

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING  
THURSDAY, NOVEMBER 6, 2014  
TOWN HALL 84 SOUTH MAIN STREET  
COUNCIL CHAMBERS AT 7:35 PM  
Immediately Following the Public Hearing**

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**Members present: Kerrie Dunne, Earl Kurtz, Will McPhee and Thom Norback.**

**Members Absent: Robert de Jongh, Charles Dimmick and Dave Brzozowski.**

**Staff: Suzanne Simone.**

**Kerrie Dunne served as chairman pro-tem in both Robert de Jongh and Charles Dimmick's absence.**

**Earl Kurtz served as secretary pro-tem.**

**I. CALL TO ORDER**

**Ms. Dunne called the meeting to order at 7:35 pm.**

**II. PLEDGE OF ALLEGIANCE**

**The pledge of allegiance was recited at the public hearing.**

**III. ROLL CALL**

**The roll was called at the public hearing.**

**Members in attendance at the public hearing were still in attendance for the regular meeting which were Kerrie Dunne, Earl Kurtz, Will McPhee and Thom Norback.**

**IV. DETERMINATION OF QUORUM**

**A quorum was determined at the public hearing.**

**V. APPROVAL OF MINUTES**

**Public Hearing – October 21, 2014  
Regular Meeting – October 21, 2014**

**Approval of the minutes was deferred to the end of the meeting by consensus of Commission members present.**

At 7:50 pm:

**Motion: To approve the minutes of the October 21, 2014 public hearing and regular meeting with corrections.**

**Public Hearing: pg. 4 L25 “their proposal” to “it”; pg. 5 L16 “6” to “six inches”; pg. 8 L34 “curve” to “curb”; pg. 9 L42 “expect” to “except”; pg. 10 L16 “sight” to “site”; pg. 11 L46 “acclimates” to “accumulate”; pg. 12 L12 “fried” to “friend”, L18 “Tibinos” to “Tavanos”; pg. 13 L12 “pitched” to “pinched”, L36 “excitation” to “execution”; pg. 14 L36 “partially” to “particularly”; pg. 16 L8 should read “hearing open”.**

**Regular Meeting: pg. 3 L34 “regarding” to “regarding”; pg. 6 L14 “be” to “he”, L32 “had” to “made”.**

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

## **VI. COMMUNICATIONS**

- 1. Staff Communication Re: Application # 2014-027, 64 Rita Avenue Fill Removal**

**This communication was reviewed.**

- 2. RWA Letter of 10/06/14 Re: 1430 Highland Avenue, Children’s Daycare**

**This communication was reviewed.**

- 3. Staff Communication Re: Application #2014-028, Highland Avenue Site Plan, Direct Wetland Impact, Direct Upland Review Area Impact**

**This communication was reviewed.**

**Handed out at tonight’s meeting:**

- 4. A letter from Charles Dimmick to the Inland Wetlands Commission in Wallingford Re: Chimney Hill Road Subdivision Proposal**

**Ms. Simone said that handed out tonight was a letter from Charles Dimmick to the Inland Wetlands Commission in Wallingford, CT regarding the Chimney Hill Road Subdivision proposal that was before the Wallingford Inland Wetlands Commission.**

Ms. Simone explained Commission staff, the town engineer and Charles Dimmick had questions and concerns about the potential wetland impacts of their proposed storm water detention basin areas which were potentially abutting the Town of Cheshire directly.

Ms. Simone explained that we have worked with the applicant's engineer and the town engineer is satisfied with their design plans – they did make changes to them as well as made changes to the erosion controls.

Ms. Simone said Charles Dimmick wrote them a letter asking that if they do approve they put in some standard stipulations that Cheshire has used to try to protect resources.

5. Terrence and Deanna McIntosh Letter dated November 6, 2014  
Re: 20 Smith Place

Ms. Simone stated that a letter was received today from Terrence and Deanna McIntosh regarding 20 Smith Place.

Ms. Simone stated this is on the agenda tonight under enforcement actions.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

Ms. Simone stated there were no staff inspections.

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. Dunne stated this item would remain on the agenda and the work is to be completed by June 1, 2015.

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 stated there is an application for this under unfinished business and she did have some updates on this item.

