

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, SEPTEMBER 2, 2014
TOWN HALL AT 84 SOUTH MAIN STREET
COUNCIL CHAMBERS – 7:30 P.M.
Immediately following the Public Hearing**

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

Members Absent: Thom Norback.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 8:05 p.m.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited at the public hearing.

III. ROLL CALL

Ms. Dunne called the roll at the public hearing. Member present at the public hearing were still present for the regular meeting. Members present were Robert de Jongh, Charles Dimmick, Dave Brzozowski, Kerrie Dunne, Earl Kurtz and Will McPhee.

IV. DETERMINATION OF QUORUM

A quorum was determined at the public hearing.

V. APPROVAL OF MINUTES Regular Meeting of August 5, 2014

The approval of the minutes was deferred to the end of the meeting by consensus of Commission members present.

At 9:20 p.m.

Motion: To approve the minutes of the regular meeting of August 5, 2014 with corrections.

Pg. 1 L 18 “secretary” to “chairman”, L27 “receipted” to “recited”; pg. 2 L48 “to” to “too”; pg. 4 L16 should read “some rock too tough to excavate

with the equipment available”; pg. 7 L 7 “has” to “we have”; pg. 12 L29 “contain” to “contact”, L41 should read “could have been”; pg. 14 L28 “in till” to “until”; pg. 16 L9 and L12 “course” to “coarse”; pg. 19 L42 “seem” to “seen”; pg. 21 L17 “cognoscente” to “cognizant”; pg. 21 L32 “burned” to “bermed”; pg. 22 L27 “expect to “except”; pg. 22 L19 delete the first “as a condition”; pg. 24 L32 should read “wetlands or”; pg. 25 L48 should read “completely removed”; pg. 33 L5 “use as a based” to “be used as a base”; pg. 34 L24 “undelaying” to “undulating”; pg. 34 L19 delete “every”; pg. 37 L12 “one” to “more”; pg. 39 L36 “either” to “even”; L41 “hot” to “hit”; pg. 40 L20 should read “open until.”

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

Mr. Kurtz said he wanted to comment by saying Mr. McPhee lost his father recently and the Commission may want to send their condolences and members may want to make a donation to the charity of Mr. McPhee’s choosing.

The Commission discussed and agreed to make a donation to the Wounded Warriors charity in memory of Mr. McPhee father.

VI. COMMUNICATIONS

Chairman de Jongh stated that he wanted to make public announcement - he stated that gentleman who sits to his left (Dr. Dimmick) is one of those rare birds that’s been serving the town now for 40 years on this Commission and he has been in continual awe not only of his experience but what he brings to the table plus he fills in when he’s (Chairman de Jongh) not around.

Chairman de Jongh said he wanted to publicly thank Charles for the 40 years of service – he said it’s been an absolute pleasure having him as his wing man and he expected they would both do 40 years more.

All present applauded Dr. Dimmick.

Chairman de Jongh said he hoped there was a more public recognition of his service because it’s a rare individual that gives of himself for that many years.

1. Construction Sequence for Mixville Park Stone Paver Walkway

This communication was reviewed.

2. Letter from homeowners at 615 Broad Swamp Rd.

Re: 16-Lot Subdivision proposed on abutting Wallingford property

This communication was reviewed. Ms. Simone explained this is regarding the 16 lot subdivision proposed on the Wallingford – Cheshire town line.

- 3. Letter to Wallingford IWWC
Re: 16-Lot Subdivision on Chimney Hill Road**

This communication was reviewed.

- 4. Public Works Drainage Maintenance Notification
Re: Sediment Removal**

This communication was reviewed.

- 5. Staff Communication with Attachments: Application #2014-023
Re: Blacks Road, Site Plan**

This communication was reviewed.

- 6. Public Works Notification
Re: Mixville Dam Modifications and Improvements**

This communication was reviewed. Ms. Simone reported that they are receiving a state permit for that because it falls under the dam division of the state so no local permit is required. She said they provided that as a courtesy notification.

- 7. Staff Communication with Attachments: Application #2014-028
Re: Highland Avenue, Site Plan, Direct Wetland Fill**

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

Ms. Simone stated that handed out at tonight's meeting were the following correspondences:

- 8. Town of Wallingford most recent correspondence regarding the 16 lot subdivision**

This communication was reviewed.

- 9. Transfer Request for Kathy Welch from a previous permit that was issued from this Commission.**

This communication was reviewed.

10. Wetland Scientist Report for 628 Wallingford Road

This communication was reviewed. Ms. Simone stated that it notices to this Commission that there are no wetlands on that property and they did submit a Planning and Zoning application to subdivide that property – it was previously used for greenhouse and they stated there are no wetlands on the property therefore they won't be submitting an application to this Commission.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

a. 20 Smith Place

Ms. Simone stated there was a staff inspection of 20 Smith Place which is under show cause hearing tonight.

b. Meadowview Estates

Ms. Simone stated this site is off of Plank Road and there was a silt fence inspection.

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

Chairman de Jongh stated this item was subject to a public hearing this evening and that public hearing was closed tonight.

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

Chairman de Jongh stated this item would be discussed under unfinished business.

3. SHOW CAUSE HEARING

Notice of Violation

SC 08/05/14

Terrence and Deanna McIntosh

SC 09/02/14

Unauthorized Activities in the Upland Review Area/Inland Wetlands
20 Smith Place

Assessor's Map 30, Lot 146

Terrence McIntosh was present.

