

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, MARCH 17, 2015
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 9:09 P.M.
Immediately following the Public Hearing**

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

Members Absent: Will McPhee and Dave Brzozowski.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 9:09 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: Robert de Jongh, Kerrie Dunne, Charles Dimmick, Thom Norback and Earl Kurtz.

IV. DETERMINATION OF QUORUM

A quorum was determined at the public hearing.

**V. APPROVAL OF MINUTES – Public Hearing – March 3, 2015
Amended Public Hearing – March 3, 2015
Regular Meeting – March 3, 2015**

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

At 9:32 PM:

Motion: To approve the minutes from the March 3, 2015 public hearing (amended) and regular meeting.

Public Hearing: Pg. 3 L18 delete “an”, L41 add “and titled “Inland”; pg. 4 L14 add “and gravel”, L37 “Orlenton” to “Orleton”; pg. 5 L30 “was” to “with”; L32 delete “are”, L47 “with” to “will”; pg. 7 L29 “being” to “is”; pg. 11 L6 “not unlike” to “is not like”; pg. 12 L 12 delete “not get”; Pg. 14 L15 “verse” to “reverse”; Pg. 16 L46 “catoptric” to “catastrophic”; Pg. 17 L24 “is” to “as”; Pg. 19 L49 add “could not”; L22 L7 “hydro gardens” to “hydrocarbons”; pg. 23 L11 “alighted” to “delighted”, L21 “silky” to “silty”; Pg. 24 L5 delete “which is allowed by special permit.”

RM: pg. 5 L38 add “north of”; L45 add “explained they”; pg. 8 L31 add “that have”; Pg. 10 L47 add “have not”; pg. 13 L24 “encompasses” to “encroaches”; Pg. 14 L6 “should” to “showed”, L23 “filed” to “field”; Pg. 15 L20 “Prig” to “Phrag.”; Pg. 16 L50 “come” to “some”: pg. 20 L 42 delete “the”; Pg. 44 add “pair of”; pg. 21 L6 “Ben’s” to “Bens”, L12 “coveys” to “conveys”; pg. 21 L44 “exiting” to “existing”; pg. 22 L6 “to” to “by”; Pg. 22 L38 “exiting” to “existing”; pg. 23 L22 add “not until after we do a site”.

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

V. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Soil and Water Spring 2015 Newsletter
(To be handed out at the meeting)

This communication was reviewed. Ms. Simone stated this communication was handed out at tonight’s meeting.

2. Request for Determination 825 Wallingford Road
Re: Land clearing for tree planting

This communication was reviewed. This item is under new business on the agenda.

3. Letter from City of Meriden
Re: Christmas Tree Farm at 825 Wallingford Road

This communication was reviewed. This item is under new business on the agenda.

4. Staff Communication: Application #2015-005
Dodd Middle School, Atwater Place, Site Plan

This communication was reviewed. This item is under unfinished business on the agenda.

5. **Staff Communication: Application # 2015-006
Cornwall Ave. Extension/Mountain Rd., Subdivision**

This communication was reviewed. Ms. Simone stated this item was continued from tonight's discussion and will not be taken up tonight.

6. **Staff Communication: Application # 2015-001
Jarvis Street, Resubdivision**

This communication was reviewed. This item was subject of the public hearing tonight.

VI. 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

Chairman de Jongh stated this item will remain on the agenda for continued monitoring.

Dr. Dimmick stated we are supposed to remind them about needing a current report.

Ms. Simone stated they do have a compliance date of June 1, 2015 (which she will need to verify) to do some of the required remediation work so she could send them a reminder letter.

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

CO #12-2-2014-A

Chairman de Jongh stated this item is on the agenda for continued monitoring but there is also another date coming up where they have to take action.

Ms. Simone said yes there is another action date which is spring or early summer – she'd verify that date but she could also send them a reminder letter so they are aware.

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 CO #9-1-2014-A

Chairman de Jongh said he thought it was the weather that prevented Mr. McIntosh from doing anything further on this until the weather clears.