3. 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

Ms. Dunne stated that a letter was handed out tonight from the McIntoshs and they are asking for an extension.

Ms. Simone read the letter dated November 6, 2014 to Commission members into the record:

"We are writing to request an extension of the corrective order C0 9-1-2014-A as we were unable to meet the original deadline of November 2, 2014. The main reason is due to the lack of finances. Additionally, it took a considerable amount of time and effort finding individuals or companies to evaluate the property and present an estimate. We solicited five quotes for removal of debris which ranged anywhere from \$1800 to \$2500. These estimates to say the least were quite astounding as we never expected this kind of expense especially with a child in her first year of college. However, we have recently contacted an individual who may be able to remove the rubble in affordable loads so eventually all will be eliminated and reasonably priced. The details and costs and duration are still being discussed. As a result, we respectfully ask for an extension and the continued cooperation of the Inland Wetlands and Watercourses Commission. Sincerely, Terrence and Deanna McIntosh.

Ms. Dunne said and they had been given until November 2, 2014 to correct.

Ms. Simone stated yes.

Mr. Kurtz asked if there was a procedure for an extension. He said he (Terrence McIntosh) asked for this date and at that time we had the impression he didn't know what he was in for and now we are coming into snow and ice.

Mr. Kurtz asked if we grant extensions to get it done.

Ms. Simone stated yes and the Commission did issue a corrective order and the Commission does have the ability to entertain extending the compliance date.

Ms. Dunne said we might want to give a date by which they should comply. She stated she was just concerned based on how vague this letter is.

Mr. Kurtz said it really is a nothing letter. He suggested why don't we insist that he (Terrence McIntosh) come to the next meeting and at that time we'll decide on a date – a reasonable date so he can come and say he's made the arrangement – it sounds like he has a guy that has a pickup truck and whenever the pickup truck isn't being used he's going to through a load on it and take it where ever it goes.

Mr. Kurtz said he thought we would not be using our best judgment to make a determination based on this request.

Mr. Kurtz stated he (Terrence McIntosh) needs to come in person and provide a lot of detail and by then he should have shown some progress.

Mr. Norback asked if he's shown any progress.

Ms. Simone stated not since the last time she was in that area which was about two weeks ago and her last conversation with him which was the last week of October prior to the November 2 deadline and he had indicated the work had not been done and that he could not afford the prices that were being estimated to him.

Mr. Norback stated he went by there and there's a lot of stuff. He said he could see him (Terrence McIntosh) being surprised with the cost even though they were in violation it was probably even a surprise to them that it was a violation and all along they thought it was their property and all of that. He said he thinks we should be sympatric to their cause but again like Earl Kurtz says at some point we have to get some commitment from him and we can guess at a date that works for him so he does need to attend (so he agrees with Earl Kurtz on that.

Ms. Simone stated it is unfortunate that they didn't follow through when the town had offered to remove the material.

Ms. Simone explained the town had offered to this property owner and two other property owners and the two other property owners signed off and she had a conversation with Deanna McIntosh and she seemed to be on board with it and all she had to do was sign the permission to allow the town and go in and try to resolve this before it became a problem for neighboring properties and their septic systems.

Ms. Dunne said and you actually personally went there and talked to her didn't you.

Ms. Simone said she didn't speak with her in person, she spoke to Mr. McIntosh in person but she did speak with Deanna in detail – she seemed to understand what the goal was and then after that conversation there was no more communication – she didn't return my phone calls, she didn't return my emails – I went to the house, I left hand written messages asking that she contact me so we could get her signed form so we could move on with this and she (staff received no communication at all.

Mr. Kurtz said the town was going to do this at no cost (to the home owner).

Ms. Simone stated correct.

Ms. Dunne said this was a little bit more of an unusually circumstance because there were several places related.

Ms. Simone stated yes because they were dumping directly into the watercourse and there was a neighbor that had called expressing concern that the water was changing direction and it was encroaching into her property and specifically right into her septic system area so she was concerned she was going to have septic system failure.

Ms. Simone said so when she went out there and when Public Works staff went out there we had identified that the dumping in the watercourse was very likely contributing to the problem because there's ample space for the water to get underneath Allen Avenue but between Allen Avenue and the driveway on Smith Place that's where everyone was dumping into that watercourse and then that watercourse was changing direction.