Ms. Simone stated this was on the agenda at the last meeting.

Ms. Simone stated since the last meeting she had met with Mr. Terrance McIntosh who is here tonight and we did look at the area and identified that it is property – it seems as though the years neighbors have thought that it was common property and they were depositing their yard debris actually on his property and that contributed to the large stock pile of yard material.

Ms. Simone said they did speak about removing the material and he requested 60 days in order to clean up that area.

Ms. Simone stated there is a corrective order that's drafted tonight which the Commission had asked for at the last meeting and it does provide for 60 days in order to clean that up.

Ms. Simone stated Mr. McIntosh is here tonight if the Commission has any questions.

Chairman de Jongh said he was sorry that his (Mr. McIntosh) neighbors think that his backyard is a dumping ground.

Mr. McIntosh said as Ms. Simone said over the years no one knew who's property it was and no one even asked – it's very wooded – there are a lot of bushes and branches – you would never think it's anyone's property. He said grass clippings and cut down branches ended up being just stockpiled there for a number of years.

Mr. McIntosh said when he started to read the letters to kind of get an idea of what was going on is when he contacted Ms. Simone and we both went out there to look – he said he didn't understand and no

one ever knew exactly what was their property - where does it extend to – he said there's a lot of debris.

Mr. McIntosh stated it was made very clear and they went over the map and this is a very large and we clearly understand now that it is our property and that no matter who put it there it is still their responsibility – he said they have no problem with that and understand it.

Mr. McIntosh said the only issue he had was figuring how to move it and where to move it to and how long that would take.

Chairman de Jongh said he knew when this issue first came up there was discussion with the town and he thought two of your neighbors and they were able to have the town go out and clean that up and there were two neighbors who responded right away and we have difficulty getting in touch with you – he said he thought Suzanne had conversations with your wife but for whatever reason there was a time limit where the neighbors could accept the offer and that time has since expired.

Chairman de Jongh said he understand Mr. McIntosh's explanation and the situation – he said he was going to ask an open ended question and they'd have to ask the town to see if they'd be interested in assisting you in trying to get rid of this based on your testimony this evening.

Ms. Simone stated she did check with the Public Works Department and they said no that they wouldn't be available that they had slotted that time and it was about two months in advance that that time was available.

Chairman de Jongh said so the question tonight is just being able to allow that 60 day opportunity to withdraw that material.

Dr. Dimmick stated we have a corrective order that has been drafted just to make it formal.

Ms. Simone stated the corrective order is basically a chronological history which was sent forth in the last record for the show cause hearing talking about dates of when letters were sent out.

Mr. McIntosh stated he received copies of all the letters and read through them.

Ms. Simone said it (the order) does allow for a 60 day period – it provides a date through to November 2, 2014 and it identifies the material that needs to be removed also that it needs to be removed to an area that is 50' away from any watercourse or wetland anywhere and also it asks that Mr. McIntosh then to just send a letter to this Commission verifying that everything is done and that exposed soil has been seeded.

Mr. McIntosh received a copy of the corrective order.

Corrective Order:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 13 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, review of town records, and review of written information regarding the stockpiling of yard debris within and abutting a watercourse at 20 Smith Place and information received during the course of public meetings, finds the following:

1. That inland wetlands and watercourses of the State of Connecticut and the Town of Cheshire are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed.
2. That the wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.
3. That the Cheshire Inland Wetlands and Watercourses Regulations, in effect since June 2, 1974, are enforced by the Cheshire Inland Wetlands and Watercourses Commission, per town ordinance.
4. That the Cheshire Inland Wetlands and Watercourses Commission is aware of the potential public interest in aesthetics and access in and around watercourses, wetlands and upland review areas, and that the Cheshire Inland Wetlands and Watercourses Commission is charged by State law and local ordinance with assessing, monitoring and reviewing potential and real impacts to watercourses, wetlands and upland review areas from activities such as the installation of structures.

- 5. That the stockpiling of yard debris within an inland wetland and/or watercourse without the required review and approval of the Cheshire Inland Wetlands and Watercourses Commission, is a violation as prescribed in the Cheshire Inland Wetlands and Watercourses Regulations.**
- 6. That on June 5, 2014 Commission Staff sent a letter advising the condition of the stream and identified that on July 7, 2014 town staff would be available to assist in the removal of debris from the watercourse. An 'Access Agreement' accompanied this letter, and requested the agreement be signed and returned by June 30, 2014.**
- 7. That on July 18, 2014 Deanna McIntosh contacted Commission Staff to discuss the letter and Mrs. McIntosh verbally stated that she would comply with the Access Agreement and would sign and return the document before the due date.**
- 8. That on July 3, 2014 Commission Staff left a voicemail message for Mrs. McIntosh and hand delivered a letter to 20 Smith Place, requesting a return call. Commission Staff did not receive a return call, and the Access Agreement was not returned.**
- 9. That on July 7, 2014 town staff worked on two abutting properties to remove yard debris, with permission and written consent of those property owners.**
- 10. That on July 29, 2014 a Notice of Violation/Cease and Desist Order was issued, and the Certified Mail card signed and returned on July 31, 2014.**
- 11. That on August 5, 2014 the Commission held a Show Cause Hearing to discuss the violation. No representatives of 20 Smith Place were in attendance.**
- 12. That on August 28, 2014 Commission Staff met Mr. Terrence McIntosh at 20 Smith Place to review the area. Mr. McIntosh stated he would resolve the issue, and requested a 60 day time period to remove the yard debris.**
- 13. That Section 13.5 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to issue a corrective order for the removal of the stockpile of yard debris along and within the watercourse.**

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

1. The accumulated yard debris shall be removed from the watercourse and watercourse bank to an area at least 50-feet from all inland wetlands and watercourse by November 2, 2014.
2. The exposed soil will be regraded and seeded with native seed by November 2, 2014.
3. The property owner shall verify in writing to the Commission that the items 1 and 2 listed above are complete by November 4, 2014

Moved by Ms. Dunne. Seconded by Dr. Dimmick.

