of a single family house on Old Lane Road from Dr. Norwood – that was received.

d. Waterbury Road

Ms. Simone said and lastly for last meeting's inspections – on Waterbury Road there's a single family house next to the school – they had there sediment and erosion control inspection – everything was fine there.

Inspections for this meeting:

e. South Brooksvale Road

Ms. Simone explained there were two separate incidents on South Brooksvale Road involving Regional Water Authority.

Ms. Simone said they received a complaint that Regional Water Authority was doing some hydrant flushing and it was causing sediment to get in to the town system which was then discharging in to Willow Brook.

Ms. Simone explained the first occurrence she contacted Regional Water Authority – they went out to the site – they said that there were some issues that the state was cleaning out the catch basins on Avon Blvd and North Brooksvale and they believe that that coupled with the hydrant cleaning lead to stirring up of sediment and that got into the town system; and there wasn't much sediment that was visible at her inspection at that time.

Ms. Simone said the second occurrence there was a bigger issue. She explained apparently they had thought that a valve was in the off position and they let the water out and it was in the on position and it bored a hole in someone's driveways and then that sediment got into the town system and it pretty much blocked that up and it got into detention basin along side Willow Brook.

Ms. Simone said Regional Water Authority went out the next day with a vector truck and they cleaned all that sediment out.

Ms. Simone said there wasn't much evidence that much of the soil got in to Willow Brook – it seemed that the rip rap that's in place at the detention basin helped to hold it back.

Ms. Simone explained that she's having on going discussions with Regional Water Authority and their procedures and how they deal with emergencies.

f. Wallingford Road

Ms. Simone said the inspection for Bishops Court lot 6 for their erosion controls which was fine in keeping with the approved plans.

g. Crestwood Drive

Ms. Simone that there was a preconstruction meeting with the developer for the approved subdivision on Crestwood Drive.

h. Terrell Farms Road

Ms. Simone stated there was an inspection done for the wetland filling and driveway crossing for Terrell Farms Road – lot 6 which was found in keeping with the permit.

i. South Main Street

Ms. Simone stated there was a co inspection for the Jorasa building on South Main Street which was fine.

j. 69 Wallingford Road

Ms. Simone said there was a complaint on 69 Wallingford Road – there's a stream that goes across this person's property – they have concern about the volume and velocity of water that's been in

the stream that's undercutting their yard and when she went out to the site and walked upstream she did not see any smoking guns so to speak so she encouraged her to work with an engineer to try to help stabilize the problem or devise their own plans and come before the Wetlands Commission to help stabilize that area.

k. Eagle Scout Project at Bartlem Park

Ms. Simone explained there was an elevation of an Eagle Scout project at Bartlem Park to see if they would need to come before this Commission – they are basically redirecting surface drainage around the existing community garden plots and that was all found to be outside of the wetland area or even the upland review area and did not interfere with any streams.

l. Volunteer Event on September 28, 2013

Ms. Simone said and just to let Commission members know there is a volunteer event that's scheduled for September 28, 2013 which will involve volunteers working to clean up the stream channels at the DeDominicis property – that's all work that's going to be done by hand and she will be there.

Dr. Dimmick stated Suzanne you have been every busy.

Ms. Simone stated yes.

Dr. Dimmick said he got tired just listening to all of that – he thanked Ms. Simone very much (for her work).

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

Dr. Dimmick stated this item is kept on the agenda primarily until things have finally been settled there but they have quite some time left to be able to do everything they need to do.

SHOW CAUSE

1. **Unauthorized Activities in a Regulated Wetland Area** SC 9/17/13
Apex Developers, LLC
South Meriden Road

Dr. Dimmick said we now come to a show cause hearing – unauthorized activities in a regulated wetland area Apex Developers, LLC.

Dr. Dimmick asked if staff would like to give a quick run down before we go further.

