

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JULY 15, 2014
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

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

Members Absent: none.

Staff: Suzanne Simone.

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

Members in attendance were Robert de Jongh, Charles Dimmick, Dave Brzozowski, Kerrie Dunne, Earl Kurtz, Will McPhee 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 – July 1, 2014
Regular Meeting – July 1, 2014**

Commission members agreed to move the approval of the minutes was deferred to the end of the meeting without objection.

At 7:54 p.m.:

Motion: To approve the minutes of the public hearing and regular meeting of July 1, 2014 with corrections.

July 1, 2014: Public Hearing: pg. 5 L14 “his” to “said”, L42 “of” to “if”, L43 “out” to “our”.

July 1, 2014 Regular Meeting: pg. 6 L7 “would” to “owned”; pg. 19 L42 delete “in places”; pg. 27 L35 “out” to “is”; pg. 28 L40 delete “the approval”; pg. 29 L50 “will” to “with”; pg. 30 L16 should read “always say”; pg. 31 L20 “game” to “came”, L47 “medication” to “moderation”; pg. 32 L12 delete “it is good”.

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

VI. COMMUNICATIONS

1. Letter from RLJ Properties, LLC
Re: Removal of Shed at 680 South Main Street

Ms. Simone said the Commission received a letter from John Ricci regarding the removal of the shed for 680 South Main Street so this then finalizes and addresses the enforcement issues before this issue previously.

2. Staff Communication with Attachment - #2014-023
Re: 108 Blacks Road, Landscaping Material Storage

Ms. Simone said this staff communication was for 108 Blacks Road application #2004-023.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

- a. Mixville Park

Ms. Simone stated there was a staff inspection of Mixville Park where the dredging is being conducted and that work is going along well.

- b. Blacks Road Culvert Replacement Project

Ms. Simone explained the Blacks Road Culvert replacement project has begun – they are to be out there this week and will start to work on it; the road is all ripped up and the area is adequately secured.

Chairman de Jongh said he spoke to Walt Gancarz and asked why is was going to take until going to take until October to do this thing and apparently because the sandy soils and stuff it's going to take a lot more work to set everything in place then it might normally take; with the north Cheshire well fields that's the soil content and it's just going to take more time.

Chairman de Jongh asked if Ms. Simone knew when they were going to do Creamery Road – he said he thought they were going to do them at the same time.

Ms. Simone said they are not doing it at the same time – it will be the next project inline after Blacks Road.

VIII. ENFORCEMENT ACTIONS

1. Notice of Violation SC 1/07/14
Mr. Nathaniel Florian
Woodruff Associates
Unauthorized Activities in the Upland Review Area/Inland Wetlands
108 Blacks Road
Assessor's Map 19, Lots 43 & 44

Ms. Simone stated this item is on the agenda under unfinished business.

2. Notice of Violation SC 05/06/14
Ms. Suzy Lynn Antunes Ribeiro SC 06/03/14
SC 06/17/14
Unauthorized Activities in the Upland Review Area/Inland Wetlands
64 Rita Avenue
Assessor's Map 14, Lot 43

Ms. Simone explained the Commission had dictated at the meeting prior to submit an application by July 30; they (Ms. Antunes Ribeiro and her fiancé) are aware of that and staff would reach out to them again prior to that date to remind them of the application deadline.

IX. UNFINISHED BUSINESS

- | | | |
|---|-----|-----------|
| 1. Permit Application | APP | #2014-021 |
| A.M. Napolitano, LLC | DOR | 6/03/14 |
| 566 & 540 Cook Hill Road | SW | 6/09/14 |
| Subdivision (Farm Meadows at Cook Hill Rd.) | PH | 7/01/14 |
| | MAD | 8/05/14 |