Mr. Kurtz asked if Mr. McIntosh had a plan as to how he's going to get rid of this stuff.

Mr. McIntosh stated absolutely none and that's why he asked for the 60 days.

Mr. Kurtz suggested hiring a landscaper.

Mr. McIntosh said interestingly enough his landscaper is their neighbor who was putting the clippings in that pile.

Mr. McIntosh said they had contacted him (the landscaper) to be at the meeting when Ms. Simone was there but he wasn't there. He said his wife had said that she has spoken to him (the landscaper) about this July 7 date and from what he (Mr. McIntosh) understood he (the landscaper) said he was going to do it but that didn't end up happening.

Mr. McIntosh said he wanted to come here and speak with the Commission so we all could get an understanding - he said he knows how much time he has - it's formalized then he was really going to start to put a plan together.

Chairman de Jongh asked staff if there were any resources from the town where he could talk with someone to get an idea of how this can be removed and where it can be deposited.

Ms. Simone said she can ask at the public works department.

Chairman de Jongh said they can't provide the resource but if they could give him some guidance as to what he should do and where he should deposit that – he certainly thought that would be helpful.

Dr. Dimmick suggested Mr. McIntosh stay in touch with our staff – he said Suzanne Simone is highly qualified in trying to help people; if people want to work with her she'll work with them and we really all just want to get the whole thing settled.

Mr. McIntosh said and after speaking with her he clearly understood that.

Dr. Dimmick said the reason for the formal motion here is essentially we really like to get things in that kind of form – it just makes life a lot easier for us.

Chairman de Jongh said what he suggested they do is keep this on the agenda for monitoring and again if Mr. McIntosh would work with staff to figure out exactly the steps that are best for him to follow and the most efficient way of getting rid of this and getting it of his property that would be to his (Mr. McIntosh's) advantage.

Motion approved unanimously by Commission members present.

Mr. McIntosh asked if terms of the property line – is there a way he could get it clearly marked so after this thing is done that they could either post signs 'no dumping' or 'no trespassing' or maybe fence it off or something of that nature.

Dr. Dimmick said town hall should have record that shows a map of the boundaries of your property and if you could just locate one corner of your property – there should be four markers – one on each corner – if you just find one of the four then with compass and pace you ought to be able to determine the approximate boundaries.

Ms. Simone said she thought the final word would be for you (Mr. McIntosh) to hire a surveyor and they would identify the property boundaries.

Ms. Simone explained they do have markers for sale in their office that identify wetland buffer so you are welcome to purchase that and put that along the watercourse or 'no trespassing' signs or "private property' and all of that are pretty standard.

Ms. Simone said she could check in town records to see if there was any survey that's record and then she would let him (Mr. McIntosh) know what's recorded.

IX. UNFINISHED BUSINESS

- | | | | |
|----|------------------------------|-----|----------|
| 1. | Permit Application | APP | 2014-023 |
| | Pine Ridge Enterprises, Inc. | DOR | 7/01/14 |
| | 108 Blacks Road | PH | 9/02/14 |
| | Site Plan | MAD | 10/07/14 |

Chairman de Jongh stated this was subject of a public hearing this evening which was closed.

Chairman de Jongh said we'll allow the Commission to go over those notes and prepare whatever statements or wording they need for their next meeting but they should be in pretty good shape based on the information they received this evening.

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|----|-------------------------------|-----|----------|
| 2. | Permit Application | APP | 2014-026 |
| | Robert Ceccolini, Park & Rec. | DOR | 8/05/14 |
| | Notch Road (Mixville Pond) | | |
| | Watercourse Crossing | MAD | 10/09/14 |

Chairman de Jongh said as the Commission may remember this at the last meeting; he explained there was an instance a couple of years ago where there was a boy scout project that went a rye and required the removal of materials that were deposited by this eagle scout and his comrades put it was put in improperly. He said Parks and Rec has come back with a formal application to redo that project.

Ms. Simone stated this (motion) went out in the mailing.

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 current application is for the installation of 12 (4'x4') pavers between the Upper and Lower Ponds at Mixville Park.

