

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JANUARY 7, 2014
TOWN HALL 84 SOUTH MAIN STREET
ROOM 207**

Immediately Following the Public Hearing at 7:54 pm

Members present: Robert de Jongh, Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, and Thom Norback.

Member absent: Will McPhee

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the regular meeting to order at 7:54 p.m.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge allegiance at the opening of the public hearing.

III. ROLL CALL

Ms. Dunne called the roll at the public hearing. Members in attendance at the public hearing were still in attendance for the regular meeting.

Members present were Robert de Jongh, Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, and Thom Norback.

IV. DETERMINATION OF QUORUM

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

**V. APPROVAL OF MINUTES – Public Hearing – December 3, 2013
Regular Meeting – December 3, 2013**

Chairman de Jongh suggested suspending the approval of the public hearing and regular minutes of December 3, 2013 to the end of the meeting.

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

At 9:11 p.m.

Motion: To accept the minutes from the December 3, 2013 public hearing regular meeting as amended.

PH: pg. 2 L45 “illegible” to “eligible”, L49 delete “wide”; pg. 3 L14 “poll” to “pole”; pg. 4 L7 “printed” to “imprinted”, L18 “your” to “you’re”; pg. 5 L26-27 Delete “subterranean” and “of”, L34 add “stream gauge”; pg. 6 L39 “Udifluvents” to “Udorthents”; pg. 7 L6 “table” to “line”, L31 “and” to “an”; pg. 8 L27 “Creamery” to “Country Club”; pg. 9 L16 delete “”did that.”

RM: pg. 4 L26 “as” to “has”; pg. 20 L33 “farcically” to “partially”; pg. 22 L12 “then” to “than”; pg. 23 L14 “were” to “said”, L23 “have” to “make”; pg. 24 L16 “elevated” to “estimated.”

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

V. ELECTION OF OFFICERS

The floor was opened for the nomination of the election of officers:

Mr. Kurtz nominated Robert de Jongh as chairman.

There were no other nominations for chairman made.

Dr. Dimmick motioned to close the nominations for chairman for the Inland Wetlands and Watercourse Commission.

Robert de Jongh would serve as chairman for 2014.

Chairman de Jongh nominated Charles Dimmick as vice-chairman for the Inland Wetlands and Watercourse Commission.

There were no other nominations for vice-chairman made.

Mr. Kurtz motioned to close the nominations for vice-chairman.

Charles Dimmick would serve as vice-chairman for 2014.

Chairman de Jongh nominated Kerrie Dunne as secretary for the Inland Wetlands and Watercourse Commission...

There were no other nominations for secretary made.

Dr. Dimmick motioned to close the nominations for secretary.

Kerrie Dunne would serve as secretary for 2014.

Dr. Dimmick moved to close the nominations. Mr. Kurtz seconded. The motion to close the nomination was approved unanimously by Commission members present.

VII. COMMUNICATIONS

1. Permit Transfer Request for IWWC Permit # 2012-027

This communication was reviewed.

2. Bond Release Request for IWWC Permit # 2011-016

This communication was reviewed.

3. Public Works Maintenance Notification Form: Honey Pot Brook Sewer Interceptor Vegetation Cutting

This communication was reviewed.

Ms. Simone explained the Public Works Department would like to remove some of the vegetation – they'd like to cut vegetation along Honey Pot Brook along the sewer interceptor to allow for access and to see if there's any issue with the manhole covers.

4. Staff Report: App #2013-028 Whispering Hollow Court

This communication was reviewed.

5. Staff Report: Notice of Violation/Cease and Desist: 108 Blacks Road

This communication was reviewed.

6. Staff Report: Notice of Violation/Cease and Desist: 680 South Main Street

This communication was reviewed.

7. 2014 Commission meeting Dates

Ms. Simone stated that Commission members received a copy of the 2014 meeting dates. The meeting dates were approved at a previous meeting.

VIII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

a. 1143 Summit Street

Ms. Simone stated there was a staff inspection of erosion controls for the permit that was issued for 1143 Summit Street.

b. Cornerstone Church on Waterbury Road

Ms. Simone stated there were continued inspections of Cornerstone Church on Waterbury Road.

Ms. Simone explained the erosion controls were found compromised after the rain we had on Sunday and Monday.

Ms. Simone said she contacted the Engineer and reminded them of stipulation number six that requires inspection as well as reports and they had indicated that would repair the erosion controls tomorrow and start getting those reports issued to the Commission.

c. 156 North Brooksvale Road

Ms. Simone stated there was an inspection of 156 North Brooksvale Road which is on the agenda tonight under enforcement actions.

d. 108 Blacks Road

Ms. Simone stated there was an inspection of 108 Blacks Road Road which is on the agenda tonight under enforcement actions.

e. 680 South Main Street

Ms. Simone stated there was an inspection of 680 South Main Street which is on the agenda tonight under enforcement actions.

f. Bond Release for 382 South Main Street

Ms. Simone stated this item was on the agenda (under new business).

IX. ENFORCEMENT ACTIONS

1. **Notice of Violation
CT Yankee Construction, LLC
Unauthorized Activities in the Upland Review Area
156 North Brooksvale Road
Assessor's Map 78, Lot 75**

Dr. Dimmick and Mr. Norback recused themselves from this portion of the meeting at 7:59 p.m.

Ryan McEvoy, PE of Milone and MacBroom was present on behalf of the applicant CT Yankee Construction, LLC.

Mr. McEvoy said under this portion of the agenda – he said obviously they're here for notice of violation and later on in the agenda we did submit individual site plan applications for both lots two and three and also request for determination.

Mr. McEvoy said he was not sure how exactly you want to handle this.

Chairman de Jongh said why you don't handle the violation first.

Ms. Simone said in the summary the approval for the subdivision was granted – the Building Department received a request for a building permit for lot two December 15, 2013 – staff was made aware of this request and upon reviewing the file it was found that lot two was created from the subdivision that was granted on October 16, 2012 and that approval stipulated that lots two and three needed to come back to the Commission for review and approval prior to clearing and construction.

Ms. Simone stated when staff went out to the site it was observed that lots two and three were cleared – that the electrical utility and utility box was installed on site – that there were erosion controls in the area of the upland review area – there was unsecured stock piling of soil within the upland review in the area of the review area.

Ms. Simone stated that the subdivision approval for lots two and three again just demonstrated the general location that a house could be located to meet the zoning requirements and also the 50' setback for wetlands but the Commission was not asked to review or approve those locations.

Ms. Simone said and the Commission then did not review or approve the establishment of clearing limits – the land clearings – soil

exposure – the soil stock piling or installation of the silt fences in those area.

Ms. Simone said so when she went out to the site she saw that most of that work was already done.

Ms. Simone stated so a notice of violation was issued – it was issued on December 13, 2013 – the regulations require that if a show cause hearing is to be held that notice has to be given in ten days of the meeting so this did not meet that time period so it was just a notice of violation was issued.

Chairman de Jongh said so he guessed the question that comes from this Commission is why was that activity conducted without permission.

Mr. McEvoy stated that he did not believe the builder was aware of the permit conditions.

Mr. McEvoy state that is why he applied for the building permit at the same site they cleared the work on the site – he said unfortunately the originally permittee – its actually being transferred tonight – again that down further on the agenda – it was a mistake by the builder.