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 subdivision of a 24.2 acre parcel into 8 residential lots, two of which are already developed. This application is for both subdivision and the individual site plans for the undeveloped lots.**
- 2. That the applicant's soil scientist field located inland wetlands in the west of lots 1, 2, 3, 4, 5 and 6, and to the south of lot 8 and along the eastern boundary of the property adjacent to the proposed road.**
- 3. That the Commission declared this application significant and a public hearing commenced and concluded on July 1, 2014.**
- 4. That the individual site plans for lots 3, 4, 5, 6, 7 and 8 are included in the review of this application, with lots 3, 4, 5, 6 and 8 containing inland wetlands.**
- 5. That the Engineering Department has reviewed the subdivision and site plan proposal and is satisfied with the applicant's design and calculations.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2014-021, the permit application of A.M. NAPOLITANO as presented on the plans entitled:

**"Subdivision Plans
Farm Meadows at Cook Hill
Prepared for A.M. Napolitano, LLC
566 & 540 Cook Hill Road, Cheshire CT
Dated May 6, 2014; Revised July 1, 2014
By Berkshire Engineering and Surveying, LLC, Bantam,
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 associated with the stormwater detention basin and protection of the eastern boundary inland wetlands 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 July 15, 2019.

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

2.	Permit Application (Permit After the Fact)	APP	#2014-022
	Cheshire Village Associates	DOR	6/17/14
	115-215 East Mitchell Avenue		
	Culvert Extension	MAD	8/21/14

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 a permit-after-the-fact for the emergency repair work to remove the collapsed end wall and extend the culvert at the residential complex at 115-215 East Mitchell Avenue.**
- 2. That the applicant provided a narrative detailing the emergency work completed in April 2014.**
- 3. That Staff worked with the property owner during this collapse, and thru discussion with the Commission Chair and Vice-Chair, the work was found be an emergency, and therefore would be conducted prior to obtaining a permit, and with Staff inspection and input.**
- 4. That all required work associated with the emergency replacement has been completed and no additional work is scheduled.**
- 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 #2014-022, the permit application of CHESHIRE VILLAGE ASSOCIATES permit-after-the-fact for culvert replacement as located in the plans entitled:

**“Property Survey
Cheshire Village Associates
1 East Mitchell Avenue
Cheshire Village Associates-Section II
217 East Mitchell Avenue, Cheshire CT
Dated October 8, 2013.
Prepared by Milone and MacBroom, Inc., 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. This permit grant shall expire on July 15, 2019.

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

3. Permit Application	APP	2014-023
Pine Ridge Enterprises, Inc.	DOR	7/01/14
108 Blacks Road		
Site Plan	MAD	9/04/14

Chairman de Jongh said there were some communications received regarding this (application).

Ms. Simone said the engineering department did review the latest correspondence from the applicant's engineer and they have stated they do not have any concerns regarding this application and the items they had commented on have been addressed.

Chairman de Jongh said so we have received all the information that we were looking for.

Mr. McPhee asked if we've determined significance on this.

Ms. Simone stated no.

Mr. McPhee said at the urging of a fellow town's person he took a little bit more in-depth look at this lot himself and also Mr. Fazzone's property that abuts to it behind there – he said he personally feels this property is worth a field trip.

Mr. McPhee said he's been struggling internally with why we're permitting this gentleman to go right up to the wetlands boundary with no buffer at all – totally disregarding the set back and upland review area.

Mr. McPhee said there's a lot of action on that site – there's a lot of totes of liquids – no area at all for any types of spill – big heavy machinery with over 100 gallons of diesel fuel and hydrologic oil in them – all these different things that he sees as potential (issues)

and not giving any type of buffer zone to protect the wetlands – he said its troublesome to him and thinks it's something worth a visit.

Dr. Dimmick said one thing he did need to point out and they did have to watch out legally here – this property had extensive use before there were any wetlands provisions – the whole western side of this property is fill into wetlands and it was fill that was in place when he moved here in 1972 so in a since that part is grandfathered as is much of the use of the site much of which we can't document of just how extensive it was - at least in the front two thirds of the property full utilization of the property before we had any regulations – we have to be a little bit careful – the upland review area doesn't apply to properties in before we came into existence.