2. That the Commission issued a Corrective Order for the removal of pavers in November 2012, installed without the required local and federal inland wetland permits.
3. That the Parks Director submitted a construction sequence identifying the scope and management of the proposed installation.
4. That the Cheshire Town Engineer has reviewed these plans, without comments.
5. 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 #2014-026, the permit application of Town of Cheshire Department of Parks and Recreation for site plan approval as presented and shown on the plans entitled:

**“Existing Conditions
Mixville Pond, Notch Road, Cheshire, CT
Sheets 1-4
Dated April 30, 2014
Prepared by Milone and MacBroom, Realty Drive,
Cheshire, CT.”**

And

**“Department of the Army
Regulatory Division
Dated May 21, 2014
3 pages, including General Permit Work-Start
Notification Form”.**

And

**“Construction Sequence for Mixville Park Stone Paver
Walkway
Submitted by Robert Ceccolini
Stamped as Received August 18, 2014”.**

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 the commencement of work, the Parks Director shall notify Commission Staff of the project start date, within 48 hours of the start date.**
- 4. Parks Department Staff (full time, regular appointment) shall be present and supervise for the duration of the installation.**
- 5. Upon completion of the installation, the Parks Director shall submit written verification to the Commission that the work is complete and was conducted in compliance with this permit.**
- 6. 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 ensuring the following:**
 - a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.**
 - b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.**
- 7. This permit grant shall expire on September 2, 2016.**

Moved by Dr. Dimmick. Seconded by Mr. Brzozowski.

Ms. Simone said she did want to bring one thing to Commission members attention – the expiration date for this is September 2, 2016 that's the minimum allowed by the town regulations and she did that because the Army Corp permit only runs for one year so

if they do not do the work by July of next year they will have to go back to Army Corp so this way the two line up.

Chairman de Jongh asked Suzanne if they were going to have someone go out to make sure this is instructed properly.

Ms. Simone said under stipulation number three 'the park's director shall notify Commission staff with the project start date within 48 hours of the start' so she will have the information of when they plan on starting and stipulation number four states 'that park department staff full time regular appointment shall be present and supervised for the duration of the supervision' and then number five 'upon completion of the installation the parks director shall submit written verification to the Commission that the work is complete and was conducted in compliance with this permit'.

Motion approved by those members present 5-0-1 with Mr. McPhee abstaining because he was not present for the voting.

3.	Permit Application	APP	2014-027
	Suzy Ribeiro	DOR	8/05/14
	64 Rita Avenue		
	Fill Removal	MAD	10/09/14

Dr. Dimmick reported that he and Thom Norback went out to the property with some surveying equipment – he said it's not a legal survey because either of us is registered as a surveyor.

Dr. Dimmick said they gathered data that will allow us to calculate approximately how much fill was there and approximately where the line contours were.

Dr. Dimmick stated he regrets he has not yet been able to process all that information but we should have something forth coming with a couple of weeks to give some idea of the volume of material which is a question we did not know beforehand.

Dr. Dimmick stated a rough approximation of the original contours and some suggestions in terms of roughly how much material should be removed to bring some kind of stability to the situation (keeping in mind it will not stand up in court because neither of us is a legal surveyor).

Chairman de Jongh said judging from what he read in the record he thought all the property owner was trying to look for is some kind of

guidance as to what they can removed without making a major project. He said there was also some conversation about a fence and he said he knows we are trying to keep these two thing separate but will that allow them once that's done allow them to go on to the next conversation.

Dr. Dimmick said he thinks because we would talk about a new top of slope and he presumed they wouldn't have a fence part way down; he said a suggestion as to what would be needed for stability – the end of the fill is far too steep right now for stability purposes and so we could calculate something on that.

Dr. Dimmick said one thing he did have a base map that Suzanne put together by overlying several maps in town hall and after they got out there they found out that the property line is far closer to the house then what they were estimating – the property line is only 70' from the side of the house and we were giving him 25' – so that does change somewhat where things going up – he said they will have to come with a new base map.

Chairman de Jongh asked if they were going to have a problem with the mandatory action date of October 9.

Ms. Simone said there may be. She said there are still some outstanding issues – the Commission needs to declare significance and understanding there is still information needed.

Ms. Simone stated the applicant had requested that the application fee be waive and she thought for the record that the applicant really needs to participate in coming up with a scale of how much material that they want to remove and how they are going to do in a time frame and all of that so there are still some of those housekeeping issues.

Ms. Simone explained they (the applicants) do have 65 days that they can play with so they are able if they volunteer to extend the mandatory action date – they can extend it through December.

Chairman de Jongh said he thinks the conversation should be had with the property owners to let them know that - it has not been easy to deal with them in terms of their understanding of what needs to be done so he thought it needs to be made clear to them that there is a legal mandatory action date by which something has to be done but they have the option of extending until the beginning of December for example to give them more time to do what needs to be done and

remove the material. He said he thinks it makes sense to have that conversation with them now.

Dr. Dimmick said if anything they want to remove in the meanwhile is fine with us; he said they may very well want to start calculating how to remove those large concrete blocks out of there.

Ms. Simone said then they would have to amend their application – they had stated specifically that they'd be removing it by hand so they may need to amend that.

Ms. Simone said do you believe that the applicants understood that you'd be working some information.

Dr. Dimmick said yes.

Ms. Simone said she just wanted to get an understanding of what their understanding was and they will participate then in designing their own plan.

Dr. Dimmick said he thought they were anxious for him to provide some figure but he is just not ready to do that until he can make a new base map with staff.

Chairman de Jongh said then in the meantime if we convey that extension of the mandatory action date that would be helpful to all parties.

X. NEW BUSINESS

1. Permit Application	APP	2014-028
Fifteen North Plains Industrial Road, LLC	DOR	9/02/14
1430 Highland Avenue		
Site Plan	MAD	11/06/14

Attorney Ryan Corey, Manny Silva, civil engineer of Rose, Tisco and Co., LLC, Eric Davison, registered soil scientist and certified professional wetland scientist of Davison Environmental and Dean Berman, architect were present on behalf of the applicant.