Mr. McEvoy stated they did review the limits of clearing and the location of the stock piles and the location of the silt fence that's been installed and they are all outside the 50' upland review area.

Chairman de Jongh stated that he was going to express his personal frustration as a member of this Commission but repeatedly we are seeing builders come before this Commission pleading ignorance of the fact and mea culpa – what ever it might be and quite frankly – me personally I'm getting tired of it – I really am – I'm getting frustrated.

Chairman de Jongh stated he's been on this Commission 27 years and the same people come back time and time again with the same "oh I didn't know" and it puts the applicant's representative in a awkward position – but I'm tired of it and its hard for me not to allow my personal feelings to enter into how I ultimately vote because of that – I'm starting to get jaded – I'm just tired of it.

Chairman de Jongh said it's unfair to force this Commission to accept violations because the work has already been done and now you've come before us after the fact and say can we have an application to do what we shouldn't have done in the first place.

Ms. Simone asked if this was our only option.

Chairman de Jongh reply that's our only option –we don't have ability to impose fines.

Ms. Simone said not to impose fines – the Commission does have the ability to explore options of (revoking) permits once they're issued.

Ms. Dunne said that might be worth exploring.

Chairman de Jongh said it's just very tiring.

Chairman de Jongh stated again he felt bad for the applicant's representative because they are caught between a rock and a hard place.

Mr. McEvoy said for what its worth he understood Chairman de Jongh's frustration – we said he could assure him that after reviewing the site and the limits of clearing that were done – there were not any activities within the upland review and there is an application pending that to be received tonight if the Commission determines one is necessary and any correct actions required he was sure would be taken up by the applicant.

Mr. McEvoy said hopefully all he could say was they weren't aware that individual permits were required.

Chairman de Jongh said the only thing he can say is he finds it hard to believe that the builder does not receive the approval that he/she receives in the mail that gives them permission.

Ms. Simone stated section 13.4 of the Inland Wetland regulations states that the Commission finds that a permittee has not complied with the terms, conditions, terms, limitations or modifications set forth in the permit or has exceeded the scope of work as set forth in the application including application plans the Commission may suspend or revoke the permit; prior to revoking or suspending any permit the Commission shall issue a notice to the permittee personally or by certified mail return receipt requested setting forth the facts or conduct which warrants the intend of action; the Commission shall hold a hearing to provide the permittee an opportunity to show that he's in compliance with his permit; any and all requirements for retention of the permit; the permit shall be notified of the Commission decision to suspend, revoke or maintain

a permit be certified mail, return receipt requested within fifteen days of the date of its decision; the Commission shall publish notice of the suspension, revocation or maintained of the permit in the newspaper having general circulation in the town of Cheshire.

Mr. Kurtz asked if the permit is revoked then the applicant needs to reapply.

Ms. Simone explained then that would mean they would no longer have a valid wetlands permit and state statute requires that when land that has wetlands on it or upland review area and when they go through the Planning and Zoning process that they could not act on the Planning and Zoning permit unless they satisfied the Wetlands Commission first.

Mr. Kurtz said then they'd have to reapply and go through the process again.

Ms. Simone stated yes.

Mr. McEvoy said not to confuse things – he had a question – they have an approved subdivision application so it was referred to the P&Z Commission and the subdivision lots were created so he was just questioning where – how the original subdivision approval which wasn't an individual site plan can possible be revoked.

Ms. Simone said we can check with the town attorney on that if the Commission is interested but because it specially stipulated that lots needed to come back.

Mr. McEvoy stated he understood the concern.

Chairman de Jongh said he's guessing that for this particular application that would mean lots two and three would no longer have to be considered by this Commission without having a brand new application for those two lots and we'd have to address them on their merit so any work on those two lots would have to cease until we actually went through the entire process for those two lot.

Mr. McEvoy said which we are here for.

Mr. Kurtz asked if there was a cease and desist now.

Ms. Simone stated yes.

Mr. Kurtz said and they have to apply to get the second phase of the approval.

Ms. Simone stated yes which they have done – they have submitted applications for the Commission to consider tonight.

Mr. Kurtz said so they deal with a punishment as well.

Chairman de Jongh said there's really not a heck of a lot that we can do in this situation.

Chairman de Jongh said while the statute gives the Commission permission to revoke the permit as pointed out by the applicant what presents a problem the permit is much broader in scope in terms of the entire subdivision.

Ms. Simone said perhaps in the future it may not be the best way to away here given what you've represented as much as it's in violation – it doesn't sound like this might not be the one to revoke the permit. She stated she would like to have an answer on that.

Ms. Dunne stated this also requires a hearing – do you bring the person back with the permittee and have a hearing and consider - she said she didn't know if you could then decide after a hearing not to revoke the permit.

Ms. Simone said she thought that it does – it gives an opportunity to suspension, revocation or maintenance of a permit.

Ms. Dunne said exactly so you can just apply this 13.4 and call them back to have a hearing and not have to suspend – that would be the extreme.

Chairman de Jongh said he thought they certainly need to have legal clarification of what the perimeters of that are and again it may not be applicable in this situation but he thought it was necessary to get a public statement about the activity – he was not saying that the activity that was conducted may not have been permitted by this Commission – it probably would have but the fact that it was done without permits is the part that's upsetting.

Chairman de Jongh asked if there were any other comments by Commission members.

Mr. Kurtz asked if they had to vote on the notice that they were given on the cease and desist and the finding that a violation exists.

Ms. Simone stated no because this is not a show causing hearing because of that ten day time period requirement so its not the same as item two and three which the Commission will have to vote on whether her issuance was correct through its communications but that's not required on this.

Mr. Kurtz said would they have to postpone any consideration until the next meeting.

Chairman de Jongh said they have the applicant that's going to come before us later on under new business.

Ms. Simone said they did submit applications so the Commission can discuss findings.

Chairman de Jongh said they can discuss this more when then the application come before us.

Mr. Kurtz said they can discuss the timing as well.

Ms. Simone said but in the order they were requested to submit an application for today's meeting.

Chairman de Jongh said so they can take it up on the proper sequence on the agenda.

Mr. Kurtz said that find by him he was just trying to get a timeline for process on the issue.

Chairman de Jongh said we were going to move along further on - on the issue later on in our meeting tonight.

2. SHOW CAUSE HEARING

Mr. Nathaniel Florian

Woodruff Associates

Unauthorized Activities in the Upland Review Area/Inland Wetlands

108 Blacks Road

Assessor's Map 19, Lots 43 & 44

Chairman de Jongh asked that the record show that both Dr. Dimmick and Mr. Norback rejoined the Commission at 8:12 p.m.

Ms. Simone gave a summary of the notice of violation and cease and desist order – she stated the notice of violation and cease and desist order was issued for property at 108 Blacks Road.

Ms. Simone stated our office was notified by an abutting property owner regarding the stock piling of mulch and other materials.

Ms. Simone stated she, the Zoning Enforcement officer, the Fire Chief and John Aceto of CT DEP Hazardous Materials Division went out to the site and that where it was observed that there was a large amount of soil that was being stocked piled and looking at the town soils map it had indicated that they storing of the soil and the mulch were both located in inland wetland soils – there was also the presence of unmarked chemical containers that along a fine intermittent stream channel.