Mr. McPhee asked if there were any type of town maps that would depict that area because that area is cleared.

Dr. Dimmick said there are air photos.

Ms. Simone said we have aerial photographs from the 70s and the 90s.

Mr. McPhee asked if they coincided with the timeline.

Dr. Dimmick said he believed staff hasn't fully checked these out.

Mr. Kurtz said he remembered when this first came up his recollection was that they were going to get rid of this stock pile of soil in the spring and he didn't see any gone - he said whatever might have been done 40 years ago he said he thinks a reason for the discussion of whether or not they violated the wetlands regulations so that makes it current.

Mr. Kurtz said someone should be here for the applicant; he said the plan has not been carried out.

Mr. Kurtz said one of the questions he has and he thinks we would all have is how much soil is really piled there and this plan he's making with no regard for the pile that's there is which is the problem – is it all going to go into these bins around the side there – Mr. Kurtz stated he said he has no idea.

Dr. Dimmick said he would agree the wetlands on the northern part are of concern to us; what he is saying about the part to the western boundary of the wetlands was long ago it was filled and put into use.

Mr. McPhee asked past the buildings – was that filled in.

Dr. Dimmick stated he didn't know because his knowledge from 1972 when he moved here was only for the front two thirds – it never went back to the back part at that time so – he said he would admit this part we are talking about the back part.

Mr. Norback said to Mr. McPhee's point why don't we just save this discussion for after a field trip.

Chairman de Jongh said he would have to problem with that – what he would suggest to then if that were the case is whatever we can find out, whatever staff can find out relative to site conditions as far back as we can get them he thought would be helpful.

Ms. Simone said she thought the timing would work with this because the aerial photographs were taken in 1974 – that was the first round and that was the year this Commission went into effect so that will hopefully give a clearer idea of how the property was used or at least spatially how it was used and what was on the ground.

Chairman de Jongh said okay then the next question is when they would like to schedule the field trip.

Ms. Dunne said it was probably helpful to have staff's analysis first.

Ms. Simone said she could do that tomorrow – she could get the maps together – if the Commission was going to go out sooner than later she'd make that a priority.

The Commission discussed a proposed date and time for a field trip.

David Carson of the OCC Group addressed the Commission at this point in the meeting.

Chairman de Jongh explained to Mr. Carson that we have decided that we are going to go out and do a field trip and postpone the discussion of significance because there is enough concern from Commission members with regard to the proximity of the activity to the adjacent wetlands so we are going to try to get out there this Friday at 4:30 p.m.

Mr. Carson said that's fine but he won't be there.

The Commission talked about the need to notify the applicant about the field trip but Commission member said it would be helpful if Mr. Carson was present at the field trip.

Chairman de Jongh said a field trip was scheduled for Friday, July 25, 2014 at 4:30 p.m.

Mr. Kurtz asked Mr. Carson if he ever made a judgment as to how many yards of soil were being stored in that area.

Mr. Carson said he did on the original plan – the interim management plan – he said his recollection was it was 20,000 cubic feet.

Ms. Simone said she actually has that plan – she read from the plan the estimated volume was listed at 20,000 cubic yards and the projected removal schedule was removing 5,000 cubic yards over a period from April to August.

Dr. Dimmick said just for his enlightenment because he can't remember anymore – you get about 10 cubic yards in a truck.

Mr. Carson said a full truck is 17 to 20.

Chairman de Jongh said he wanted to point out that there is a mandatory action date on this of September 4 and we only have one meeting in August so what he might suggest since we are going to have a field trip on the 25th and the only other meeting that we have then is the first week in August – August 5 so you may want to prepare your client to consider extending the mandatory action date because of the timing of things we want to make sure we are prepared to act on this “without having a gun to someone's head” so if he has that discussion and he (the applicant) is prepared for it and if the Commission finds the activity significant it means a public hearing and then we are beyond September 4.

Mr. Carson stated he understands.

Mr. McPhee asked Mr. Carson what the yellow tanks were used for.