Ms. Simone said we received a request to conduct an sedimentation and erosion control inspection on lot 6 which was permitted under the subdivision permit that the erosion controls and the wetland boundary markers needed to be installed on lot 6 and they did not need to come back for an individual permit for that lot.

Ms. Simone said when she went out to the site she observed that additional lots had been cleared and that silt fence was installed and it was installed in the same general location as shown – or it appears to be in the same location shown on the approved subdivision map but the subdivision did required that lots 1, 2, 4 and 5 come back for individual site plan review.

Ms. Simone said lot 1 is not a concern – she said she knew that they were cutting some of the brush to be able to do further septic testing and that lot is not cleared but lots 2, 4 and 5 were cleared.

Phil Bowman with Apex Developers at 200 Old Towne Road in Cheshire was present.

Mr. Bowman said he received a letter from Suzanne and it included the approved application language which he obviously should have been referenced prior to having things cleared out on site.

Mr. Bowman said we were aware that we had to go back for lots 2, 4 and 5 for a final site plan approval – we were under the impression that it was for the house and septic locations only and that the subdivision approval itself with the noted clearing limits that were on the original subdivision application – that it was fine to go ahead and clear using those as the restrictive area so what we did was prior to having anything cleared Milone and MacBroom went out and staked and flagged the clearing limits for the entire subdivision and then they installed all of the silt fence – again where it was shown on the approved over subdivision application prior to clearing anything and then things were cleared for the rear access – lot 6 was cleared and then lots 2, 4 and 5 were also cleared at the same time.

Mr. Bowman stated it's an oversight on our part.

Dr. Dimmick said just in case you didn't bother reading the wording of the permit you were given.

Mr. Bowman stated he didn't go back and reference – the approval was several months ago and obviously they should have gone back and referenced what exactly was approved in terms of language and like he said we knew we had to go back for individual site plan approval for lots 2, 4 and 5 – did not realize it also included prior to clearing those lots that they had to submit for the individual site plan approval.

Mr. Norback said he was just wondering – the clearing that was done – was it beyond what would have been allowed.

Dr. Dimmick said he gathered it was within what would have been allowed but the permit language very clearly said that staff was to check the installation of everything before clearing could proceed.

Mr. Bowman said that was only for lot 6 – the language says prior to doing anything on lots 2, 4 and 5 we have to go and submit an actual plot plan with our application.

Mr. Bowman stated they have not submitted – the only plot plan they've submitted thus far is for lot 6 which Suzanne did go out and inspect – that did not require an individual site plan approval.

Dr. Dimmick said it sounds like what they need is to get those individual site requests in front of us before we go further on this so things can go in the order that they were to.

Mr. Bowman said their intention going forward was to not submit any individual site plans yet for lots 2, 4 and 5 but they also don't plan on doing any further work on lots 2, 4 and 5.

Mr. Norback asked did staff note any areas of concern as far erosion or were they intrusive into any of the wetland area.

Ms. Simone stated no – it does appear that the silt fence that's installed is in keeping with what was shown for development purposes on the subdivision and she did not see any deficiencies in the silt fence.

Mr. Norback said so what staff more or less represents this as a procedural problem.

Ms. Simone said she did not identify any environmental problems out there or any erosion issues.

Ms. Dunne said however wasn't there something about some stumps – staff noticed some stumps that were located in a dumpster.

Ms. Simone stated yes – that dumpster has been taken off site.

Ms. Dunne asked if there were trees cleared as well.

Mr. Bowman stated there were trees cleared and there were stumps that were taken out of the ground and placed in stump dumpsters and then taken off site.

Dr. Dimmick said so at this stage he gathered that you aren't planning to do any more work in anyway until you get the individual site plan approval.

Mr. Bowman stated that's correct – on lots 2, 4 and 5 – they plan to do work on the rear access driveway in on lot 6 going forward.

Ms. Simone asked if it would help Commission members to see the approved site plan so they can get a better understanding of this area.