Ms. Simone said and looking trough the history of this property – this property was already in existence prior to the wetlands commission coming into effect in 1974 so there are no site plans for this property so there hasn't been any soil scientist report issued and the information about that stream channel is very limited in town hall but going out to the site it is obvious that the water does run – it was running yesterday – it was more than a foot high and it does continue more to a large flat wetland area.

Ms. Simone said there were pictures that were submitted to the Commission and you can see the size of the soil pile and the location of the mulch piles.

Ms. Simone said both the business owner and the property owner asked to attend the meeting tonight.

Tape change:

Stefan Kijewski, general manager and one of the owners of Pine Ridge Enterprises was present.

Mr. Kijewski addressed the Commission.

Mr. Kijewski explained they moved their company to Cheshire approximately just over a year ago – we do landscape design construction – we stock pile materials for our operations in the spring time.

Mr. Kijewski explained they are talking with David Kehoss – its been brought to our attention that we need move to stock piling or have special permits – things that they discussed prior to the holidays and that after the holidays they'd get together – and Mr. Kijewski spoke to him (David Kehoss) today with a letter that he'd come to this

Commission which he (David Kehoss) said he has nothing to do with as far what happens here.

Mr. Kijewski said basically we're going to sit down – go through all the property things and whatever it is we need to do.

Mr. Kijewski said we stock pile materials we use in the spring – he'd stop stock piling materials anywhere.

Mr. Kijewski explained that his company is an organic company – we manufacture top soils and mulches and its all green – and I also brought a copy because what was in the container – he explained that we brought a copy of the MSDS sheet – its Mat Chloride – they call it Magic O – it's a biodegradable deicer that's used on roadways and highways – the state uses salt brine but this is actually something that's a byproduct of () and we have 6' left below the spout – he explained that the can used to get tipped up and drained out but its not hazardous; he provide the Commission with the MSDS sheet.

Mr. Kijewski said otherwise they use the container for water.

Chairman de Jongh said he thought the critical issue for this Commission was the stuff being stock piled without kind of controls around to prevent any disbursement of those into wetland, etc – a – the location being on wetland soils number one – its certain a concern that we have and b – being able to contain those things rather than just loosely putting them there – he said at Stone Works in Cheshire they have containers where these things contained in permanent structures – he suggested they do something like that but at least that's an attempt to keep them in a particular place so they're not going to spread out and cause any undue damage – he thinks that's probably one of the concerns.

Dr. Dimmick reported (after reviewing the MSDS sheet) that this material is fairly harmless; he said if this is what's in the barrels this is from an environmental standpoint fairly harmless.

Chairman de Jongh said that's probably one of the concerns was the containment.

Dr. Dimmick commented that we had no idea what was there.

Mr. Kijewski said on some work that they do they put mulch berms and filter socks in place of silt fencings – most of – except for the stock piling and top soil that came in rather quickly to beat this crazy

weather we've been having – he said he did see a need – he walked all around the property today - to put a containment around it whatever you ask us to do or whatever – a silt fencing or filter sock; haybales in certain areas.

Mr. Kijewski said the water on that property kind of goes – depending on where we put the material is where it goes – topsoil we put material up from the water – same thing with colored mulch otherwise the water will run by and there was a complaint last year about runoff from our dyed mulches – which the mulch is not a paint it's an iron oxide and charcoal base - its as natural as can be but it has a tendency of letting the water turn a little red so we just diverted the pile away from where the water was moving.

Dr. Dimmick said he thought a more serious problem is if this material has been stock piled on an area which is wetland soils - which is more serious.

Mr. Kijewski said the area was a truck part – truck storage area – all underneath it is all millings and that's where the material sites on – it wasn't a virgin area or no vegetation was there what so ever.

Chairman de Jongh stated this was in existence prior to the Wetland Commission.

Ms. Simone said the property was this use was not.

Chairman de Jongh said what he is saying is that we don't have any kind of a starting point.

Ms. Simone stated we just have the soils map that indicates that the bordered boundary on the property is identified as a wetland soils and much of the storage area falls within that area.

Mr. Norback said then if indeed it's on millings that existed prior to his purchase of the property then it's hard to hold him to task that it's on top of wetland soils.

Dr. Dimmick said except of you own the property you own the violation.

Mr. Kijewski stated he was not the property owner.

Mr. Norback said what he's saying if those millings were there you wouldn't have had any way of knowing about the wetland soil – so if

it's on top of millings then indeed the stored material isn't risking the wetlands soils it's the millings – the first layer right.

Mr. Norback asked if we should be more concerned that those materials get removed that is probably our biggest concern then we don't scrap off and comprise the existing wetlands soils.

Ms. Simone said even more than that is the relocation of soil and mulch and storm events such as yesterday which based on where they're stored on the property and that they're not secure.

Mr. Norback said so there not secured and maybe going towards a wetland area.

Ms. Simone stated yes.

Chairman de Jongh said that's what he was getting at in really is that there's no physical containment of that material.

Mr. Norback said then he understood – then we are holding him to task or at least asking the question about it was stored on wetland soils – it's just difficult to say the chicken or the egg on that one.

Chairman de Jongh said he was looking at the picture and if it's any indication of size of the stock pile of the soil – there's an awful lot of top soil (based on the photos).

Ms. Simone asked where the soils coming from.

Mr. Kijewski said they took it from a lot in Southington.

Ms. Simone asked if it was an agricultural lot used as an orchard previously.

Mr. Kijewski stated yes – yes it was.

Ms. Simone said so is the soil possible contaminated.

Mr. Kijewski stated it's not contaminated – they tested – they have the paperwork; he said they obviously they are using it to grow grass.

Dr. Dimmick said a lot of those orchard soils have both arsenic and copper.

Mr. Kijewski said right – they did a soil test – they have a five page thing that they gave us – it wasn't anything like a DEP issue – it was well below the arsenic levels.

Mr. Kijewski stated he provide the Commission with that (the test results) – it was done by a soil scientist.

Dr. Dimmick said he was wondering if what they need to do is regularize this situation – it's a situation that if we were have a permit application and permit after the fact the storage of materials in what is wetland soils but is not comprised with proper controls on it – then we would no longer have the current situation.

Ms. Simone said yes and they will be going before Planning and Zoning because this use does require a permit from the Planning and Zoning Commission.

Mr. Norback said so we are looking for the plan for future storage.

Ms. Simone stated for how they'll manage the site.

Dr. Dimmick said we can permit after the fact – he said he knows the property just well enough from eight years ago that yes there wasn't much in the way of viable wetlands – there was wetland soil visible eight years ago but it wasn't viable because of the trucks – he can verify staff's comments that there were wetland soils there.

Chairman de Jongh said what there getting at is the need to work with staff to put together an application so that we can help you create whatever containments need to be created so the problem is “contained” and provide the evidence so we are able to back this up and again part of the problem this Commission was not in effect when the property was created – we don't have a starting point if you will on the property.

Mr. Kijewski said that's why we just strictly went by the water line and the little stream in the back is really a little stream.

Dr. Dimmick said the little stream came in front of us before on another project because it's adjacent to north of it – we gave a permit for some use.

