Members present: Robert de Jongh, Charles Dimmick, Benjamin Alderton, Matt Bowman, Kerrie Dunne, Sheila Fiordelisi, and Earl Kurtz.

Staff present: Suzanne Simone

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

III. ROLL CALL

Ms. Dunne called the roll.

Members present were Robert de Jongh, Charles Dimmick, Benjamin Alderton, Matt Bowman, Kerrie Dunne, Sheila Fiordelisi, and Earl Kurtz.

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES – Public Hearing – December 1, 2009
   Regular Meeting – December 1, 2009

The approval of the minutes was deferred to the end of the meeting.

VI. ELECTION OF OFFICERS

Chairman de Jongh opened the floor for the election of officers.

Mr. Bowman nominated Robert de Jongh as chairman.

Mr. Kurtz seconded the nomination.

There were no other nominations.
Mr. Kurtz moved the nominations be closed. Dr. Dimmick seconded.

The nomination to elect Robert de Jongh as chairman was approved unanimously by Commission members present.

Mr. Bowman nominated Dr. Charles Dimmick as vice-chairman.

Ms. Dunne seconded the nomination.

There were no other nominations.

Mr. Alderton moved the nominations be closed. Mr. Kurtz seconded.

The nomination to elect Dr. Charles Dimmick as vice-chairman was approved unanimously by Commission members present.

Mr. Bowman nominated Benjamin Alderton as secretary.

Ms. Fiordelisi seconded the nomination.

There were no other nominations.

Ms. Dunne moved the nominations be closed. Mr. Kurtz seconded.

The nomination to elect Benjamin Alderton as secretary was approved unanimously by Commission members present.

There were no other nominations.

VII. COMMUNICATIONS

1. Correspondence with Coppola Construction Co., Inc
   Re: IWWC Application #2006-051, Summit Road Subdivision
   The Commission reviewed this communication.

2. Notification of Pavement Project from Knotter Dr. to Dickerman Rd.
   The Commission reviewed this communication.

3. Notification of Drainage Maintenance on Scott Rd. at Plank Rd.
   The Commission reviewed this communication.
4. Notification of Drainage Maintenance on Mountain Rd. at Sorghum Mill Rd.
The Commission reviewed this communication.

5. Request for Determination Letter from Public Works Dept.
Re: Forest Lane and Fawn Drive Drainage Project

The Commission reviewed this communication. Ms. Simone stated this item will be addressed under new business.

6. Letter to Mrs. Summer Galecki
Re: Activities at 850 Wallingford Rd.

The Commission reviewed this communication. Ms. Simone stated this item would be covered under inspection reports.

7. Notification Re: Land Use Planning Seminars

The Commission reviewed this communication. Ms. Simone said if there are any Commission members interested in attending any of the seminars to let staff know and they can be signed-up.

Chairman de Jongh asked what the dates of the land use seminars were.

Ms. Simone stated the dates of the seminars were Thursday, January 28th, Tuesday, February 2nd and Thursday, February 25th.

8. Letter to James & Nicole Netherland
Re: Clearing activities at 229 Jinny Hill Rd.

The Commission reviewed this communication. Ms. Simone stated this item would also be covered under inspections.

9. Wetlands Model Ordinance

The Commission reviewed this communication.

10. DeDominicis Property Hike Notification

The Commission reviewed this communication. Ms. Simone informed Commission members that the hike would take place this Saturday, January 9, 2010.

11. Modification Notice
Re: Country Club Road Bridge Permit # 2009-022

The Commission reviewed this communication. Ms. Simone informed Commission members that the Director of Public Works was present at tonight’s meeting to speak to the Commission and address the issue.

VIII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated that sent written communications were covered under communications 1, 6 and 8.

Ms. Simone said that staff received a communication on December 15, 2009 from the individual responsible for monitoring the erosion controls at the Coplex property on Highland Avenue and he indicated that the erosion controls are still up and functioning as required.

2. Staff Inspections

a. 630 Cook Road

Ms. Simone reported that she received a call from a neighbor of 630 Cook Hill Road inquiring about the installation of a fence. Ms. Simone stated she had gone by the property and observed from the street that a fence did go up but it appears to be in compliance with the Commission’s March 3, 2009 determination that the fence was allowed to be installed in a regulated area as a matter of right.

b. 175 South Brooksvale Road

Ms. Simone stated the second staff inspection of 175 South Brooksvale Road and is listed on the agenda under new business.

Ms. Simone stated this item was subject of a show cause hearing on December 1, 2009. She explained that she had gone out to the site after the Commission had allowed the property owner to start to work the soil and move it away from the wetland area; she did see that work was done and that the site is more secure now than it certainly was on December 1, 2009.

c. River Valley Farm – McCausland Court
Ms. Simone stated staff received a request from Regional Water Authority to look into the permit of that property.

Ms. Simone explained the owners of River Valley Farm had come before the Commission to ask for a request for determination on whether or not this was allowed as an agricultural right. On May 19, 2009 the Commission found that it was permissible to agricultural use in that area without having approval of the Commission.

Ms. Simone informed the Commission that she did go out to the site; the site is cleared and does have erosion controls up which are functioning.

Ms. Simone stated there were no concerns at that property from a staff point of view.

d. Summit Road Subdivision

Ms. Simone stated an inspection was done of the Summit Road Subdivision, #2006-051 application which was covered under the Mike Coppola communication.

Ms. Simone said staff received noticed from a neighbor that work had started on that site. She said looking at the permit, stipulations 3a -3d were required to be completed before they started any work there and they were not completed.

Ms. Simone said she met with the site contractor and she spoke to them on December 2, 2009 and is detailed in the letter that staff sent to him as a summary. She said part of that was he (Coppola) was to submit a bond.