Attorney Ryan Corey addressed the Commission.

Attorney Corey explained he was present on behalf of the applicant Fifteen North Plains Industrial Road, LLC seeking a wetlands permit to construct at daycare center at 1430 Highland Avenue.

Attorney Corey passed out additional photos for review and a miniature sized plan to take a look at.

The Commission reviewed the plans and photos submitted as part of this application.

Attorney Corey said he planned to briefly summarizing their proposed plan then he would hand it over to their biologist and the engineer who are here to provide more specific information.

Attorney Corey reviewed the aerial photo of the property showing the home on the property which is proposed to be removed. He review the property border. He explained the site used to be a horse farm and it's their understanding 6" to 8" of sand was added to the property by the current owner and there used to be a horse track.

Attorney Corey said on the first plan it shows what they are proposing to do and the placement of the proposed building.

Attorney Corey stated there was a slight encroachment onto the wetlands but what they are proposing to do is expand the wetlands up front and in the rear as well.

Attorney Corey explained one of the photos of a snap shoot of the middle section (wetlands one) showing what the area looks like as its being discussed.

Attorney Corey turned the meeting over to Eric Davison, the wetland biologist to discuss the state of the soil.

Eric Davison, registered soil scientist and certified professional wetland scientist addressed the Commission.

Mr. Davison walked the Commission through the wetlands that are on the property; he stated there were three wetlands and those are described in his report which is called Wetlands Functions and Values Assessment date August 23, 2014.

Mr. Davison referenced figure one in the appendix of the report – the photo showed the three wetlands on the subject property.

Commission members reviewed the report and photos.

Mr. Davison stated there were three wetlands on the site. He described the location of each of the three wetlands as shown in the photo. He noted that the third wetland located on the eastern most

site boundary and based on what he heard earlier tonight that it is contiguous with the wetland that they had a violation – the mulch/watercourse – this is upslope of that and this wetland drains directly to that.

Mr. Davison gave a quick description of each of these wetlands; the large central wetland is a wet meadow – it's a saturated wetland; this wetland does not really have standing water; it has what's called a saturated hydrology due to the fact there is a culvert that's installed in the southern end shown on the plans and shown in the photo. He said when and if water collects in that it can outlet to the south into the woods on that southern property line.

Mr. Davison stated he suspected that wetland one and wetland two which are no bisected by a long track which is basically a raised earth and berm that runs along the outside of the property that was an old race track; he talked about when that was build up its segmented the two wetlands and installed a pipe to sort of drain this area to make it more suitable for a pasture; he said historically wetland one and wetland two were connected.

Mr. Davison said the other thing they did during the agricultural use was channelize the northern wetland – this is not a natural feature it's all been ditched and channelized; he explained why the area was created this way; he said when you get to the north side off the property it becomes more of naturalized wooded swamp where you receive some standing water and developed vegetational community; he said at present this wetland two is basically very dense Multiflora Rose with some Red Maple and other trees.

Mr. Davison said he never saw water in the ditch when he was out in May, July and August – he did see water in the offsite portion in the wetland but never in the ditch; it probably carries flow in the extreme spring flood other than that it doesn't have much water in it. He said in his report he calls wetland two this ditched wetland – both a wetland and watercourse; he said the center part is wet enough that meets the criteria for a wetland – it has wetland soils; there are no wetland soils on the west side and east side but it meets the criteria of a watercourse.

Mr. Davison explained the bank of wetland three is defined by a parking lot on the neighboring property that was being discussed earlier and that's what retains the water; he described how the water in this area drains to the north. He said in his report describes wetland three as being both a wetland and watercourse – you have wetland soils in the very low lying center of this feature but when

you get to the perimeter it actually just has watercourse criteria – it has a defined bank – it has all the other criteria for a watercourse but it doesn't actually have wetland soils so it's a wetland in the center and a watercourse surrounding.

Mr. Davison said the other thing to touch on that Ryan mentioned is some of the filling that had occurred as part of the agricultural activity. He said you can see this in the soils investigation for the central wetland – wetland one - there is very course sand situated on top of the wetland – its shallow enough that's it still qualifies as a wetland; he talked about the reason course sand is used for horse farms.

Mr. Davison said the remainder of the site is very dense brush and meadow that's slowly reverting to forest. He talked about the invasive species like Multiflora Rose and Autumn Olive and woods (as shown on the plans and in the photo).

Mr. Davison said he did check the outlet to wetland one – he said he did do some soil pits in that outlet area that's offsite in the woods and he did not find any wetlands within 25' of that pipe outlet; he said the area is low lying and looks very wet so there may be more wetlands as you move south but at least at that outlet point and extending off site a bit there were no wetlands there – he said he wanted to make sure they didn't have a wetland boundary that extended 1' to 2' on to the property boundary and that it was misrepresented.

Mr. Davison stated he didn't see anything within 25' of that pipe outlet; you can see it's buried and not really functioning all that well and not sure if it carries water from this wetland anymore.

Mr. Davison said he thinks that's so it was going to turn it over to Manny Silva.

Manny Silva, civil engineer with Rose, Tisco and Co., LLC addressed the Commission.

Mr. Silva said just to do a quick overview of the existing conditions. He stated there was a dwelling on site with some various sheds and concrete pads and some driveways along with the horse barn that's also on a slab.

Mr. Silva said they propose to raise all these structures with the exception of the Cedar hedge that's kind of screening the back

portion of the site from the road – they are going to breach that hedge in the middle with a new driveway.