Ms. Simone stated yes – it was the expansion of VIP.

Chairman de Jongh said so what he'd suggest is if Mr. Kijewski could work with staff – we'll keep this item open and you can work

with staff to create the necessary information for the application and kind of move this forward.

Ms. Dunne said as far as transportation and trucks and where they're moving and unloading – she didn't know if that's a concern.

Dr. Dimmick said there were three other businesses on that property besides yours.

Mr. Kijewski said there's more than that – he said there's a lot more people than that – they were one of the larger tenants.

Dr. Dimmick said so various tenants have driven in various parts of that – he thought some of that area is almost used as communal parking.

Mr. Kijewski explained they took the back area for the reason that it was completely out of the way – especially when you're grinding mulch or screening top soil its muffled in the back so that was our intention.

Dr. Dimmick said there's been in the past a truck repair station.

Mr. Kijewski said he's still there.

Dr. Dimmick said there was a person who ran a paving business who paved driveways.

Mr. Kijewski said they were aware that other things were going on – other things being stock piled there – granted we brought in a lot more but our intention obviously is to move it in the spring – he said they also have blower trucks so they blow in mulches in the tri-state area mostly Connecticut – the mulch material and soil plants have to have a certain QC to them because they just can't – he said they may be working in New York and we but something to limit transportation costs and fuel but 99% of the time we make it ourselves because the piece of equipment we run this material through are upwards of almost a half a million dollars so if some decides to put a lot of rocks in it – it can cost us a lot of money so its better for them to manufacture the stuff ourselves then outsource it.

Chairman de Jongh recommended that they keep this item open on the agenda and encourage you to work with staff and we can take this up at our next meeting on Jan 21.

Ms. Simone noted that the Commission needs to act on the violation. She informed Mr. Kijewski that she'd be in contact – she explained all the departments will sit down with him and go through what the inland wetlands application entails and planning and zoning and the fire department.

Motion: That the staff's reason for a show causing was valid.

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

3. **SHOW CAUSE HEARING**

John Ricci

Unauthorized Activities in the Upland Review Area/Inland Wetlands
680 South Main Street
Assessor's Map 71, Lot 93

Mr. Brzozowski recused himself at 8:29 p.m.

Mr. Ricci of 680 South Main Street was present.

Chairman de Jongh read into the record staff finding dated January 2, 2014: "On December 17, 2013 Staff visited the site and observed a shed in the area shown on the approved IWWC permit #2004-032 as the location of a flared end pipe with rip rap and plunge pool (attached). According to the town's 2005 aerial photograph (attached) no structures were located in this area. The 2013 aerial photograph (attached) shows the location of the shed within, what the applicant's soil scientist indicated in 2004 as an intermittent stream. The shed was originally installed in the area of the intermittent stream without the required review and approval of the IWWC. The property owner indicated to Staff that the storm water outlet structure was relocated, which occurred also without the required review and approval of the IWWC. This matter is brought to the IWWC as a Show Cause Hearing because the notice was sent within 10 days of the meeting, which is the required timeframe for scheduling a Show Cause Hearing."

Mr. Ricci showed on the plan the location of the shed he had built several years ago – he said he used to own property over here (shown on the plan) and they dismantled the shed and brought it over here (a location he pointed to on the plan) and set it back up here. He said it has construction materials in it.

Mr. Ricci said there a body of water here (a location he pointed to on the plan) – he said it is primarily just with this parking lot and this building.

Mr. Ricci said Ken Stevens did the storm water management and there wasn't any wetlands information other than - as far soils and what not and storm water management.

Mr. Ricci said he owns the property and other than this retention pool that's here (he pointed to a location on the plan) there's no stream that passes – perhaps before he owned the property there was.

Mr. Ricci said as we all know this is Mr. Chapman's property and he has obviously filled - the front building of Mr. Chapman's was a walk out once upon a time – the building is still and after he brought in all this fill obviously this property is several feet above grade of this property here (he again pointed to a location on the plan).

Mr. Ricci explained when he purchased this property Milone and MacBroom shot all of these bench marks and elevations which indicated that Mr. Chapman's property was 3' below this (?) line plus or minus but currently Mr. Chapman's property is much higher in elevation so there's really no chance of any water traveling through this shed area.

Dr. Dimmick said he was sure you (Mr. Ricci) was answering the question because this property that currently has the shed was subject of a wetlands permit and that wetlands permit did not allow for that shed – that wetlands permit showed an outlet discharge all of which is now missing.

Dr. Dimmick stated you've go the shed and you no longer have the outlet and all of this change was made without coming back and asking for a revision of the original wetlands permit which was granted for construction.

Dr. Dimmick stated once a property comes in front this Commission and has been granted a wetlands permit then any further changes of the regulated area has to come in front of us (the Commission) and you (Mr. Ricci) haven't shown any reason – this is a show cause hearing – any reason you did not come before us to make these changes.

Dr. Dimmick stated that what happened to the property adjacent to you (Mr. Ricci) may be of interest to use but it's irreverent to this particular case.

Mr. Ricci said okay.

Chairman de Jongh said one of the items that's on the notice of show cause hearing is the approved site plan associated with permit 2004-032 identifies the wetland area and states that the finding number four that the area is subject to intermittent flooding and can be characterized as an intermittent watercourses.

Chairman de Jongh said he though two things changed from the application that was before us and approved in 2004 and one was the location of the shed that wasn't there and the actual outlet changed.

Chairman de Jongh said he thought as staff found when she went out on the site the maps that are on file and the current site plan conditions are totally different so something changed between what was approved and what ultimately is on site and those changes took place without getting permission from this Commission.

Chairman de Jongh said and that's the big question that's hanging over us tonight as to why this was done.

Chairman de Jongh stated you (Mr. Ricci) have worked in this town long enough to know that we always try to work with the developers to try to give them as much as you can or as much as we can while still trying to be true to our charter and that is to make sure that the integrity of the wetlands and watercourses in this town remain for generations.

Chairman de Jongh said so we are trying to strike a balance between what you as a builder and a property owner can do and we as a Commission charged with as stewards and this smacks in the face of what we are trying to do.

Chairman de Jongh said and as he said you've (Mr. Ricci) have worked in this town long enough to know what we're able to do and how fair we try to be but as he mentioned earlier on my patience really starts to run thin when we continue to have situations that crop up that are totally different – its impossible to say that you didn't know what you were permitted to do because you've been doing this long enough.

Mr. Norback said he had a question – where the shed is now – and he guessed staff went out there and there's no evidence of the outlet there anymore.

Chairman de Jongh stated it's been moved from what was permitted.

Mr. Norback said are you saying moved or removed.

Chairman de Jongh said it's been relocated.

Mr. Norback and it was an outlet for stormwater management or for surface water.

Ms. Simone stated for stormwater management and what was approved by the Wetlands Commission as well as the Planning and Zoning Commission.

Mr. Norback said so is that outlet from catch basins within the developed property.

Ms. Simone stated yes.

Mr. Norback asked was it out letting there as a matter of convenience or as a matter sensitivity to any wetlands in the area.

Chairman de Jongh said it doesn't matter.

Ms. Simone said she didn't read through the minutes of the proceedings to get that fine point on it – I just looked at what was approved and then what I would expect to see in the field and in speaking to Mr. Ricci.