Ms. Simone stated that bond was submitted about 10 days after the meeting and when he was noticed. She said she sent a letter to him, it was supposed to be sent out certified mail. Staff said she faxed a copy to him and then he came in immediately and posted a bond.

Ms. Simone said staff would continue to monitor that site to make sure the erosion controls that are now up, remain up and remain functioning.

e. Marion Road Forestry Project

Ms. Simone said the Marion Road Forestry projects which were permitted for the Kurtz property and the Danjun property – Arisco is
the owner. The Kurtz portion has been completed and now they are starting on the next phase which is the neighboring property – Danjun.

f. 850 Wallingford Road

Ms. Simone said next was a complaint for 850 Wallingford Road, a neighbor complained about the removal of logs from the property.

Ms. Simone said the Commission may remember that this was an application that came before the Commission for subdivision. It was approved through Wetlands but was denied by Planning and Zoning. The neighbor had concerns that they were clearing out areas.

Ms. Simone stated that when she went to the property she met with the forester that was on site; they own horses on the property and he was cleaning up an expansion of that area which is in a non-regulated upland area, so it is outside the regulated area.

Ms. Simone said she spoke with him in detail about the presence of watercourses on the property; she spoke to the property owner and supplied them with a map and informed them that if they wanted to continue forestry in the watercourse area that they were going to need a permit. She noted that correspondence was sent certified mail.

g. 229 Jinny Hill Road

Ms. Simone said in November 2009 she received an inquiry from a neighbor about some clearing that was done on the property and she said she could see from the street there was clearing done around the house, some landscaping that was done.

Ms. Simone said the person who inquired about the work had concern that the property owner was going to extend the clearing to the back yard.

Ms. Simone said she sent the property owners a letter (# 8 under communications) indicating that there are extensive wetlands on the property; their property goes from Jinny Hill Road down to Sperry Road – it is the Sperry Road portion that has the wetlands on it.

Ms. Simone informed the Commission after staff sent the letter out, just yesterday she received a complaint from the same neighbor that indicated that there are snowmobiles in use in the wetland area and
that there are several snowmobilers not just the homeowners but other people are using the area as well.

Ms. Simone said she wanted to talk to the Commission a little bit about this. She said looking at the regulations, the regulations specify that some things are allowed as a matter of right for outdoor recreation; she said its considered a non-regulated use in section 4.1b item number b, it specifies outdoor recreation including but not limited to the use of existing play and sporting areas, golf courses, field trails, nature study, hiking, horse back riding, bicycle riding, swimming, skin and scuba diving, camping, boating, water-skiing, trapping, hunting, fishing, shell fishing, and cross-country skiing where otherwise legally permitted and regulated are allowed as a non-regulated use. Ms. Simone said this does not include motorized vehicles – with the expectation of water skiing which she did not think one could do in the wetlands.

Ms. Simone asked if the Commission had an opinion on the use of motorized vehicles.

Ms. Simone noted that she supplied to the Commission a definition from the Open Space Ordinance which was adopted by the Town in 2006 that defines passive recreation which somewhat addresses what was already covered in the regulations as far as it being non-motorized.

Chairman de Jongh said what he might suggest, and this was just his opinion, that a copy of a letter go out the person filing the complaint and the original letter to the homeowner advising them of what the definition of passive recreation is and what does not permit motorized transportation in the wetland or watercourse.

Mr. Bowman said the regulation does not specially say that.

Chairman de Jongh and Mr. Bowman discussed the term passive recreation and the definition as it applied to town owned land.

Chairman de Jongh said the language for passive recreation is for open space; he said they do not have regulations for passive recreation to his knowledge.

Ms. Simone said the language was just supplied as a definition of passive recreation. She explained what she read was the regulation itself that mirrors passive recreation in that it specifies what is allowed so if its not allowed here than it would be prohibited.
Mr. Bowman said he wished the language said instead of open space land, he wished it said town-owned open space land. He explained that about 25 years ago in a subdivision he built they built an all purpose field as a place for kids to play which is excluded under the Town’s regulations of open space. He said he just wanted to point out there were some things that were conflicting here with different portions of open space and if that person’s property has not been designated as open space by either this Commission or the property owners permission then the 3 or 4 parcel acreage is not truly open space.

Ms. Simone said right. She said staff provided the language not as a why of trying to say that this private property is open space but just to look at passive recreation that if this Commission wanted to start using that language then this language mirrors what’s in the regulation as far as a non-regulated use.

Mr. Bowman said so our regulation completely bans any type of used of motorized vehicles.

Chairman de Jongh said the Commission allows passive recreation in the wetland area.

Ms. Simone said it doesn’t permit, it does not list it as something that is permitted – it lists water skiing which is a motorized vehicle but does not say ATVs, it does not say snowmobiles.

Ms. Dunne asked Ms. Simone to read the passive recreation language again.

Ms. Simone re-read the definition of non-regulated again: non-regulated uses recreation including outdoor recreation including but not limited to the use of existing play and sporting areas, golf courses, field trails, nature study, hiking, horse back riding, bicycle riding, swimming, skin and scuba diving, camping, boating, water-skiing, trapping, hunting, fishing, shell fishing, and cross-country skiing where otherwise legally permitted and regulated.

Mr. Alderton asked if these were all activities that are allowed. Ms. Simone said these activities are non-regulated.

Chairman de Jongh said in there regulations, the terminology “passive recreation” being allowed in wetland areas and if they are
trying to create some kind of synergy between the regulations that they use.