Ms. Dunne said so can we do what Earl Kurtz suggested and ask that they attend the next meeting and give us a plan of action and a date by which they can comply.

Ms. Simone said okay.

Mr. Kurtz stated we can make a decision to but they need to provide us some facts but if they say we will have it done in five years that's not acceptable. He said they should at least by now have a plan but they don't even have a plan.

Motion: To defer action on this request to delay the removal of the rubble to the next meeting on November 18, 2014 at which time we'll have the presence of Mr. McIntosh to give the Commission details

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

#### IX. UNFINISHED BUSINESS

1.	Permit Application	APP	2014-027
	Suzy Ribeiro	DOR	8/05/14
	64 Rita Avenue		
	Fill Removal	MAD	12/13/14

Ms. Simone explained she contacted Ms. Ribeiro by sending her an email informing her reminding her as she's had several emails with her (Ms. Ribeiro) that the Commission is still waiting for information from her to make the record complete.

Ms. Simone stated as of right now the Commission doesn't have any information to evaluate. She said they need to first off identify whether the work that Tom Norback and Charles Dimmick did that lead to Charles drawing the map and make that map part of the record, if not what other materials do they want to make part of the record.

Ms. Simone said also she had to her (Ms. Ribeiro) that she needs to come up with an estimate of how much material is going to be removed, how they are going to remove it, how they are going to stabilize.

Ms. Simone explained she discussed with her what the time frame was – December 2 and at the December 2 meeting the Commission has to make a decision on this application and as of right now there is not enough information for the Commission to even evaluate – there's really nothing to approve on the record.

Ms. Simone stated she has not heard back from her October 23 email that she sent to her (Ms. Ribeiro) detailing all of that information.

Ms. Simone stated they have been made well aware throughout this entire process that the Commission is within their right to issue a corrective order to have this go to the town attorney for further action which would cost something and in the event they lose in court the town then could then seek the town's attorney's legal fees from them.

Mr. McPhee said he for one thinks we've gone above and beyond with this applicant but he know they can't do anything until the mandatory action date so he thinks they just leave it be. He said personally he didn't think they needed to do anything else for this applicant. He said Suzanne has reached out to them numerous times – Charles and Thom have gone above and beyond what we would do for most and he knows it kind of a tough situation they've been put into but they are not making it any easier on us either.

Mr. Kurtz stated he agreed.

Ms. Dunne said so the procedure would be to deny the permit application and then order a corrective order.

Ms. Simone stated yes because there still is the cease and desist that is still standing so the Commission could just take the next step of the corrective order ordering them to remove a certain amount by certain date.

Mr. Norback said if the mandatory action date isn't until December why don't we just let it ride – can we do that.

Ms. Simone stated yes.

Mr. McPhee said in the interest of preventing a conflict he thought that was the best thing to do and give them their last opportunity to do so.

Ms. Dunne said since Dr. Dimmick has been with Mr. Norback very involved in this it would probably be good to have him here if we do that order.

Ms. Simone said so it seems as though the applicant would need to provide all of the information to the satisfaction of this Commission for the November 18 meeting so the Commission could remove the

material and then staff would get direction from the Commission of what type of draft they would like to see.

Mr. Norback asked if staff in a last effort provide them with a narrative of what was discussed here tonight – maybe a copy of the minutes so they see where we are headed.

Ms. Simone stated yes she has been doing that as well – sending them emails but she she'd do that and she may even send it certified.

Mr. Norback stated he suspected that was the right thing to do.

Ms. Dunne thanked Ms. Simone.

2.	Permit Application	APP	2014-028
	Fifteen North Plains Industrial Road, LLC	DOR	9/02/14
	1430 Highland Avenue	SW	9/06/14
	Site Plan	SW	9/10/14
		PH	10/07/14
		PH	10/21/14
		PH	11/06/14
		MAD	12/11/14

Ms. Dunne stated this item was subject of tonight's public hearing which was continued to the next meeting on November 18, 2014.

**X. NEW BUSINESS**

There were no new business items.

Return to the approval of the minutes at 7:49 pm.

**XI. ADJOURNMENT**

The regular meeting was adjourned at 7:50 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills  
Recording Secretary  
Cheshire Inland Wetland and  
Watercourse Commission