Mr. Norback said he was asking that because if we are going to be requesting some kind remediation then the permittee is going to need to get an application for remediation and I guess I'm trying to lead him down that path to maybe talk with staff about now remediation now that he's explained or at least admitted fault now we have to move on I would think to remediation now so how does he do that.

Chairman de Jongh said part of the problem that we have is that the maps that we had come before us as the Commission and the maps that came before Planning and Zoning show what we were looking at in 2004 – the big question that hangs over us right now is where is that outlet now –

Mr. Norback said that's what he was asking and has it been compromised by the building there.

Ms. Simone explained it does seem as though in conversation with Mr. Ricci that he did indicate that the plan was changed when the building was constructed. She said from what she could tell that never came back before the Wetlands Commission or Planning and

Zoning for review or drainage calculations or have the engineering department weigh in on it – so it does appear as though it was modified but it was not documented with the town.

Dr. Dimmick said historically before the development this was a drainage swale – water used to collect there – I think this is one of the places that used to have a skating pond if he remembered.

Ms. Simone explained that their own soil scientist's did indicate that it's an intermittent watercourse.

Mr. Ricci said there was a skating rink in the back- it was a plastic thing set up.

Mr. Ricci said this plan that we have from Milone and MacBroom is dated December 2, 2004 and this is exactly what we built as far as pavement and as far as – this is where the plunge pools are as shown on this Milone and MacBroom drawing.

Ms. Simone stated that the wetlands approval was granted on October 5, 2004 – Planning and Zoning was approved on October 25, 2004 so his date of December is different then what's shown in both Wetlands and Planning and Zoning files so the December date differs from those plans.

Mr. Norback said he guessed what he was asking is so how do we proceed knowing that there was a violation and then how do we or he (Mr. Ricci) or collectively proceed to either to identify the actual degree of compromise and how to effectively fit it or determine if it actually needs remediation.

Ms. Simone said well the Commission could ask that question of the permittee to file an application and guide the applicant as to what's to be contained in the application such as having their engineer go out to the site – provide detailed information as to what's out there – how that differs from what was approved – it satisfies the net zero increase and all the other town policies so that's something that this Commission can entertain.

Chairman de Jongh said its not uncommon for this Commission to take a look at modifications and approve modifications and there ware reasons for making changes on plans and we all know that – the problem before us is that the changes to the plans were made without coming before us so he thinks they have to go back to square one – my recommendation is we go back to square one and say okay this is what we currently have onsite – we now have to

compare that to what we looked at back in 2004 and find out whether or not these a negative or positive to what the changes on site are now – did we effectively achieve what the goal was in 2004 when we looked at this by what was ultimately done on site – if it hasn't materially changed stuff then we have to look at it from that context but if all of a sudden there's a greater impact for what ever reason there's a bigger problem.

Mr. Norback state exactly but moving along I would just think that the violation should move to the next level of identification of that from the impact of that violation and allow the permittee to make an application and there's no sense of a cease and desist because what would he (Mr. Ricci) be ceasing and desisting.

Ms. Simone said well he (Mr. Ricci) is adding on to the shed.

Mr. Norback said ah – so here in lies the problem.

Ms. Simone said so we were notified the shed was existing years prior to staff being aware of it but then the Building Department became aware that the shed was being added on to and also the notice of violation and cease and desist order is what was issued per the regulations in order to meet that ten day period.

Mr. Norback said he didn't understand the shed was being added on to.

Dr. Dimmick asked if that plan there shows the infiltrator that supposed to be in the middle of that basin.

Mr. Ricci said it shows the catch basin here (he pointed to a location on the plan) and the plunge pool here – exactly where it is.

Dr. Dimmick said in the middle of the basin there's supposed to be an infiltrator.

Mr. Ricci said right now it just shows a pipe – and an outlet to the plunge pool.

Chairman de Jongh said he thinks what has to happen is the situation we have before us John is that you are going to have to engage your – again my recommendation and I can't speak for the rest of the Commission members but certainly the idea of expanding that shed I would not permit it as a member of this Commission because its in violation right now because of its location so I would not permit it – that's one issue – the other issue is that I think what

we need to do now is you (Mr. Ricci) need to engage the professional whether its Milone and MacBroom and I know that's the firm you worked with in the past so preassembly it's representatives of Milone and MacBroom to really identified the current site conditions comparing it to what we looked at in 2004 and find out whether or not the current site conditions do meet the requirements that we looked at in 2004 – the presentation that you were making in 2004 to find out whether the run off – off site is going to be consistent with what you presented to us 9 years ago.

Chairman de Jongh said so I think that's what we're going to do – you (Mr. Ricci) are going to have to go back and submit an application as if you were staring from scratch but going forward no activity can take place on this until we have that application and take a look on the onsite stuff

Chairman de Jongh said again it's a shame thee things happen and I'm not sure why it changed on site and not coming back to this Commission for permission – its not uncommon for us to grant – permission to make changes if the changes are warranted and I can't stress enough the procedures are there for a reason – its to protect us as well to protect you – its not in any way to prevent you from carrying on your business and we keep going around the same carousal and it gets a little bit frustrating from this side of the table.

Chairman de Jongh said I'd encourage you (Mr. Ricci) to work with staff to get this done and bring it up again at our next meeting.

Mr. Kurtz asked if the map was Milone and MacBroom.

Mr. Ricci stated yes.

Mr. Kurtz asked if they did the original drawing that were approved some two months earlier than this one.

Chairman de Jongh said he would assume so.

Ms. Simone said yes – they are listed here.

Mr. Kurtz said he thought that was a question right there – why'd they get approval (of the map) – they (Milone and MacBroom) knew there was an approval.

Mr. Kurtz said that's a question worth asking.

Chairman de Jongh said we can certainly question the representative from Milone and MacBroom as to why we have separate maps and why they aren't consistent – that's certainly an issue.

Motion: That the Commission has declared that they have been able to verify the findings of staff to cause the show cause hearing and therefore the show cause hearing be closed.

Moved by Dr. Dimmick. Ms. Dunne seconded. Motion approved 5-01 with Mr. Brzozowski abstaining from the vote due to his recusal from this portion of the meeting.

Mr. Brzozowski returned to the meeting at 8:46 p.m.

X. UNFINISHED BUSINESS

1.	Permit Application	APP	#2013-028
	John Romanik, Jr.	DOR	10/15/13
	Whispering Hollow Court	PH	11/07/13
	Site Plan - House	PH	11/19/13
		PH	12/03/13
		SW	10/19/13
		MAD	1/07/14

Chairman de Jongh said this item has been continued.

2.	Permit Application	APP	#2013-031
	Town of Cheshire	DOR	11/07/13
	Creamery Road	PH	12/03/13
	Bridge Replacement	MAD	1/07/14

Motion:

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

1. That the applicant is seeking a permit to reconstruct the Creamery Road Bridge over Honeypot Brook.
2. That the two private property owners abutting the culvert have signed the applications.