Mr. Silva said they have some wetland soils classified in front of the horse barn and then another wetland towards the rear.

Mr. Silva said what they are proposing as the preferred plan is the building up closer to the road so that they can get closer to the utilities – the way the site slopes is from the roadway back so the further back you get the lower you get and you access the utilities on the roadway become more difficult especially for sewer and things of that nature.

Mr. Silva said they came to the Commission with this plan so see if the Commission entertain us moving the building forward but also creating a wetland that was contiguous meaning they'd like to create a larger wetland in the back that would function all together. He explained the site itself is very flat so mitigate wetlands here would be easier than most sites and they could create a larger wetland system that is linked to the wetland to the east.

Mr. Silva showed on the plan the location of the driveway breaching the cedar hedge, a turn-a-around to drop off students and parking spaces and circulate around; he said this was important to the use because you want to have a good traffic flow for safety of drop off and pick up of students; there's a parking lot towards the rear where they are piping a portion of that watercourse which is a 1:2 ditch currently- they'd like to pipe it and direct the drainage towards where that drainage swale was at one point; and there's 40 spaces of employee parking spaces provided.

Mr. Silva explained they tried to put the building right where the face of the barn was historically or is today. He talked about the location of the play yards nearest the widest section of the property; the property nearest the street is very narrow and not conducive to this use.

Mr. Silva said the way they deal with the drainage on the preferred plan is to use this landscaped area in the middle of a turn-a-round as basically a rain garden where we can collect water and use it as a primary treatment for water coming off of the paved areas.

Mr. Silva said along the driveway they have a linear rain garden which acts as a conveyance swale which has some primary treatment value because they will have some check dams as it goes along the roadway and overflow into the catch basin on the end then

that will be conveyed through pipes to a downstream secondary treatment unit – so they have primary and secondary treatments. He talked about how the treatment units would work and that they'd have a detention pond about 14,000 cubic feet which is well above the DEP's requirement for water quality volume for this site. He said it's a retention pond by calculation but it's actually more of a detention pond in practice because we are designing all the way up to a 100 year storm which is very infrequent; he explained there's no flow discharge from the pond – he said to keep in mind this is a very flat area and they are just really cutting the pond into grade; the water level is at 218 which is what they expect the water level where the wetland exists at that elevation.

Mr. Silva said in state statutes requires them to put an alternative in and the alternative mimics the design of the preferred plan so that there's not a whole set of drawings that are very different – the are essentially the same.

Mr. Silva stated for both plans they meet the water quality volume. He said they have a storm water discharge reduction in all storms that are required by Cheshire. He said they have a 21% reduction in runoff for the 10 year storm; 29% reduction of runoff for the 25 year storm and an 11% reduction in the 50 year storm and then 1.2% reduction in the 100 year storm so they have a reduction in all those storms.

Mr. Silva walked the Commission through the second choice or alternative plan for the state. He explained plan details and stated this plan avoids filling the wetlands; they have a lineal rain garden that's about 350' along the side of the driveway so they can runoff the water into a grassed swale similar to a rain garden – its planted so it slows down the water and allows it to infiltrate into the ground and per the DEP these things are considered primary treatment because that vegetation and grass has the waters flowing called scrubbing taking out heavy metals and minerals that are in that runoff from the surfaces.

Mr. Silva talked about how the lineal rain garden would function and how it would controlled.

Mr. Silva stated there were some comments from Engineering and he's addressed them. He stated he go the comments today at 3:30 p.m.

Mr. Silva stated his (the town engineer's) concern was they didn't address the capacity of the 12" RCP – the same in both options they

actually reduced the amount of water that goes to that 12" RCP culvert. He said in the preferred option they eliminate any water going to it by filling it and using the new catch basin in the middle as the catchment for the rain garden area; in the alternative they actually reduce the amount of impervious area; that impervious area is being conveyed by an indirect drainage connection which is through a pervious swale and they did reduce that impervious area – that was originally 10,420 cubic square feet that was going to that 12" RCP with this alternative plan we are only putting in 9,420 cubic square feet.

Mr. Silva reviewed the area on the alternate plan showing the rain garden and catch basin – he said again they are filling that watercourse - they are piping it; to the west (of a point he showed on the plan) they are putting in a head wall with a 12" pipe there to collect any water that does collect in side of that like it does today; they have the same retention pond that they have in the preferred plan with a secondary treatment unit – the downstream defender – so this plan also has the primary treatment which is from the indirect catchments and rain gardens and they have the secondary treatment.

Mr. Silva said the roof leaders are directly connected to the pond that's because roof drainage is considered cleaner water – there's really no contaminants coming off of the roof; so they directly connect that into the retention pond for infiltration purposes.

Mr. Silva said the erosion control methods are the essentially the same in both plans – we have soil erosion silt fence all the way around as an envelope around the site – they put silt sacks in any proposed catch basins during construction so that if any sediments go into any drainage structures that are in place during construction that does contaminate anything downstream and also doesn't impair any of our new proposed systems; they have an anti-tracking pad at the entrance and then they have the landscaping plan.

Mr. Silva said for the rain gardens and swales they are going to have their biologist come up with a plant list and submit that to staff for their review; he talked about the proposed landscaping plan and some of the proposed plantings; he said there's a substantial amount of woods and vegetation around the area (as shown on the plans) he said they want to work within the cleared area that's onsite today.