Chairman de Jongh said he suggested that staff bring the open space ordinance to the meeting this evening as a reference point for the Commission to give them some kind of discussion points but if existing town ordinances define passive recreation as recreation trail usage, non-motorized recreational activities which do not require a formalized delineated playing field or area – so we are talking about non-motorized. He said if there is a homeowner that has wetlands or regulated property or regulated wetlands on their property the Commission would certainly not want them using motorized vehicles crossing it. He said the Commission would be upset if a contractor did the same thing.

Chairman de Jongh said his suggestion was that staff sends a letter out saying here is the definition of passive recreation which is allowed and a term used in their regulations – passive recreation does not permit the use of motorized vehicles in a regulated area.

Chairman de Jongh said the letter was be kind of a notice to the homeowner to let them know that there was a complaint that was filed, it’s a justified complaint because there is activity in a regulated area where they are using motorized vehicles and they would just be on notice not to do it. He said if it continues then they (owners) will have to come before the Commission to let them know why they are continuing to it.

Chairman de Jongh said they are not trying to prevent a person from using an area of his property that he/she can use.

Mr. Bowman asked if there would be a problem stating in the letter the property owners could be or appears to be in violation instead of are in violation.

Chairman de Jongh said saying “appears to be in violation” is fine it use in the letter. He said it thought it made sense to notice the property owner that this issue was brought to the Commission’s attention and it could be a situation that may present a problem down the road.

The Commission discussed the current status of the issue. Chairman de Jongh asked if Commission members were in agreement that a letter be sent to the property owner.
Ms. Dunne said it is hard to say when you don’t have the whole thing to look at. She said this is a definition that’s in the rules of construction for open space land and she did not know if it applied to personal property.

Ms. Simone said that it did not apply to personal property.

Ms. Dunne said these are the definitions that are part of the open space land ordinance and may not necessarily be applied to a personal property but without looking at the whole ordinance she said in her opinion it was hard to say.

Ms. Simone said when speaking to the Commission she said she would not be mentioning – if she is talking about activities that are allowed she would not be going through the details like hiking, horseback riding, bicycle riding but she would just be using the general term “passive recreation” so this is more to notify the Commission that if this continues on this property and it becomes something the Commission then as to have a show cause on and all of that then she would revert to using the term “passive recreation” as opposed to “motorized vehicles.” She explained this is not so much to have the Commission adopt this language; she understood the language was specific to town owned property and doesn’t apply to the wetland regulation but at the same time there are similarities there.

Ms. Dunne said it certainly gives guidance.

Chairman de Jongh said that was the reason why he suggested staff bring the language to the Commission so they know what the term passive recreation means and the documents they have used in the past.

Dr. Dimmick suggested that they check with the State as to how they view what is passive recreation.

Mr. Bowman said staff should look into this and report back to the Commission.

Chairman de Jongh asked that staff send just a general communication to the property owners to let them know the Commission is aware of a situation that could become something more.

Ms. Simone agreed to send a letter to the property owners.
IX. ENFORCEMENT ACTIONS

1. Unauthorized Activities in a Regulated Wetland Area
   Ms. Karin Eichten
   630 Cook Hill Road

Chairman de Jongh stated this item is still subject of on-going litigation.

2. Unauthorized Activities in a Regulated Wetland Area
   SC 01/06/09
   Mr. Chris Lambert
   SC 01/20/09
   Highland Avenue
   SC 02/03/09
   SC 02/17/09

Chairman de Jongh said staff informed the Commission that she received a written communication regarding this property.

Mr. Bowman asked if this item still had to remain under enforcement actions.

Ms. Simone said there is still a requirement from the Commission that he comply with having a soil scientist go out in the field, field locate the wetlands and map them. She said that is something that has been noticed to the property owner that prior to him starting any activity on that property he needs to get the completed.

Mr. Bowman said if this could go on forever as long as the property owner does not start any activity on the property.

Mr. Alderton asked to have an update regarding the enforcement action under Executive Session at the next meeting.

3. Unauthorized Activities in a Regulated Wetland Area
   SC 11/06/09
   Amit & Uma Joshi
   SC 12/01/09
   175 South Brooksvale Road

Chairman de Jongh stated this item is subject of an application under new business.

This item was deferred to new business.

X. UNFINISHED BUSINESS

There were no items under unfinished business.
XI. NEW BUSINESS

1. Permit Application

Linda Hettrick
30 Homestead Place
Pond Remediation

APP #2010-001
DOR 1/05/10
MAD 3/11/10

Mr. and Ms. Hettrick were present.

Ms. Hettrick informed the Commission that she had a map of the site. She explained there is an exiting pond on the property and as far as she knew, and she has been there for over 25 years, and the pond has never been touched.

Ms. Hettrick explained trees have fallen down into the pond. She said there is an existing dam on the property.

Ms. Hettrick said the State DEP came out to look at the dam. She said at that time, she was instructed to, before touching anything on the pond and trying to get the trees out of there and to restore the pond to talk to the State DEP and have the dam checked out and get their recommendations for fixing the stone dam (made of stone and dirt).

Ms. Hettrick said she submitted a letter with the application from the DEP and their recommendations. She said that she was told she should have no problem and she would not have to apply for any special permits for that.

Ms. Simone said the Commission did have the letter dated July 6, 2007 from the DEP which specifies that this peculiar project is not in their prevue to have a dam construction permit however they did advise that a local permit may be needed. Ms. Simone said there was a sketch that was also supplied which is from the US Department of Agriculture.

Ms. Hettrick said that was from many years ago because the previous owner gave her that paper.

Ms. Simone asked Ms. Hettrick if what she was proposing to do was excavate.

Ms. Hettrick said she guessed excavate was the word. She said they have a suggestion of an 8’ deep pond; she said she did not know if they would go that deep; they just wanted to clean it up and get the trees out of there and just make it a little bit more acceptable as far esthetics.