- 3. That the proposed culvert will increase the hydraulic opening from 38 to 90 square feet.**
- 4. That the CT DEEP Bureau of Natural Resources Wildlife Division has identified two species of concern and has recommended protection measures, which the applicant has stated they will strictly adhere to.**
- 5. That the Cheshire Inland Wetlands and Watercourses Commission held a public hearing on this application on December 3, 2013.**
- 6. That the activities will not have a significant adverse effect on adjacent wetlands or watercourses.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2013-031, the permit application of Town of Cheshire Department of Public Works for site plan approval as presented and shown on the plans entitled:

**"Town of Cheshire, Connecticut
Plan for Replacement of Creamery Brook over Honeypot Brook
Roadway Construction
Dated: October 28, 2013
Scale Varies on 13 Sheets
Prepared By: WMC Consulting Engineers, Newington, CT."**

And

**"Application For Permit to Conduct Regulated Activity
For the Replacement of Creamery Road Bridge over Honeypot
Brook
Cheshire, CT.
Dated: November 2013
Contains Multiple Sections
Prepared By: WMC Consulting Engineers, Newington, CT."**

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the "Conditions") each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands**

and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.

2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.

3. Prior to any clearing, earthmoving and/or construction activities, the applicant shall accurately stake and flag clearing limits and properly install erosion controls.

4. All recommendations from the Connecticut Department of Energy and Environmental Protection regarding protective measure for Natural Diversity Database species shall be stringently adhered to.

5. Throughout the course of conducting construction activities, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for 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.

6. This permit grant shall expire on January 7, 2019.

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

3.	Permit Application	APP	#2013-036
	Krista Ostuno	DOR	11/07/13
	Sindall Road		
	Site Plan-House	MAD	1/11/14

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 single family house on an undeveloped lot on Sindall Road.
2. That the applicant's site plan locates wetlands in the north and west of the property and that the septic system will not encroach upon the upland review area.
3. That Construction Sequence #7 identifies that "the proposed driveway construction shall be performed moving north (upslope) to south (downslope) toward Sindall Road. A highpoint adjacent to Sindall Road shall be maintained to contain all runoff within the areas of excavation".
4. That the site plan revised on December 26, 2013 specifies the erosion control measure at the intersection of the driveway and Sindall Road: "Temporary sediment trap – 3' deep, exit onto Sindall Road and removal of sediment trap shall not occur until proposed grades are established and temporary erosion control blanket is installed".
5. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2013-036, the permit application of KRISTA OSTUNO as presented on the plans entitled:

**"Site Development Plan
Ostuno Parcel, Assessor's Map 30, Lot 157
Sindall Road, Cheshire CT
Scale 1"-40': Dated November 1, 2013; Revised
December 26, 2013
By MMI, Cheshire, CT".**

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 the commencement of clearing, grading or any construction activities covered under this permit the applicant shall provide adequate (48 hour) notification to Staff, so that Staff may verify that the following items have been completed by a qualified party:
 - a. The accurate staking or flagging of all clearing limits conducted by a qualified individual. Staff may insist on additional staking or flagging if warranted by field conditions.
 - b. The proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.
 - c. The proper and permanent installation of non-encroachment markers along the wetland boundary as determined by Commission Staff.
4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.
5. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the erosion and sedimentation controls shall be filed with the Town Planner's Department prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Department.
6. 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 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.

7. Prior to application to the Building Department for a Certificate of Occupancy, and per Section 11.12 of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall provide the Commission with the following:
 - a. an as-built map (A2 survey) by a licensed land surveyor, at a suitable scale, showing, at least, all buildings and setbacks from the property lines, wetland boundaries and acreage, wetland non-encroachment lines and markers, limits of clearing, utility locations, and all paved driving surfaces.
 - b. written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been met, that all yard areas are properly stabilized, and that all non-encroachment lines and associated restrictions are recorded on the Cheshire Land Records and will be recorded in the deed of the lot upon transfer of property.

8. This permit grant shall expire January 7, 2019.

Moved by Mr. Kurtz. Seconded by Mr. Brzozowski.

Dr. Dimmick asked if all of the concerns of the Engineering Department have been satisfied on this.

Ms. Simone stated yes.

Motion approved unanimously by Commission members present.

4.	Permit Application	APP	#2013-041
	Diversified Builders, LLC of Cheshire	DOR	11/19/13
	505 Peck Lane, Lot 1		
	Site Plan – House	MAD	1/23/14

Ms. Simone stated we've received the Engineering Department review today that they are satisfied with the engineering comments from the applicant's engineer.

Ms. Simone stated this motion does call for the posting of a bond since this area does encroach the upland review area.

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 single family house on lot #1, Peck Lane as created in the subdivision approval #2013-012 issued to Diversified Builders LLC on July 2, 2013.**
- 2. That the applicant's site plan locates wetlands in the northwest of the property and that the septic system will mostly border and encroach upon the upland review area by 351 square feet.**
- 3. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and "Watercourses Commission regulations.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2013-041, the permit application of DIVERSIFIED BUILDERS, LLC as presented on the plans entitled:

**"Site Plan and Subsurface Sewage Disposal System Design
Subdivision of 505 Peck Lane, Lot 1
505 Peck Lane, Cheshire CT
Scale 1"-20': Dated November 15, 2013; Revised December 23, 2013
By MMI, Cheshire, CT".**

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 the commencement of clearing, grading or any construction activities covered under this permit the applicant shall provide adequate (48 hour) notification to Staff, so that Staff may verify that the following items have been completed by a qualified party:

a. The accurate staking or flagging of all clearing limits conducted by a qualified individual. Staff may insist on additional staking or flagging if warranted by field conditions.

b. The proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.

c. The proper and permanent installation of non-encroachment markers along the wetland boundary as located in the above referenced site plan.

4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.

5. Per Section 12 of the Cheshire Inland 'Wetlands and Watercourses Regulations, a bond covering the costs of the erosion and sedimentation controls shall be filed with the Town Planner's Department prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Department.

6. 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 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.

7. Prior to application to the Building Department for a Certificate of Occupancy, and per Section 11.12 of the Cheshire Inland 'Wetlands and Watercourses Regulations, the applicant shall provide the Commission with the following:

a. an as-built map (A2 survey) by a licensed land surveyor, at a suitable scale, showing, at least, all buildings and setbacks

from the property lines, wetland boundaries and acreage, wetland non-encroachment lines and markers, limits of clearing, utility locations, and all paved driving surfaces.

b. written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been met, that all yard areas are properly stabilized, and that all non-encroachment lines and associated restrictions are recorded on the Cheshire Land Records and will be recorded in the deed of the lot upon transfer of property.

8. This permit grant shall expire January 7, 2019.

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

5.	Permit Application	APP	#2013-042
	Diversified Builders, LLC of Cheshire	DOR	11/19/13
	505 Peck Lane, Lot 3		
	Site Plan – House	MAD	1/23/14

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 single family house on lot #3, Peck Lane as created in the subdivision approval #2013-012 issued to Diversified Builders LLC on July 2, 2013.
2. That the applicant's site plan locates wetlands in the northwest of the property and that the septic system will mostly border and encroach upon the upland review area by 745 square feet.
3. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit

Application #2013-042, the permit application of DIVERSIFIED BUILDERS, LLC as presented on the plans entitled:

**“Site Plan and Subsurface Sewage Disposal System Design
Subdivision of 505 Peck Lane, Lot 3
505 Peck Lane, Cheshire CT
Scale 1”-20’: Dated November 15 2013; Revised December 23,
2013
By MMI, Cheshire, CT”.**

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 the commencement of clearing, grading or any construction activities covered under this permit the applicant shall provide adequate (48 hour) notification to Staff, so that Staff may verify that the following items have been completed by a qualified party:**
 - a. The accurate staking or flagging of all clearing limits conducted by a qualified individual. Staff may insist on additional staking or flagging if warranted by field conditions.**
 - b. The proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.**
 - c. The proper and permanent installation of non-encroachment markers along the wetland boundary as located in the above referenced site plan.**
- 4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.**

5. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the erosion and sedimentation controls shall be filed with the Town Planner's Department prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Department.