Mr. Silva stated this option does not create a continuous wetland – it does require us to leave the wetland in the middle and requires them

to have a pumping system for the sanitary; they show a pump station off to the side and then they'll have a manhole where the force main will come into and then will go gravity from the existing lateral that's onsite right now so there's no new roadway – it's going to the existing lateral and servicing the dwelling currently; he said they have detailed plans showing how the rain gardens work and how they anticipate them doing their soil and erosion and curbing and a small cross section on how the basin is going to; they have to meet their building codes; have protective pads in the roadways; the pump station for the alternative option and some site walls.

Mr. Silva said he wanted to go quickly through his response to the engineering department comments.

Mr. Silva passed out a written copy of the town's engineers question and his responses.

Mr. Silva reviewed with Commission members his responses to the questions: first question was there should be planning for existing conditions showing what buildings and structure would be demolished for the submission. Mr. Silva explained a survey conditions prepared by Stonewall Properties has been prepared and attached; second question- there's a 12" pipe that exists to the south – the flow should be addressed the drainage report - Mr. Silva said in the preferred option the 12" pipe will be filled and abandoned in place and will not convey any flow off site; he explained they were essentially making it better in both options and the bigger the storms the more they are mitigating that; question three are no dimensions on the rain garden showing the width, depth of the plantings - Mr. Silva said the rain gardens are called out by linear footage - they could get in to more detail and the biologist/wetland scientist will come up with a detailed plant list for those – he stated they will meet all the DEP guidelines for those.

Mr. Silva said number four is the grading of the proposed conditions both alternatives need to be shown more clearly especially is the easterly portion of the property – he explained because the elevation is relatively flat so the elevations are hard to show and there are a lot of structures here in this small area – so there are essentially a couple of contours running through and what they are proposing for grading is not much at all they are not trying the grade here but go with the natural grade which is going down towards the back of the property – he said the reason they are not showing a lot of information is because there really isn't a lot of grade to show information on.

Mr. Silva said the next comment was the drainage report uses a 12" elevation; he explained that the report has the pond at a certain elevations and our plans have it at a different set of elevations – he said that's kind of actually typical he said they sketch up what they want to do and do a drainage report and come up with a pond then go back to the plan and adjust it based on that – he same the changed the elevation of the pond based on what the site restrictions were and then they didn't go back and adjust the pond's – the pond's the same expect that its 2' down from 220 to 218 so the calculations are still correct - the top of the pond in the revised report will say 221.5 which is exactly what shows on the plan – he said the pond's the same except the data was different.

Mr. Silva addressed the comment regarding the sanitary sewer system stating that what should have happened was the drainage report should have excluded the sanitary sewer for this submission because it wasn't ready; he said they didn't know how many pupils were there but now they do – the put in the standard which is ten gallons per day per pupil because they didn't know the exact number and now we do – he said he didn't think that was a wetlands issue. He stated the calculations has been redone using the number of pupils at 196 so the discharge from the sanitary sewer reads 0.152 CFS and that will be corrected on subsequent reports.

Mr. Silva said so that kind of addresses the engineering concerns. He said if the Commission had any questions he'd be really happy to answer them.

Dr. Dimmick asked Mr. Silva if they had written permission from the Gas Transmission line yet which runs right through your proposed new wetland creation.

Mr. Silva stated no - currently we don't have any permissions.

Dr. Dimmick stated that might be a none starter then because it's been our experience that the Tennessee Natural Gas Transmission does not allow any excavation in the vicinity of their gas lines so he didn't see how they were going to get a wetland in that area in which case their alternative looks a lot more viable.

Attorney Corey explained he believes its Algonquin and they don't have approval but they don't approval.

Dr. Dimmick said on the adjacent property its Tennessee so he assumed in was Tennessee there unless Algonquin and Tennessee were operating together.

Attorney Corey said they are working on that and they figured that could be an issue so he's working on that and agreed they had to get that settled.

Dr. Dimmick said it's almost feudal for us to concern this unless we know that kind of information – otherwise we wasting your time and ours.

Attorney Corey said that's a very valid concern so as soon as he gets an answer he'd let them know and he's trying to get that answer.

Dr. Dimmick asked if they had a copy signed by the wetland scientist about the validity of the wetland line on this property.

Ms. Simone stated they did receive an existing conditions map today and it does show wetlands flags and she believed its Mr. Davison's signature on that – it doesn't have an additional name underneath.

Mr. Davison stated that's correct – he did sign the map and they did submit a set of existing condition survey with his live signature on it – you do have that. He said just to touch on something and it was a question he raised as well – he wanted to explained that because they have this alternative and an alternative with less impact we sort of thought coming in with a fully designed mitigation plan may be putting the cart before the horse as they say but they thought if we came in with these plans and showed sort of conceptually that we have areas that we can create wetlands and we ultimately assume we are going to have a site walk and we are going to refine these plans that these creation areas were kind of shown in a more conceptual fashion and these were areas that they think they can create – he raised that very question about the gas line which is why we showed other areas off to the wetland side of wetland one but he did explain to the project team that he did think the creation of wetlands is going to be relatively easy – it's always a process but given that the site is so flat and you are going to take out one or two feet of soil anywhere on the site you are going to create a wetland because of the conditions to creation on the site is not a problem we just need to get where we know the square footage of impact and what we are actually mitigating so these are sort of conceptual at this point – the extent and location of these wetland areas.