The Commission reviewed the site plan – staff pointed to specific areas on the plan - the cul-de-sac and the silt fences; wetlands and the upland review area was reviewed.

Dr. Dimmick asked if soil had been moved.

Mr. Bowman state no – the only top soil that was stripped was for the rear access with the cul-de-sac and then for lot 6 but lots 2, 4 and actually 3 as well – nothing else on site has been stripped of top soil.

Ms. Simone pointed out for Commission members the small amount of wetlands on lot 6 and an upland review area noting that the Commission had approved that this could be developed without needing an individual site plan approval provided that the erosion controls were put up and markers put in place which they are.

Dr. Dimmick said so its lots 2, 4 and 5 – 3 there's no question because it's not in contact with anything.

Ms. Simone stated that was right.

Dr. Dimmick said with lot 2 he believed that one of the reasons we asked for an individual site plan approval had to do with the possible position of the septic system – that might have to be readjusted.

Ms. Simone said she didn't recall that but she did recall that there was discussion about the amount of wetlands and upland review area on lot 2 that it basically takes up have of the lot.

Dr. Dimmick said well obviously what they've issued is a cease and desist – now did we say for the whole subdivision or just for those lots.

Ms. Simone said it did just specify just for lots 2, 4 and 5.

Ms. Dunne said it says for lots 1, 2, 4 and 5 require individual site plan review.

Mr. Bowman stated that's correct – we no longer own lot 1 – it was sold outright and that buyer is going to build there own house and come in with their own plan.

Dr. Dimmick stated you are going to have to transfer the permit – the permit does not go automatically with the sale unless the Commission agrees to transfer the permit.

Mr. Bowman said okay – we'll let them know that.

Ms. Simone said if she could just answer the question of a Commission member – that the cease and desist does specify in the second page “halting of all work on lots 2, 4 and 5” so it does not mention lot 1.

Dr. Dimmick asked if the disturbed soils been stabilized in that area.

Ms. Simone said there is silt fence surrounding lots 2, 4 and 5.

Dr. Dimmick asked if there were exposed soils subject to any erosion problems.

Ms Simone said there is exposed soil and she did not inspect every inch of that silt fence.

Dr. Dimmick said he guess the easier thing to do is that they already have the statement that they do not intend to go forward on those lots without getting individual approval – we can't exactly have them unclear it at this point.

Ms. Dunne said so there's nothing required that needs to be done as far as stabilization or anything.

Mr. Kurtz said that's what should be done – add silt fence so Suzanne can inspect that.

Dr. Dimmick said they should actually have two things – they should have two things – they should have Suzanne inspect it and we should have their own engineer go out and inspect and make sure that everything is stable and locate properly and it would be up to your (Mr. Bowman's) engineer to make sure its located properly because Suzanne doesn't have a surveyors license – she can eye ball it.

Mr. Bowman stated he could get a letter from Milone and MacBroom – he can have them go out and inspect it and have them write a letter to the Commission.

Dr. Dimmick said it would also help if you sent us a letter with your (Mr. Bowman's) understanding that you are not going to go forward on those lots without getting individual site plan approval because that then becomes kind of a self enforced cease and desist.

Dr. Dimmick said one of the things that disturbs me is you had another subdivision where you had a similar problem.

Mr. Bowman said he never had a cease and desist issue.

Dr. Dimmick said you had clearing – he said he was trying to remember.

Ms. Simone said on Allen Avenue when it was purchased from the previous owner – she said she did not have clarity as to whether it was already cleared when you purchased it.

Dr. Dimmick said but that was another case of a clearing before the individual site plan – he said okay that might not have been you that did it – but your name was involved.

Mr. Bowman said this is the first cease and desist that he's been apart of.

Ms. Simone said Apex took over – she said she didn't know if it's under the name Apex but they took over that subdivision so that's where that issue was on Allen Avenue.

Ms. Dunne said she just has a question - how does lot 1 work now that there's a new owner – do they have notice of this.