6. 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 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.

7. Prior to application to the Building Department for a Certificate of Occupancy, and per Section 11.12 of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall provide the Commission with the following:

a. an as-built map (A2 survey) by a licensed land surveyor, at a suitable scale, showing, at least, all buildings and setbacks from the property lines, wetland boundaries and acreage, wetland non-encroachment lines and markers, limits of clearing, utility locations, and all paved driving surfaces.

b. written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been met, that all yard areas are properly stabilized, and that all non-encroachment lines and associated restrictions are recorded on the Cheshire Land Records and will be recorded in the deed of the lot upon transfer of property.

8. This permit grant shall expire January 7, 2019.

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

XI. NEW BUSINESS

1.	Permit Transfer	APP	#2012-027A
	PPT Real Estate Investments to:	DOR	1/07/14
	Connecticut Yankee Construction, LLC		

Dr. Dimmick and Mr. Norback rescued themselves from this portion of the meeting at 8:52 p.m.

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 request for permit transfer finds the following:

- 1. That a previous CIWWC permit, CIWWC Permit #2012-027, was granted, with stipulations, to PT Real Estate Investments, LLC for subdivision on October 16, 2012.**
- 2. That the permit grant stipulated, in part, that any changes or modifications would require CIWWC review and approval.**
- 3. That the current permittee, Thom Norback (PT Real Estate Investments, LLC) has submitted, in writing, consent to the transfer request.**

Therefore, the Commission grants the permit transfer request of Frederick Pierson to transfer CIWWC Permit #2012-027 from PT Real Estate Investments, LLC to Connecticut Yankee Construction, LLC, said transfer permit to hereafter be referred to as CIWWC Permit #2012-027A, with the following stipulations:

- 1. Any changes or modifications to the plans as presented will require subsequent Cheshire Inland Wetlands and Watercourses Commission review and approval.**
- 2. That all conditions and stipulations of CIWWC Permit #2012-027 granted, with stipulations, PT Real Estate Investments, LLC for subdivision on October 16, 2012 are incorporated by reference as though fully set forth herein to the extent they are not in conflict with the present permit transfer grant.**
- 3. That all conditions and stipulations of CIWWC Permit #2012-027 granted, with stipulations, PT Real Estate Investments, LLC for subdivision on October 16, 2012 are incorporated by reference as though fully set forth herein**

to the extent they are not in conflict with the present permit transfer grant.

Moved by Mr. Kurtz. Seconded by Ms. Dunne. Motion approved 4-0-2 with Dr. Dimmick and Mr. Norback abstaining from the vote.

Dr. Dimmick returned to the meeting at 8:53 p.m.

2. **Bond Release Request** **APP #2011-016A**
Jorasa LLC
382 South Main Street

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission has considered the request for bond release by Craig Goldstein (Jorasa LLC) for sedimentation and erosion control bond stipulated as part of CIWWC Permit #2011-016, 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 Dr. Dimmick. Seconded by Ms. Dunne. Motion approved 5-0-1 with Mr. Norback abstaining from the vote.

Mr. Norback returned to the meeting at 8:53 p.m.

3. **Request for Determination** **RFD #2014-001**
CT Yankee Construction, LLC
156 North Brooksvale Road, Lot 2
Site Plan – House

Mr. Norback and Dr. Dimmick recused themselves at 8:53 p.m.

Chairman de Jongh noted this item was subject of a notice of violation this evening.

Ryan McEvoy. PE of Milone and MacBroom was present on behalf of the applicant.

Mr. McEvoy addressed the Commission and stated that this is a request for determination as to whether or not a permit is needed for

development on lot 2 in the subdivision known as the subdivision 156 North Brooksvale Road that was approved last year by this Commission.

Mr. McEvoy said obviously there was a violation that was discussed earlier so we can touch on that if you'd like.

Mr. McEvoy said the reason why we are requesting whether or not a permit is needed because there's no activity within the upland review area proposed – no grading or clearing what so ever.

Mr. McEvoy said he knows there's been clearing that's happened on the property which we all know which was not permitted probably not the best interest of the builder but the end of the day ultimately there will be no – there is no activity in the review area for this lot.

Mr. McEvoy said the wetlands on this particular property is actually off of the property – on the adjacent property which he thinks is owned by the Cheshire Land Trust.

Mr. McEvoy said there's a very large wetland piece up across the street from CVS on North Brooksvale Road.

Mr. McEvoy said the upland review area of this property is an entirely associated with an off site wetland.

Mr. McEvoy said we do propose conservation markers upslope of the 50' upland review area and other than that the development of the lot is almost identical to what is shown on the subdivision plan itself with the house located approximately located 120' away from the wetlands with the grading as a walkout and a rain garden to mitigate.

Mr. McEvoy said if there were any questions – he did understand there's a couple of wheels in motion on this and the next one.

Chairman de Jongh said he was just going to speak for himself – he thinks the fact that there was a violation on the site – its possible that the work would have – the request for determination probably would have been a viable option prior to the work having been done but the fact that the work was done although may it have been the right think to do – for me personally the fact that the work has been done already I think requires and application that we have the “t's” crossed and the “i's” dotted and everything procedurally flows the way it normally would have.

Chairman de Jongh said from indications of stuff that we've gotten on file the wetland area off site that you talk about is a pretty high quality wetland so we need to make sure that everything is status quo.

Chairman de Jongh said I for one would request that an application be provided and go through the normal process.

Ms. Dunne said she would agree with that.

Motion: That the Commission requires a permit application for 156 North Brooksvale Road Lot 2.

Moved by Ms. Dunne. Seconded by Mr. Brzozowski. Motion approved 4-0-2 with Mr. Norback and Dr. Dimmick abstaining from the vote due to their recusal.

4.	Permit Application	APP	#2014-001
	CT Yankee Construction, LLC	DOR	1/07/14
	156 North Brooksvale Road, Lot 2		
	Site Plan – House	MAD	3/13/14

Mr. McEvoy said in this particular case they have submitted an application with the possibility that the Commission would require an application.

Mr. McEvoy said this is an application for an individual site plan on lot 2 at 156 North Brooksvale Road with wetlands off site.

Mr. McEvoy said the 50' upland review area is located partially on the property; the applicant is not proposing any activity within the upland review area.

Mr. McEvoy said they do have sediment and erosion controls and conservation markers proposed upslope of the 50' upland review area.

Mr. McEvoy said with regard to the notice of violation that is currently in place on this property he would testify that he has reviewed the limits of clearing around the property and that they have not gone beyond the 50' upland review on this property – he said understood that there may be some other questions that they may have about what's gone on out there – there are some soil stock pile again upslope of all the sediment and erosion controls.