Dr. Dimmick said the sketch for an excavated pond – when it was made.
Ms. Hettrick said she thought it was 1970…

Ms. Simone said the DEP does make reference to it – it says the proposed construction is described by plans provided by the US Department of Agricultural entitled excavated pond however it does not provide a date.

Dr. Dimmick said what the sketch is not necessarily specific to the pond – it is a standard sketch.

Ms. Simone said the DEP does indicate that this something the dam construction for the proposed changes would not be required to go through their office.

Dr. Dimmick said if it’s a small enough dam then in for within the prevue of local wetlands.

Mr. Bowman asked if the pond was privately owned.

Dr. Dimmick said it was privately owned.

Mr. Bowman said if the pond is privately owned and the town has no responsibility if that dam breaks causing harm to people downstream.

Mr. Hettrick said the dam is about 3’ to 4’ high. He explained the pond can’t go higher than the dam.

Mr. Hettrick said all they want to do is clean the pond out and restore the dam.

Chairman de Jongh said that some of the specifics that the Commission would need would be how the project would be accomplished, what equipment would be used, the time table involved.

Chairman de Jongh explained that typically when the Commission talks with homeowners about pond remediation there are some details that are missing on the application that what is going to happen with the fill when it is taken off site, what equipment is going to be used, how the process is going to be done – is it going to be done by hand are they going to use small equipment.

Chairman de Jongh said there are details that are needed that the Commission needs as part of their discussion.

Mr. Bowman suggested the Hettricks work with staff and review the file of a previously pond remediation application on Sperry Road and use it as a guide and to show what the Commission is looking for. He said that might be helpful.

Chairman de Jongh asked if they were looking to recreate the dam as well.
Ms. Hettrick said the dam has to be fixed. He said that fill would be removed.

Mr. Hettrick said they want them to put in a new spillway in.

Chairman de Jongh said so there is more involved then just a pond remediation – there is a recreation of the dam.

Mr. Hettrick said the dam is busted so it was suggested it be made out of stone.

Mr. Bowman asked who “they” was.

Mr. Hettrick said DEP.

Dr. Dimmick talked about what information the Hettricks needed to provide regarding the proposed activity for pond remediation and repair of the dam including project details and a sketch of the plan.

Chairman de Jongh said another concern that he has is once they start to fix the dam that is there and recreate the spillway and keep it from seeping – he did not know what the construction sequence is involved in making sure that is going to be secure. He said he imagined there were steps that needed to be taken not only to ensure the integrity of that dam but to make sure they are not coming back somewhere down the road.

Chairman de Jongh said in his opinion the Hettricks were going to have to engage the services of a professional in terms of how is this going to be put together properly so they are not postponing a problem that may arise a year or six months from now.

Chairman de Jongh said there are still a lot of missing pieces that he thought the Hettricks needed to get and perhaps staff can work with them on what pieces were needed before the Commission could give them a thumbs up or thumbs down; staff could work with them in terms of guidance and then they could meet again and review the details – he said the details are the things the Commission needed to see in assisting the Hettricks in making the project successful.

Dr. Dimmick said they really could not go forward until the Commission was provided with more information because there are going to be questions that are going to come up.

Dr. Dimmick suggested that Commission go out and take a look at the site and help guide what kind of questions need to be answered.
Dr. Dimmick said one if the details the chair did not mention is they are always interested in where the excavated material is going; they don’t want it dumped into an adjacent wetland.

Mr. Hettrick said they have enough room on site to put most of the fill onsite but a lot of it will be hauled off site.

Ms. Dunne suggested the Commission schedule a site inspection.

Ms. Hettrick said the pond is only about 2’ deep at this point.

The Hettricks submitted pictures of the site for the Commission to view. Mr. Hettrick said the pond was spring fed with no flow in just a flow out.

Chairman de Jongh asked if any application information was missing.

Ms. Simone said the application has the basics as far as the signature and fees paid but it needed more detailed information.

There was discussion about the need for more project information and the mandatory action date and the extension of that date if needed.

Ms. Simone stated the mandatory action date is March 11, 2010 but could be extended per the requested of the applicant if more time was needed.

Motion: To accept the application.

Moved by Mr. Alderton. Seconded by Mr. Bowman. Motion approved unanimously by Commission members present.

Chairman de Jongh stated that more information, project details and a site visit was needed before the Commission could take further action on the application.

Ms. Simone suggested the Hettricks call and schedule a time to speak with staff about the project.

Further action on this item was deferred pending the submission of more details.

2.  Permit Modification Application

Amit Joshi of 175 South Brooksvale was present.
The Commission reviewed the plans showing the project details.

Ms. Simone said a notice was received date December 8, 2009 from Ken Stevens, Jr. registered professional soil scientist regarding the project.

Ms. Simone read the letter into the record detailing the work that was done at the site by Rick Arisco.

Mr. Steven’s letter talked about the work to remove sediment from the wetland, to grade and stabilize wetland soils and to protect the wetland with silt fence. The 50’ wetland buffer area around the wetland, the curtain drain, and the other areas of disturbance were also reviewed.

Mr. Steven’s letter stated the wetland soils have been restored back to their original grade. Sediments were removed by hand, roughs and mounds raked smooth and approximately 6” were spread over the entire wetland. Properly installed silt fence surrounds the entire perimeter of the wetland; the 50’ wetland buffer area around the wetland remains roughly graded and soils remain unprotected. It is too late to sow grass seed in this area but should be protected with temporary mulch such as long, i.e. not shipped hay.