IX. UNFINISHED BUSINESS

1. Permit Application APP 2015-001
Apex Developers, LLC DOR 01/20/15
Jarvis Street PH 02/17/15
Postponed
PH 03/03/15
PH 03/17/15
Resubdivision MAD 04/21/15

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

Dr. Dimmick said he presumed staff was going to be very busy looking over all of these materials and she if can prepare clarifications for us in terms of what was given regarding the turtle issue and this whole bit of whether or not we can depend on the homeowners association – he said he thought those were the things he thought they were getting reminders of – he thought he heard about four different versions of each of these.

Ms. Simone said to clarify for the next meeting then you would like her to verify those points.

Dr. Dimmick said those are the two that particularly bother me.

Chairman de Jongh said the biggest issue that he's got is the homeowners association – this is like one big black hole and he didn't think there was a solution.

Mr. Kurtz stated he agreed and if there is going to be a solution the town should seek one out – but the application tonight presented the application in terms of the regulations and within the regulations and he thought the entire presentation was very detailed and very creditable and if we have problems outside of the regulations we need to look at the regulations.

Dr. Dimmick said he heard everything he needed except for clarification of those two items and the reason the homeowners association concern is that the renovation of the runoff water is dependent on structures which there seems to be some debate as to who is responsible for them and will they be maintained so that's where his concern comes in – about the homeowners association because they said they will be taking care of it and we got all of these statements about will they exist or will then not exist.

Dr. Dimmick mentioned how the town got stuck with a dam needing repairs that were supposed to be taken care of by homeowners association which evaporated and we had a few other things like that.

Mr. Kurtz said if there is a problem with the homeowners association – then that needs to be resolved. He said the applicant presented their plan within the context of the regulations.

Mr. Norback said they are following the regulations and even though we seem to be struggling with that and it was brought in some of the emails today – he said when he asked about the failure of one of those retention basins – is not catastrophic and it's still going to function.

Dr. Dimmick discussed the issue of the homeowners association and the detention basins and whether detention is necessary at all on this subdivision – if its detention for the sake of water quality improvement it is but detaining the water is actually bringing it closer to the flood peak of the river it seems to him its counterproductive; so detention is required by the regulations – detention will do something in terms of improving water quality but detention in terms

of decreasing flooding downstream – it's not going to happen in this case.

Chairman de Jongh said he thought the issue is that the regulations are there and the applicant followed the regulations and that's what they based this upon – there's a flaw in the regulations from the stand point of enforcement on homeowners associations but it's within the rules that the applicant presented for this particular project; he said we are not going to solve the issue of the homeowners association in the time we have – it's not going to happen.

Commission members discussed homeowners associations and their role in maintaining items.

Dr. Dimmick said this might be something that could handle in terms of stipulations of the permit (if approved).

2.	Permit Application	APP	2013-031A
	Town of Cheshire Public Works	DOR	03/03/15
	92 Creamery Road		
	Permit Modification – Sediment Removal	MAD	05/07/15

Chairman de Jongh said that staff sent out a draft motion for the Commission to consider on this item.

Motion:

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

1. That the applicant is seeking a permit to modify permit #2013-031, granted on January 7, 2014, to include the removal of sediment along the eastern bank of Honey Pot Brook.
2. That the two private property owners abutting the Honey Pot Brook have signed the applications.
3. That the proposed sediment removal will take place during the permitted bridge replacement project.

4. That the activities will not have a significant adverse effect on adjacent wetlands or watercourses.

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

“Map Showing Proposed Sediment Removal From
Honeypot Brook
92 Creamery Road and 55 Highland Avenue, Cheshire CT
Prepared By the Town of Cheshire,
Department of Public Works & Engineering,
Dated February 17, 2015
Scale: 1”=40’.”