Dr. Dimmick said somebody needs to let them know that they need to have the wetland permit transferred to their name because a wetland permit is issued to a particular....

Ms. Simone said they just have subdivision – they have to come back.

Dr. Dimmick said so they have to come back to us anyway – all of that should be made clear to them.

Mr. Bowman said we'll make them aware – we'll make the current owner aware that they have to apply for their owner site plan approval – like Suzanne said the only activity they've done to date is some small clear to re-test for septic.

Dr. Dimmick said that site did have septic problems as he remembered – it would have to be a designed system because you have ground water in places within 18" of the surface.

Mr. Bowman stated that was correct.

Ms. Dunne asked Suzanne if she would also be looking at this –could you also take a look at lot 1 just to see what's going on with that lot.

Dr. Dimmick asked if they were satisfied to just let things sit as they are at this point.

Mr. Norback said it just seems like an honest mistake – it almost seems like to harm done – no foul.

Dr. Dimmick said Suzanne is acting within what she's required to do under the circumstances.

Mr. Bowman said he'd send the letter and we'll send one from Milone and MacBroom as well.

Ms. Simone said there needs to be a determination from the Commission on the show cause.

Ms. Simone the Commission needs to determine if staff was correct in finding a violation and whether the cease and desist then still stands or that it's been closed.

Motion: That the Commission has found that there was a violation of the permit on lots 2, 4 and 5 on this subdivision.

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

Ms. Simone asked does it stand or is it withdrawn – the cease and desist.

Motion: That the Commission finds that the cease and desist stands on lots 2, 4 and 5.

Moved by Mr. Kurtz. Seconded by Mr. Norback.

Mr. Kurtz said this is agreeable to and in fact the developer volunteered to do this work or maintaining it.

Motion approved unanimously by Commission members present.

IX. UNFINISHED BUSINESS

1. Permit Application	APP	#2013-025
Town of Cheshire	DOR	9/03/13
330 & 355 Blacks Road	PH	9/17/13
Bridge Replacement	MAD	10/22/13

Dr. Dimmick said they had a public hearing tonight on the application for Town of Cheshire Blacks Road Bridge Replacement; he asked if they were ready to turn this over to staff to prepare wording – he asked if there were any problems anyone see.

No issues were noted by Commission members.

Ms. Simone said as far the application goes we are still awaiting the authorization from Regional Water Authority for the town to work on their property.

Mr. Kurtz asked about the Army Corp too.

Ms. Simone said this is for private property owners – Regional Water Authority owns property and the town is awaiting their signature to authorize the work on their property- so there are three property owners – one owned by the town which was signed off one – second owned by Mr. Mitchell which was signed off and now the third Regional Water Authority so we're awaiting receipt of their signature to acknowledge that the town can conduct work on their property.

Dr. Dimmick said so then they can leave it to staff to wait until that signature comes in then proceed meanwhile you can probably prepare a trial draft on this.

X. NEW BUSINESS

1. **Bond Release Request for IWWC Application # 2011-025**
1392 Cheshire Street
Site Plan, House

Dr. Dimmick explained this bond release is entirely for the stabilization....

Tape change.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission has considered the request for bond release by Ed Barnett for House 2 Home for sedimentation and erosion control bond stipulated as part of CIWWC Permit #2011-025, 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 the applicant for the sedimentation and erosion control bond.

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

- 2. Bond Release Request for IWWC Application # 2013-001
1072 Coleman Road
Installation of Septic System**

Dr. Dimmick asked if the area has been stabilized.

Ms. Simone stated yes and the work is complete and the site is now stabilized.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission has considered the request for bond release by Dennis Boucher for sedimentation and erosion control bond stipulated as part of CIWWC Permit #2013-001, 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 the applicant for the sedimentation and erosion control bond.

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

XI. ADJOURNMENT

The meeting was adjourned at 8:18 p.m. by the consensus of Commission members present.

Respectfully submitted:

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