The letter went on to say, the curtain drain has been installed and the back fill soil remains very wet and un-graded – again it may be too late to grade the area but it also should be covered with hay. The drain area which is about 50’ from the wetlands is now elevated above grade level; it is the intention of Mr. Arisco to place fill over the portion of the curtain drain and around the drain area. If it is impossible to complete this work then filter fabric should be placed over the area drains to protect the curtain drain and the South Brooksvale Road storm drainage system from siltation.

Again, it would be prudent to protect this area outside of the 50’ buffer area with hay. Mr. Arisco is hoping to apply sod to some areas around the house; he probably has only one or more days to finish hand raking before the next large rain storm followed by snow and freezing temperatures. In all likelihood, warmer weather will follow but the frost will rapidly penetrate the barren soil. During the winter months and early spring, Mr. Arisco should periodically check the silt fence around the wetland and the hay cover over the soil within the buffer area.

Mr. Stevens also stated in his letter, the area drains should be checked to make sure filter fabric over the drain is in place and not blocked with silt.

Dr. Dimmick he had found over the years that Mr. Stevens’s recommendations are very sound.
Chairman de Jongh said he thought what he heard staff read that it was also going to involve periodic monitoring and reporting back to the Commission, making sure that the controls that Mr. Stevens outlined would remain in place during the period of time that he had concerns.

Mr. Joshi said Mr. Arisco visits the site after every significant rain storm or snow storm to make sure the silt fence is still installed properly and there is no damage to it. He said Mr. Arisco has already installed the filter fabric around the storm drain and checks that the filter fabric is still in place. He said now the side of the property looks very different than it back in October.

Mr. Joshi said Mr. Arisco already laid out the hay before the snow came in but because of the large winds we had, all of the hay was blown off towards the fence.

Mr. Joshi said when Mr. Arisco returns from vacation he will be addressing the situation further, checking the silt fence and make sure the hay is covered and the filter fabric is properly in place.

Mr. Joshi said the sequence of events are detailed on the plans and will begin in the spring, beginning with the installation of the wetland plants – the list that was supplied by Ken Stevens.

Mr. Joshi said the list of plantings as detailed in the plans will be installed; three permanent markers will be installed around the wetland area so the wetland area is marked not to be disturbed in the future. He said they will be laying sod as soon as they start cutting sod up-north around the area to stabilize it.

Mr. Joshi said he had the full confidence in Mr. Arisco and his men that the recommendation of Ken Stevens as well as the esteemed Commission will be taken into account.

Dr. Dimmick asked if staff has gone over all of this.

Ms. Simone said she had and one thing she would like to point out to Commission members is that there is a proposed yard drain map where there was not one previously and that is to also be tied into directly into the drainage coming off of the house; it is located outside of the regulated area.

Dr. Dimmick said he had no problem with that.

Ms. Simone said the yard drain is in addition to what was previously submitted she said it appears as though what’s here is very similar to what was already permitted just now there is going to need to be a little bit more done over a longer period of time.
Dr. Dimmick said he did not expect anything to be done until the end of March other than keeping things under control.

Chairman de Jongh said he thought tender loving care needed to take place when the snow starts melting; he said he thought is was a March to May kind of thing – a time where things start really get sloppy and mushy – it’s going to require a lot of onsite monitoring to make sure everything stays in place.

Mr. Bowman said he would like to see, when the snow clears, during a period of time when the snow is gone, to have Mr. Joshi’s contractor check the site, re-hay the site if necessary and submit something in writing to the affect that’s been checked and taken care of.

Mr. Joshi said absolutely.

Chairman de Jongh said there should be some reports coming back to staff to advise this Commission that the things that were outlined by Ken Stevens are in fact being monitored, taking place and exist on site.

Mr. Bowman said he wanted to make sure it was done by a contractor, so someone was responsible.

Mr. Joshi said he would have Mr. Arisco be in touch with Ms. Simone so they can work together and that staff is aware of the steps taken to mitigate the area.

Mr. Bowman said he wanted to make sure that someone from the Arisco Company provides the Commission with a written report that everything is okay.

Chairman de Jongh said unless the Commission feels otherwise, at least certainly between now and March maybe a report is submitted once a month but once they get into wetter weather reports will have to come more often.

Motion: To accept the permit modification #2009-021A.

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

Dr. Dimmick said in light of the fact the modification improves the present situation, he did not think the modification had no significant adverse affect.

Motion: That the modification has no significant adverse affect.

Moved by Dr. Dimmick. Seconded by Mr. Bowman. Motion approved unanimously by Commission members present.
Chairman de Jongh said that between now and the next couple of months, monthly reports should be provided to staff that Mr. Joshi’s paid professionals have looked at the site and compared it to the recommendations outlined by Soil Science and Environmental Services and in fact onsite and in place functioning properly.

Ms. Simone said she would prepare a draft motion for the next meeting and that she would incorporate the report monitoring language as a stipulation and provide a schedule and details as to who are responsible to contact.

Mr. Bowman asked that any report be received in the wetland office prior to the wetland meeting so the report details could be reported on at the meeting.

Ms. Simone said she was drafting the appropriate language for the timing of the reports and so time would be allowed for an onsite staff inspection before the meetings.

There was discussion about the timing of the reports and how the language regarding the reports should be drafted depending on weather conditions.

Further action on this item was deferred pending the preparation of a draft motion for the next meeting.

3. Request for Determination
Forest Lane and Fawn Drive
Public Works Drainage Project

Joseph Michelangelo, Director of Public Works/Town Engineer and Scott Poryanda of CT Consulting Engineers were present.

Mr. Michelangelo said there was a letter in the Commission’s packet describing this project. He explained there is a drainage channel that runs along Forest and Fawn which is locate off of Cook Hill Road sandwiched between Southwick on the west and Elim Park on the east.