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. That all conditions and stipulations of CIWWC Permit #2013-031, granted to the Department of Public Works on January 7, 2014 are incorporated by reference as though fully set forth herein to the extent they are not in conflict with the present site plan modification grant.
4. This permit grant shall expire on March 17, 2020.

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

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| 3. | Permit Application | APP | 2015-004 |
| | Town of Cheshire Public Works | DOR | 03/03/15 |
| | Grove Street | | |

Site Plan MAD 05/07/15

The Commission is waiting for the snow to clear to take a field trip on this site.

This item will remain on the agenda pending the field trip.

4. Permit Application APP 2015-005
Cheshire Public Schools DOR 03/03/15
Atwater Place
Site Plan MAD 05/07/15

Chris Hulk, civil engineer of Milone and MacBroom was present on behalf of the applicant. Bill Root, soil scientist of Milone and MacBroom was also present.

Ms. Simone stated she did have a chance to look at this plan.

Mr. Hulk addressed the Commission.

Mr. Hulk said at the last meeting they had some additional information requested as to what their mitigation were – he said they submitted a letter with detailed information about the herbicides and things that will be used in the removal of the Phragmites that are on site.

Mr. Hulk said additionally what we included in the updated site plans is specified plantings and shrubs will be placed in the mitigation area which includes Winterberry, High Bush Blueberry and Spice Bush as well as a New England wet mix.

Mr. Hulk asked if there were any questions or comments the Commission had about the updated mitigation plan.

Dr. Dimmick asked about the herbicide that they provided the date on that – is the one they are planning to use.

Dr. Dimmick said there was another herbicide mentioned in the data provided and he gathered that this one is considered to be much more effective than the other one that was mentioned.

Mr. Root said the herbicide we would recommend is the one with the detailed letter which is Imazapyr - its trade name is Habitat and if often times taken the place of Roundup and those derivatives – it's much more effective at getting below ground and treating the Phragmites so that would be the herbicide we would recommend.

Mr. Root said the issue will be whether or not we get approval to use it at or near or adjacent to the school and what the timing might be and things like that. He said they are hoping to be able to use that if it gets approved otherwise we might have to go with plan b which might be more excavation or it might not be doing the mitigation.

Dr. Dimmick said assuming you get a permit from us would you be okay with a stipulation that says you must this or come back to us with modification.

Mr. Root said they will make every effort to use the herbicide we recommend – it's the most cost effective and efficient way to do it which is good for the school property as well for contracting.

Dr. Dimmick said they can't give him a permit contingent on him getting approval from the state but they (the Commission) would very well specify that if what they are proposing changes that they come back for a modification.

Mr. Root stated that's more than acceptable and the plan as they are proposing if they select that will certainly give it a try otherwise they'll come back and meet with staff and come to the Commission.

Dr. Dimmick said he was satisfied with what was presented and suggested staff be given authority to draft something (for the next meeting).

Chairman de Jongh asked staff to draft a motion and deal with this at the next meeting.

5.	Permit Application	APP	2015-006
	Clearview Farm Preserve, LLC	DOR	03/03/15
	Cornwall Avenue		
	Subdivision	MAD	05/07/15

Attorney Fazzone had requested before the start of the meeting that this item be continued to the next meeting.

X. NEW BUSINESS

1.	Wetland Determination	RFD	2015-007
	Whitney Watts		
	825 Wallingford Road		
	Land Clearing for Tree Planting		

Whitney Watts was present. Dennis Waz, Director of Public Utilities of the City of Meriden was also present.

Dr. Dimmick stated that Mr. Waz from the Meriden Water Department wanted to make some comments. He said other than that his general impression is that this is one of those permitted as of right – its agricultural uses unless he hears something to the contrary.

Chairman de Jongh said Mr. Waz was here and although this is not a public hearing he did think Mr. Waz has something to say – or that the Commission just use the letter he sent the Commission as evidence of his testimony.

Mr. Watts addressed the Commission.

Mr. Watts stated he gave Suzanne a map of the area he plans on planting – he said it's pretty self-explanatory and he thought it was within his rights of what he wants to do.