Chairman de Jongh said he thought Mr. Davison answered the question he had was that he didn't hear any mention of a mitigation plan.

Mr. Davison said the plans sort of kind finalized right before the holiday and he didn't have time to go through them in a meaningful way and provide comments and so he was trying to avoid shooting from the hip and looking at the plans and saying here's what I think but he did think they were going to land on a plan here that is going to have either some level of impact but depending what that is we can certainly then come up with a detailed mitigation plan that gives you elevations – we can get the plant list and do all of that and provide what you need for a final approval.

Chairman de Jongh said we are probably leaning on doing a site visit on this and speaking for himself while the comments for the area that's to be filled in on the preferred plan kind of minimize the importance of that meadow area – that's one of the areas that's soon to be rapidly disappearing here in this state with little regard to their function. He said again just as a commission member and he hasn't served as long as his esteemed colleague 27 years is not to bad (he served 27 years on the Commission); in his opinion they certainly provide value – he said he likes the alternative plan before we do a site visit.

Mr. Davison said don't forget they do require maintenance.

Dr. Dimmick said we have in the past encouraged a once a year mowing these wet meadow areas as being a way of maintaining them – this is sort of a disturbance we don't mind at all.

Mr. Davison said this can definitely mowed – it gets try enough this time of year that you can get a machine in there without rutting up the soil.

Dr. Dimmick stated and this is past the bird breeding season if you did it in the late summer.

Mr. Davison said it's a small meadow and not big enough to attract the real grassland birds.

Dr. Dimmick said there are Meadow Larks and Woodcocks that sometimes like that sort of area.

Dr. Dimmick asked if you could tell him when this horse farm was abandon.

Dean Berman, the architect addressed the Commission. He said he has piles of drawings for these building and experience with the developer of this daycare.

Mr. Berman provided some details about what he said was a high end daycare. He explained that if the building moves back the property grades down gradually to the back and it feels flat when you're on it – its almost 1,000' and so if you go down 300' you are maybe down 2' or 3' then you need a sewer pump and that's sort of a troublesome idea – certainly there are safe guards and its expensive to build it but that's not even the reason it's just really a problem – you really want the sewage to drainage naturally to the street and one of the plans has a pump on it and we just don't like that and we don't want to be dependent on that pump working all the time.

Mr. Berman said he was told by Eric Davison that new wetlands were expensive to build – he said they just want make the best product they possibly can.

Mr. Berman said he thinks the horse farm was abandon in 1980s; he said at one time there were serious race horses on the site.

Mr. Kurtz said he was going to say (from what he recalled) the mid to late 1970s.

Chairman de Jongh said they should schedule a field trip and go out and see the property and defer any further consideration or discussion on this pending the results of the field trip and they could told off the determination of suitability at that time as well.

A field trip of the site was set for Saturday, September 6, 2014 at 8:00 am.

Ms. Simone agreed to work with the applicant's representative to schedule another field trip of the site during the week for those who could not attend the September 6, 2014 field trip.

Chairman de Jongh suggested deferring any further consideration on this pending the results of the field trip and we can take it from there.

Attorney Corey said he wanted to conclude with one last point and he knows it's the Commission role to protect the wetlands but the regulations allow for the Commission to balance commercial growth and wetlands too so they are willing to work with them; he said from the plan they have proposed here from an engineering standpoint

makes more sense – he said obviously they know there's the wetlands to deal with so we are willing to work you and ask that you balance that to and hope they can put in a beautiful property here and he thinks there's some flexibility – he just thinks the first one makes a lot more sense from an engineering standpoint and they are hoping to mitigate the wetlands as well with the expansion and we knew there are challenges we still have to address.

Chairman de Jongh said as Dr. Dimmick pointed out the biggest challenge you've got on that preferred plan is getting permission for the gas company to do any excavation above their easement which may be very difficult to secure.

Attorney Corey stated he agreed.

Dr. Dimmick stated anything that requires you to cross the pipeline is the problem.

Attorney Corey said there are other options to consider.

2. Permit Transfer Request APP 2014-012A
Kathie A. Welch to Ronald & Courtney Hansen
Reservoir Road

Ms. Simone said handed out tonight was a draft motion to allow for the transfer from Kathy Welch to Ronald and Courtney Hansen who purchased the property and the two lots – those lots have not been officially recorded in the town so as of yet it is not a subdivision but they are asking for the wetlands approval #2014-012 to be transferred; there was a written document from Kathy Welch authorizing the transfer.

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 #2014-012, was granted, with stipulations, to Kathie Welch for subdivision and watercourse crossings on July 1, 2014.

2. That the permit grant stipulated, in part, that any changes or modifications would require CIWWC review and approval.
3. That the current permittee, Kathie Welch has submitted, in writing, consent to the transfer request.

Therefore, the Commission grants the permit transfer request of Kathie Welch to transfer CIWWC Permit #2014-012 from Kathie Welch to Ronald and Courtney Hansen, said transferred permit to hereafter be referred to as CIWWC Permit #2014-012A, 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 #2014-012 granted, with stipulations, to Kathie Welch for subdivision and watercourse crossings on July 1, 2014 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 Mr. McPhee. Motion approved unanimously by Commission members present.

At 9:20 pm the Commission returned to the approval of the minutes.

XI. ADJOURNMENT

The regular meeting was adjourned at 9:22 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills
Recording Secretary
Cheshire Inland Wetland and
Watercourse Commission