Mr. Michelangelo said the area is a 1950’s era development which formally conveyed the main channel of the Mill River which was a substantial engineering project several decades ago to re-route the Mill River.

Mr. Michelangelo said the channel carries urbanized areas as described in the letter, part of Route 10, the motel, King Road and some subdivision road off of that. He said the only undeveloped land that it accepts is probably the RWA land where the well fields area just north of the site.
Mr. Michelangelo said this has been a nagging issue for years for the adjacent property owners – it’s a very urbanized swale, with a small area for landscaped lawns and some of the problems they have is that the control of that water level are at high peak as is the Mill River; the Mill River flood plane rises up, initiates this channel and when its dry doesn’t allow the water to continue to the Mill River just because it’s a flat and there are very little imperfections to cause the water stagnate there.

Mr. Michelangelo said they have had CT Consulting Engineers, Poryanda out there with his survey crews to give some spot elevations of the site.

Mr. Michelangelo said the Commission could see what the problem was from the plan; he said they want to go in there and do some grading of the drainage channel creating a drainage channel which would positively drain a cross section draining east towards the Mill River. He said this has been done several times over the years but probably hasn’t been done for 7 or 8 years.

Dr. Dimmick asked if Mr. Michelangelo knew the background of this piece of land and why the contours keep changing.

Dr. Dimmick explained that this site was mostly a bog at one point and when the area was developed – housing developed they bulldozed large quantities of sand on top of the bog and there are places where there is sand all the way down and there are places where there are 3’ to 8’ of sand on top of organic matter and portions of this channel are firm sand and portions are organic matter and those portions keep settling over the years which is why everything keeps going out of alignment and why there is a nice even grade and then 7 years later you don’t have an even grade anymore.

Dr. Dimmick said when the site was build, if there were wetland laws at the time, the site would have never been built. He said there are also houses that shift position there; there are split-level homes that were not split level when they were built; there are places where the house went one way and the chimney went the other way. He said he has watched this area since 1973.

Dr. Dimmick said there are boring logs somewhere so that would give some idea of the distribution of firm bottom versus shifting bottoms.

Mr. Michelangelo said he was sure a large part is as Dr. Dimmick described. He talked about the nature of the channel being a very shallow sloped channel.

Chairman de Jongh said so Mr. Michelangelo was talking about trying to crate a v-type of a channel.
Mr. Michelangelo said for a length of 950’ over the course of the 7 properties where it enters abutting the RWA property. He showed on the plans the length of the proposed channel; he said it runs to Forest Lane where there is a 4’ by 10’ box culvert and runs to Fawn Drive where there is another 4’ by 10’ box culvert and then it goes along until it meets the Mill River. He said the whole section has the same type of problems where it’s a uniform channel but it’s almost a perfect 3-sides of a rectangle which doesn’t promote flow out of there that does not promote flow out of there that is desirable to the property owners.

There was discussion about the last time the Commission was in this location for wetland related issues.

Mr. Michelangelo said according to their records there was some work done in 1998 which was a permit and some regrading and there was a permit in 2002-03 but nothing was ever done constructed wise acted on that permit.

Chairman de Jongh said he was going to play devil’s advocate - this area has been plagued with problems and realistically looking back never should have been built in the first place but the problem never seems to go away and he was wonder what Mr. Michelangelo was going to do differently that it’s not going to come back and haunts us 10 years from now.

Mr. Michelangelo said that channels do move so this won’t be a hard construction so there is nothing saying their v-channel won’t slump but they will build it to try to recreate it so that v-channel wants to stay and doesn’t want to slumps on them.

Mr. Michelangelo said there is not great velocity through this.

Chairman de Jongh said there is not a lot of elevation either – it’s pretty flat.

Mr. Michelangelo said correct.

There was discussion regarding the history of the area and the drainage.

Mr. Michelangelo said the entire section of King Road drains to here as does the drainage pipe that they put in the back of North Brooksvale.

Mr. Michelangelo said what the State is looking to do as part of the reconstruction of that curve at Route 42 and King is find a better path for that water from the intersection.

Chairman de Jongh said this is a request for determination –what was Mr. Michelangelo looking for the Commission to determine; he said this is “a” a challenge.
Dr. Dimmick said it is within their jurisdiction.

Mr. Michelangelo said he has a plan drawn up with some detail and they are looking for some guidance that this is sufficient to proceed with this an maintenance work, working with staff to guide them.

Dr. Dimmick said when you are changing the channel cross section you are sliding passed maintenance work and to something that actually does need a permit. He said if they were just taking stuff out that had accumulated since the last time around then that would be maintenance work, when you are changing the channel cross section to something different then it had been then it comes within something that does need a permit.

Mr. Bowman said no offence to Mr. Michelangelo but this project is well beyond staff and they better cross their “i’s” and cross their “t’s” with or they will be back again.

Dr. Dimmick talked about some of the issues that could occur if the channel was deepened. He said they needed a soils engineer to take a look at the area to make sure they were not going to have sliding soil problems.

There was discussion about a few homes in the area that had structural problems.

Dr. Dimmick said there were 6 of them that had problems.

Chairman de Jongh said he thought what Mr. Bowman was alluding to and he thought all Commission members were saying silently to themselves that this is a project that is definitely going to require some kind of application with a lot of details and the details for no other reason but to make sure that this doesn’t become a real problem that blows up – he said there are a lot of moving parts with this not the least of which is the soil that you are going to be working in; he said that in evidenced in the history of the site that it keeps shifting and that is why he raises the question – what are you going to do differently and he though Mr. Michelangelo needed to be specific about the steps they were going to take on this to ensure that it doesn’t create a problem for an adjacent homeowner when Mother Nature decides to reclaim what she said was hers in the first place.