Ms. Simone said she did have a couple of questions.

Ms. Simone said on the form appendix A - it indicates you need to clear brush so does that mean there will be additional clearing more than what was done previously.

Mr. Watts stated no – the area that he's done is pretty much the total of what he's clearing.

Ms. Simone said so it's already cleared.

Mr. Watts stated yes.

Ms. Simone said the Commission is not asked to review more clearing – it's what was already cleared and you are planning on planting trees in that cleared area.

Mr. Watts stated yes.

Dr. Dimmick said he just anticipates what Mr. Waz is going to be saying – in planting of Christmas trees he thought the actual planting is one of these as of right things – our possible jurisdiction would be if anything is being applied to the fields that runs into the adjacent watercourses could have possible adverse impact to the watercourse and given the general idea of what kind of stuff you are using other than ordinary fertilizer.

Mr. Watts said as far as he knows as of fertilizer it's nothing that he knows at this point – he is just planting trees.

Dr. Dimmick said the soil should be fertile enough as it is you won't have to give it an n additional does of something.

Mr. Watts stated no – that that he knew of.

Mr. Waz said he just a couple of points – the concern for the City of Meriden is any runoff from any type of fertilizer used because of nutrient loading that would delivered by the feeder streams and pond three of Broad Brook – and the type of management there would be.

Mr. Waz said its seems simple to plant Christmas trees but he did have a chance to review DEEPs private applicator certification manual that Christmas tree operators are supposed to abide by and in that it addresses pesticide application and it calls for a private applicators certification – he said Christmas trees can be affected by various numbers of bugs and other type of critters and one way people address that is by applying pesticides and herbicides and so forth – he said it was not that it was about what people are doing on their own private property – his main concern is the protection of the public drinking water supply and as long things are done the way they are supposed to.

Mr. Waz said they are other properties and some of them are in Cheshire – when pesticides are applied we normally get notification and they are by licensed pesticide applicators and so they people have to report their usages – to DEEP and or the Department of Health when these occur. He said he knew there was an application here but he didn't know to what degree – there is a fair amount of property with feeder streams that go into the Broad Brook watershed – it just wanted to get comfortable that the property owner is aware that everything that needs to be done is done property.

Dr. Dimmick said he has a problem with the jurisdiction here – they are agricultural uses as of right which they seem to be qualified for and in which case we would merely issue a statement and not require an application. He said what you are talking about any DEEP requirement and protection of water supply thing that may be something that goes through different channels then this Commission – he tries very much to see what we have jurisdiction over and what we don't have jurisdiction over.

Mr. Waz stated they are an abutter of Mr. Watts property. He said he has a significant amount of property there to protect the watershed –

there are two parcels – one 30 and one 80 acres that we own over there for the sole reason of watershed protection and again his sole reason here is to just to make sure the public drinking water supply is protected and the activities the property owner want to carry out are done in a responsible manner so it doesn't affect the public water supply.

Dr. Dimmick asked Mr. Watts if he was familiar with the license he's talking about.

Mr. Watts stated no – he was not.

Dr. Dimmick said the best we can do here is try to ask that you get that information so we don't have a problem with the water company – then if that was the case he didn't think they'd have a problem with what goes on.

Chairman de Jongh said it would be to Mr. Watts advantage that he makes sure he educates himself relative to the maintenance of a Christmas tree and whatever that entails and would be a good neighbor policy and everything would be done in the manner people will be satisfied with.

Motion: That the Commission having looked at the proposed activities that this is an activity under the farming exception as of right and does not need a permit.

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

2. Ms. Simone mentioned to Commission members that she brought a sample of Flexstorm catch basin cover if Commission members would like to take a look at it.

At 9:32 PM: Return to the approval of the minutes from March 3, 2015.

XI. ADJOURNMENT

The regular meeting was adjourned at 9:35 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills
Recording Secretary
Cheshire Inland Wetland and
Watercourse Commission