Mr. Carson said he honestly didn't know – they're empty.

Mr. McPhee also asked about the 275 gallon plastic totes spread across the property – any idea what's in them.

Mr. Carson said there are 4 of them and they are empty. He said he's not really sure why they are there but he'd find out prior to the site walk.

Mr. Carson said you did get the memo from engineering that their comments are addressed.

Chairman de Jongh said there were just some concerns raised by Commission members that warranted going out to see the site and then that way we get a feel for what the conditions are.

Mr. Carson said he thought that would be beneficial because as he said the first row of the concrete block bins are there and that is the alignment that he held on the plans.

Chairman de Jongh asked if those concrete bins already in place or were they recently placed where they are now.

Mr. Carson explained they were installed per the plan that he drew up for the interim site management.

Chairman de Jongh said so they were not there.

Mr. Carson stated they were not there (before).

Chairman de Jongh said he just wanted to clarify that.

Dr. Dimmick said he seemed to remember early on with all of this before Mr. Carson was participating – when we had the owner here he made some explanations as to what was in those tanks at one time – he (the owner) did any they were empty but they had contained something.

Ms. Simone said she did believe there was some comment that some of the containers had contained magnesium chloride in them - is that a deicer.

Dr. Dimmick said something of that sort but he didn't remember the details.

Ms. Simone said she did recall him mentioning that in the two staff meetings we had at town hall when he came in along with the property owner that that was mentioned but she didn't know if it was those bins specifically.

Mr. Carson said he was under the impression but he can't swear to it but that they were using them to store water for their mulch process but they have been empty since he came on the site and they are empty now – they are behind piles of mulch.

Mr. Carson stated he would find out what the purpose is.

Chairman de Jongh said okay great that would be appreciated.

Chairman de Jongh asked if Commission members had any other questions the applicant could be prepared for.

There were no other questions asked by Commission members.

Chairman de Jongh said let's dispense with any other communication on this following the results of the field trip on this on Friday, July 25 at 4:30 p.m.

4.	Permit Modification	APP	2007-020A
	James A. Fazzone	DOR	7/01/14
	1486 and 1492 Highland Avenue Modification - Addition	MAD	9/04/14

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 a modification/addendum to permit #2007-020 to allow contractors storage yard as an alternative to the site development allowed in 2007.
2. That the applicant provided information regarding the contractor's storage yard use of the property at the July 1, 2014 meeting.
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 #2007-020A, the permit application of JAMES A. FAZZONE as located in the plans entitled:

**“Contractor Site Behind Highland Industrial Center
Back Parcel, 1492 Highland Ave, Cheshire, CT
Dated May 4, 2014.
Prepared by Gregory Chere Architects, Watertown, 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. This permit (#2007-020A) shall modify permit #2007-020, in order to permit the use of the property as a contractor’s storage yard in the interim, while permit #2007-020 is not being executed and/or completed.
4. Erosion controls shall remain in place, as shown on the above referenced plan, and will be in operating order while this property is being utilized as a contractor’s storage yard. Deficiencies in the erosion controls will be repaired by the permittee within 48 hours of deficiency notification by the permittee, property owner, leasee and/or Staff.
5. This permit shall run concurrent with permit #2007-020, while only one use is allowed at a time, and shall expire on July 3, 2016.

Moved by Mr. Kurtz. Seconded by Mr. McPhee.

Ms. Simone explained to Mr. Fazzone that the motion has been written in a way that allows for this use and for the construction of the building if he decides to do that at a future date; it’s for one use – one use doesn’t supersede another.

Mr. McPhee said he did want to state for the record that when he was on the site all the upland review markers were in place.

Motion approved unanimously by Commission members present.

X. NEW BUSINESS

Chairman de Jongh stated there were no new business items.

The Commission returned to the approval of the minutes at 7:54 p.m.

XI. ADJOURNMENT

The regular meeting was adjourned at 7:56 p.m. by the consensus of Commission members present.

Respectfully submitted:

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