Dr. Dimmick said Mr. Michelangelo was to deepen the channel so there is a low-flow channel – he said he was worried about the soil stability but what if they temporarily put in something like 8” porous wall pipe and then back again that way there would be something to drain the water and still have the soil in a position to provide side wall stability.
Ms. Simone said there was discussion with staff about this project and bring this to the Commission as a request for determination but also from a project management standpoint to get some feedback from the Commission a little bit of detail as to what would be expected to be submitted as part of an application so that way the town is able to accurately budget what is going to be needed for this entire project.

Ms. Simone said she did not know if the Commission wanted to take a look at what the Town had already for details.

Chairman de Jongh said the Commission could take a look at what was prepared so far.

Scott Poryanda with CT Consulting Engineers addressed the Commission.

Mr. Poryanda gave a brief overview of the current channel design; he said the channel is currently designed for larger storm events so what happens when you have a smaller storm event you don’t get the velocity you so with a larger storm. He talked about the flow of the low-flow channel and steps they planned to take to keep the velocities up in the channel during smaller storm events.

Mr. Bowman asked how many square feet were they disturbing.

Dr. Dimmick said the channel is what – 8’ wide.

It was noted there would about 7,000 or 8,000 square feet of area would be disturbed.

Mr. Bowman said anything over 5,000’ required a State DEP permit.

Dr. Dimmick said maybe not – it depends on the fine print. He said that the DEP might dismiss it as needing a diversion permit but the problem how much land you’ve got upstream of it and the third side of it – this is not the main channel – it’s an overflow channel.

Mr. Bowman said the channel is attached to the well fields at the north end controlled by the Regional Water Authority and there has been damage to the properties that abut this channel.

Dr. Dimmick said they would need to check to see if a DEP permit was needed; he said it was better to check and have them say it is not needed then to not check and have someone at DEP decide a permit was needed.
Chairman de Jongh said they have had comments from Regional Water Authority on projects smaller that this and he thought this project needed their comments as well.

Ms. Simone said and in addition to that RWA are an abutting property owner and this is going to be on some portion of their property and Mr. Michelangelo did sent a letter all of the property owners that in order for an application to come before the Commission they would all have to sign off on it.

Mr. Michelangelo said he met with Ron Walters from RWA. He said he met Mr. Walters at the project site and talked to him about the project. Mr. Michelangelo said work would take place on regional Water Authority land and there were some hurdles to step through and they ran across that when they worked on their sewer project north of Blacks Road – so it’s not impossible.

Mr. Michelangelo said he met with Mr. Walters explained the project and he did not commit one way or the other; he was very helpful and cooperative.

Chairman de Jongh said it would be helpful for the Commission if they had Mr. Walters’s comments in writing in case there is any kind of back lash from the property owners – they are going to come to the file the Commission has.

Mr. Michelangelo said this is not the Mill River aquifer that meets Lake Whitney so RWA won’t comment on it.

Chairman de Jongh said if there was commentary one-way or the other it is important that that commentary be converted into writing and that the Commission have it to fill in the dots and the spaces in their file.

There was discussion the project needing DEP approval.

Chairman de Jongh said he thought it was pretty clear that a formal application was going to be required and there is a whole lot of other information that is going to be needed to be gathered together in preparation for the application.

Mr. Bowman asked Mr. Michelangelo if he though this project would tie right in to the project they complete over the summer on the back of Broadview. He asked if this was going to tie back in which it originally did and it cannot flow near “?” now – correct.

Mr. Michelangelo stated correct. He said it does flow there now.

There was discussion as to the location the flow flows now.
Chairman de Jongh said this is a pretty significant project and he expected there would be a public hearing on it.

Ms. Simone asked the Chairman if they could get a formal vote regarding the request for determination.

Motion: That the proposed work would require an Inland Wetland permit application.

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

3. Country Club Road Bridge Permit Proposed Modification

Ms. Simone said there was a communication sent to the Commission (#11) regarding modifications to be made to the Country Club Road permit that was granted.

Dr. Dimmick said the proposal is to move the stream sideways 5’ or something.

Mr. Michelangelo said to meet with the utilities the 16 west abutment needs to stay in order to support a pole there; basically the flow channel is going to stay where it is – the high flow channel will be shifted to the east and it’s 7’ the side they have to hold.

Dr. Dimmick asked if that makes the bridge any wider.

Mr. Michelangelo said it is the same exact bridge, same exact design which will just be shifted over. He said it is not a very difficult engineering modification; he said he would forward the plans to the Commission.

Dr. Dimmick said he was just thinking if the abutments had to stay to hold that pole because the plans involved removing everything that is presently there and what were they going to do – put a temporary support on it when they do this.

Mr. Michelangelo said once they build the bridge on this side of the abutment and they are the new arch culvert in place that will hold the earth back so then they can start to back fill it and remove the abutment as they work up.

Chairman de Jongh said so the end result is going to be the same – there is no significant change other than just having to shift it a little bit.

Mr. Michelangelo stated correct.
Motion: Having received details on the proposed modification of the Country Club Road Bridge Project permit #2009-022, the Commission approved the proposed modification.

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

4. Discussion - Citation Ordinance

Chairman de Jongh explained that he asked Ms. Simone to bring this item back on the agenda. He said the Commission had talked about this at one point; he said their regulations are nice on paper but they have very little teeth in them.

Chairman de Jongh said at one point they talked about having a fine ordinance and it was investigated by the town attorney that they could do this. He said other towns have fine ordinances similar to this.

Ms. Simone said she had a copy of a draft provided by Town Attorney Mike Zizka in 2007 for the Commission to review and this is a template that other town’s have also adopted.