Mr. McEvoy said one thing that he would request given the fact that there are no regulated activities proposed that the Commission consider the possibility that this might not be a significant activity to allow for the potential...

Tape change

Mr. McEvoy continued to say that the potential that if everything is found on then the activity done before the permit was granted for the Commission to possible act on the application at the next regularly scheduled meeting.

Mr. McEvoy said so that would be one request that he would put out there.

Mr. McEvoy said the limits of disturbance are essentially identical as to what was shown on the original subdivision plans – the location of the house is essentially identical and the limits of grading are essentially identical to what was originally shown on the subdivision plans.

Chairman de Jongh said I want see that you have a non-encroachment line and necessary markers being put on site.

Mr. McEvoy state yes.

Ms. Simone said the engineering department does need to review that this application – they have comments that need to be past out.

Mr. McEvoy said not to speak for Mr. Disbrow – with respect to a previous lot where we had a rain garden he asked questions regarding that and it was because it was not something that was shown on the original subdivision plans – we had actually chambers on that particular lot so he was asking questions to make sure that he was comparing apples to apples.

Mr. McEvoy said this lot is identical to what was we have shown on the subdivision plans so for not speaking for Mr. Disbrow again I would think that from his perspective that it is essentially identical from what we reviewed.

Ms. Simone said if she could just dove tail to what you are saying – Mr. Disbrow also does the reviews for Planning and Zoning so Planning and Zoning does not require individual site plan review and approval so its shown on the subdivision plans that does get approved in Planning and Zoning so what Ryan is mentioning that

Warren will review it for the rain gardens specifications that he's doing is final review of the plans.

Chairman de Jongh said he didn't see a problem with the distance.

Motion: That the proposed activity is not significant within the context of the Commission's regulations.

Moved by Mr. Kurtz. Seconded by Mr. Brzozowski. Motion approved 4-0-2 with Mr. Norback and Dr. Dimmick abstaining from the vote due to their recusal.

5.	Permit Application	APP	#2014-002
	CT Yankee Construction, LLC	DOR	1/07/14
	156 North Brooksvale Road, Lot 3 Site Plan – House	MAD	3/13/14

Ryan McEvoy. PE of Milone and MacBroom was present on behalf of the applicant.

Mr. McEvoy said same subdivision – this is lot 3 156 North Brooksvale Road.

Mr. McEvoy said this lot is the rear most in the subdivision – its get s access from a common rear lot access way.

Mr. McEvoy said the house is located on the southern portion of the property as far away from the location of the wetlands that is physically possible on this property.

Mr. McEvoy said the wetlands again on this property are just actually off site to a property that's home of the Cheshire Land Trust which again is a large wetland area across the street from the back of CVS and there's a 50' upland review area associated with that wetland on this property.

Mr. McEvoy said they are proposing clearing that is outside of the 50' upland review – no grading with the regulated upland review area – and we do proposed markers upslope of the regulated area for this property.

Mr. McEvoy said the limits of disturbance with regard to the house, driveway – rain garden are all essentially similar or almost identical to what was originally shown on this subdivision plans.

Mr. McEvoy said so similar to what he testified to with lot 2 – he does believe that with regard to the sizing and the location of the rain garden it is consistent with what was reviewed by Mr. Disbrow or course we'll allow for him to take a look.

Mr. McEvoy said once again there's no activity proposed within the upland review area as well.

Mr. McEvoy said basically the applicant had cleared the limits of clearing on both lots two and three.

Motion: That the proposed activity is not significant within the context of the Commission's regulations.

Moved by Ms. Dunne. Seconded by Mr. Brzozowski. Motion approved 4-0-2 with Mr. Norback and Dr. Dimmick abstaining from the vote due to their recusal.

6. Request for Determination RFD #2014-002
CT Yankee Construction, LLC
156 North Brooksvale Road, Lot 3
Site Plan – House

Motion: That the Commission requires a permit application for 156 North Brooksvale Road Lot 3.

Moved by Ms. Dunne. Seconded by Mr. Brzozowski. Motion approved 4-0-2 with Mr. Norback and Dr. Dimmick abstaining from the vote due to their recusal.

Mr. Norback and Dr. Dimmick returned to meeting at 9:06 p.m.

7. Permit Transfer APP #2004-029A
A.A.T. Properties to Petro Cheshire, LLC DOR 1/07/14
501 Maple Avenue

Ms. Simone said this was a new application that was submitted so there is a staff recommendation for the permit transfer.

Ms. Simone said the property has recently changed hands and the owner would like the permit to change hands.

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 request for permit transfer finds the following:

1. That a previous CIWWC permit, CIWWC Permit #2004-029, was granted, with stipulations, to Albert & Edith Prinz for subdivision on July 20, 2004.
2. That a CIWWC permit transfer from Albert & Edith Prinz was issued on January 20, 2009 to AAT Properties.
3. That the permit grant stipulated, in part, that any changes or modifications would require CIWWC review and approval.
4. That the current property owner, Petro Cheshire, LLC, has submitted in writing a request to the transfer request.

Therefore, the Commission grants the permit transfer request of AAT Properties to transfer CIWWC Permit #2004-029 from AAT Properties to Petro Cheshire, LLC, said transfer permit to hereafter be referred to as CIWWC Permit #2004-029C, with the following stipulations:

1. Any changes or modifications to the plans as presented will require subsequent Cheshire Inland Wetlands and Watercourses Commission review and approval.
2. That all conditions and stipulations of CIWWC Permit #2004-029 granted, with stipulations are incorporated by reference as though fully set forth herein to the extent they are not in conflict with the present permit transfer grant.

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

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| 8. | Permit Extension
Petro Cheshire, LLC
501 Maple Avenue | APP #2004-029B
DOR 1/07/14 |
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Ms. Simone said this is for the same property in item #7 – they already received one permit extension that extends the permit through February of this year – they are allowed a ten year maximum under section 11.3.c.5 which allows for ten years which would bring them out to July 20, 2014 so they are asking for the maximum extension.

Dr. Dimmick said they are not changing anything in terms of what was originally proposed so there is no basis to deny an extension.

Motion:

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

1. That this application is for the permit extension of the existing approval #2004-029, which was approved by the Cheshire Inland Wetlands and Watercourses Commission on July 20, 2004 to Albert and Edith Prinz. Permit #2004-029A authorized the transfer of the permit to AAT Properties, LLC on January 20, 2009. Permit #2004-029C authorized the transfer of the permit to Petro Cheshire, LLC on January 7, 2014.

2. That IWW regulations allow for the extension of permits to 10 years, per Section 11.3.C.5.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2004-029D, the permit application of Petro Cheshire, LLC for site plan approval, as presented and shown on the plans referenced in the July 20, 2004 approval of application #2004-029.

The permit request 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. All conditions and stipulations of CIWWC Permit #2004-029 granted, with stipulations are incorporated by reference as though

fully set forth herein to the extent they are not in conflict with the present permit grant.

4. This permit grant shall expire on July 20, 2014.

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

XII. ADJOURNMENT

The regular meeting was adjourned at 9:12 p.m. by the consensus of Commission members present.

Respectfully submitted:

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