Chairman de Jongh said it was his understanding the town already has an officer in place.

Ms. Simone said yes – there is someone.

Mr. Bowman said they would have to create that for them – he said this is what they went though before and this is what stopped them the last time.

Ms. Simone said apparently what she was told by the Attorney is there is already someone already on paper – there is an Attorney already on paper as a hearing officer for citations and that would also cover wetlands.

Ms. Simone said the town has contracted an Attorney who acts as a hearing judge or hearing officer and part of their contract also covers wetland hearing so that person is already in place. She said there were other issues the Commission had raised in the past before it even gets to that point but she could double check to see if that person is still in place under that contract from 2007.

Mr. Bowman talked about the Commission discussing that they would make a recommendation that there be a fine and then it would be taken complete out of their hands and that is when they baked off of this whole thing. He said they did fairly thoroughly discuss this.
Ms. Simone said this Commission would not be the one who hears anything from the person – there would be a citing officer who in her understanding is a police officer who would then submit the citation then they go to the hearing officer.

Dr. Dimmick said the hearing officer could get testimony from the Commission as to their feeling about an issue.

Mr. Bowman said what he would like to do is have staff go back and get the minutes of that discussion the Commission had previously to they could refresh their memory and maybe start the discussion on this again.

Chairman de Jongh said the reason why he asked staff to bring this up again because it has been awhile and the problem is they find themselves more often then not in situations that come up where they get to a point where they are at the mercy and he will use the people at the north end that said – well we are not going any work – but you can’t do any work until you do “x” so without the ability to impose fines and create some incentive for people to get off of head-center our regulations are just paper.

Mr. Bowman said he did not want to see something getting out of control and getting out of the Commission’s hands. He talked about the issues with assessing fines – he said the purpose of the ordinance would be to give the Commission’s some teeth.

Mr. Bowman said he was trying to remember the details of the previous discussion on this item – he said it wasn’t like they brought it up and them did nothing about it they brought to up and decided not to do anything about it at the time.

Chairman de Jongh said he thought there were issues that had to be answered.

Ms. Simone said since the draft is almost 2 years old she could contact the town attorney and ask if there is an update to this and see if any other towns have come into situations where they have made some changes to the template.

Ms. Dunne asked where the citation begins. She asked if the citation could come from the Commission. She asked if anybody can issue a citation and then a police officer goes out and serves it.

Ms. Simone said this is all based on state statutes so state statutes would allow the frame work.

Ms. Dunne said for example conducting a non-permitted regulated use involving filling a wetland – who would make the decision that the land owner “x” is doing this and send that officer out to serve a citation.
Ms. Simone said she believed it would come from the Commission.

Ms. Dunne said so they would have control over it.

Ms. Simone said as far as identifying a problem and starting it, where it goes from there she believed the Commission from the way this template is written is then excluded from the process.

Dr. Dimmick said what there need is a statement before statement one on the draft – he said to make it acceptable they need an initiating paragraph that indicated why someone would serve a citation.

Mr. Alderton said he remembered from the last discussion on this item that the statute requires a citation officer to be the one to issue the complaint and then the Commission had no control when the citation officer issued it. He said he remembered reading it and sending an email stating that he had a problem with the fact Commission had no control.

Chairman de Jongh asked staff to research the discussion points the Commission had before, what the obstacles were and let’s revisit again rather than spending time this evening trying to figure out what they said six months ago or a year ago.

Ms. Simone agreed. She said she would provide copies to Commission members regarding comments that were made previously.

Mr. Bowman asked to provide the name of the citation officer and hearing officer.

There was discussion about the citation ordinance and what happens at the Planning and Zoning level.

Mr. Bowman said he felt the fine/citation ordinance subject was very important.

Mr. Bowman stated for the record that he wanted to make sure he was present at the next meeting when this item was discussed.

This item would be addressed at a future meeting.

5. **Approval of Minutes from the December 1, 2009 Public Hearing and Regular Meeting.**

Motion: To accept the minutes of the December 1, 2009 Public Hearing and Regular Meeting with corrections.
PH: Pg. 1 L49 “effected” to “affected”; Pg. 2 L19 “its” to “itself”; L31 “they” to “they would”; Pg. 4 L30 “presenting” to “presently”, L34 “there” not “their”, L37 “dead” to “done”; Pg. 6 L9 “construct” to “construction sequence for”, L16 “bi-grade” to “drive”; Pg. 7 L13 “lose” to “loose”; Pg. 8 L19 “be” to “he” and delete “her”; Pg. 9 L2 “sweep” to “swept”.

Regular Meeting: Pg. 4 L10 add “do” before “anything”; Pg. 5, L5-6 delete Mr. Joshi said the landscape told him that as far as his work was concerned”, L35 delete “is”; Pg. 6 L29 change “more one” to “one more”, L36 delete “that area laid”, L52 change “wetlands are” to “activities”; Pg. 7 L28 “do” to “due”; Pg. 8 L26 “objectable” to “objected to”; Pg. 10 L27 “acuminate” to “incumbent”; Pg. 12 L30 delete “it’s comprised that”, L34 “their” to “they’re”; L44 “aught” to “ought”, L47 “barrels” to “barrows”; Pg. 14 L16 “[barrel” to “barrow”, L46 “upland” to “wetland”; Pg. 16, L29 “acquaint” to “adequate”; Pg. 19 L45 “intensive” to “intents and”; Pg. 21 L11 “could” to “could not”.

Moved by Mr. Bowman. Seconded by Mr. Alderton. Motion approved unanimously by Commission members present.

XII. ADJOURNMENT

The meeting was adjourned at 8:57 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills, Recording Secretary
Cheshire Inland Wetland and Watercourse Commission