I. CALL TO ORDER
Chairman de Jongh called the meeting to order at 7:30 p.m.

II. PLEDGE OF ALLEGIANCE
All present recited the pledge of allegiance.

III. ROLL CALL
Ms. Dunne called the roll.

Members in attendance were: Robert de Jongh, Charles Dimmick, Sheila Fiordelisi, Earl Kurtz, and Kerrie Dunne.

IV. DETERMINATION OF QUORUM
Chairman de Jongh determined there were enough members present for a quorum.

V. APPROVAL OF MINUTES – Regular Meeting – November 2, 2010
There were no objections to defer the approval of the minutes to the end of the meeting.

V. COMMUNICATIONS
1. Project Narrative for Permit # 2005-012B, Site Plan – Wiese Road

Ms. Simone said the first communication is a project narrative for permit number 2005-012 B.
This communication was reviewed.

2. Other – none.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated that there were no written inspections.

2. Staff Inspections

Ms. Simone stated there was a certificate of occupancy inspection on Marion Road.

VIII. ENFORCEMENT ACTIONS

1. Unauthorized Activities in a Regulated Wetland Area

Ms. Karin Eichten
630 Cook Hill Road

Chairman de Jongh stated this item is subject of ongoing litigation.

Ms. Simone said that she is just awaiting word from the Town Attorney if the settlement has been signed.

2. Unauthorized Activities in a Regulated Wetland Area

Mr. Chris Lambert
Highland Avenue

SC 1/06/09
SC 1/20/09
SC 2/03/09
SC 2/17/09

Chairman de Jongh asked if they were still in limbo on this.

Ms. Simone said the project is not moving forward and its recorded on the deed that before the project does move forward that he (the owner) has to complete some of the stipulations per the correction order.

3. Unauthorized Activities in an Regulated Wetland Area

Michael and Bonnie Donato
35 Sudol Court

SC 3/16/10
Ms. Simone said she went out to the site – they did plant the majority of the plants that were required. There were some species they were not able to get from the nursery. The property owners are possibly planning on writing a letter to the Commission asking either to just forgo those two trees or to allow them to replace them with shrubs – staff is still awaiting word on how they (the property owners) want to proceed with that.

4. Unauthorized Activities in an Regulated Wetland Area  SC  5/04/10
Dr. Robert Henry and Maria Passaro-Henry
12 Mountaincrest Drive

Ms. Simone said she sent letters previously and had no response; sent an email and had no response from the Henrys.

Ms. Simone informed the Commission that she would look through the records and find their (property owners) office numbers and contact them.

5. Unauthorized Activities in an Regulated Wetland Area  SC  10/05/10
Edward and Lisa Ellis
79 Dundee Drive

Ms. Simone said the corrective order was sent out and they (the property owners) have through February 2011 to correct the issues at which time the site will be inspected by staff.

XI. UNFINISHED BUSINESS

1. Permit Application APP  #2010-026
Town of Cheshire Public Works DOR  11/02/10
Fawn Drive and Forest Lane
Site Plan – Stream Channel Maintenance MAD  1/06/11

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 this application is for the removal of sediment and debris from a 750 linear feet of an unnamed tributary to the Mill River.

2. That 60 cubic yards of granular material will be removed within an 8-foot wide channel bottom over seven private properties.

3. That the work will be conducted during dry non-rain weather conditions.

4. That the proposed site plan 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 #2010-026, the permit application of Town of Cheshire, Public Works Department for site plan approval as presented and shown on the plans entitled:

“Channel Improvement Plan
Forest Lane and Fawn Drive, Cheshire, CT
Prepared for the Town of Cheshire Dept. of Public Works
Dated December 29, 2009
4 sheets Prepared by Connecticut Consulting Engineers, Meriden, CT.”

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the “Conditions”) each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.

2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.

3. Prior to any commencement of activities covered by this permit grant the applicant shall have the following items both completed by a qualified party and verified as complete by Commission Staff:
a) the proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.

4. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:

a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.

b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.

5. This permit shall expire on November 16, 2015.

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

XII. NEW BUSINESS

1. Permit Application APP #2010-027
   Brodach Builders, Inc. DOR 11/16/10
   Wiese Road
   Site Plan
   MAD 1/20/11

Attorney Anthony Fazzone and Darin Overton, PE of Milone and MacBroom were present on behalf of the applicant.

Attorney Fazzone explained this is a 41-unit age restricted housing on Weise Road – it runs from Weise Road to the end of Buckland Drive.

Attorney Fazzone said the project was originally approved in 2005 and then in September 2009 they came in and the permit was extended for five years from that point in time.
Attorney Fazzone said since 2005 they’ve run into a number of obstacles – they have been constantly before the Water Pollution Control Authority (WPCA).

Attorney Fazzone explained at the very end of 2005 they Town became more aware of the State of Connecticut Plan of Conservation and Development by the Department of Environmental Protection and Office of Policy and Management (OPM) and basically that conservation plan says that there are certain areas that you should not sewer and if you do sewer them then its going to jeopardize any future funding you may get for sewer projects or municipal projects in the Town.

Attorney Fazzone went on to explain that it just so happened that the Brodach piece – the Weise Road piece fell into a “green area” a conservation area which according to OPM was a non-sewerable area.

Attorney Fazzone said there was a provision where you could go to the State Legislature – they had a standing committee. The application went to the State Legislature – petitioned them. He said by that point in time they (the application) had Wetlands approval, Planning and Zoning approval and they had preliminary feasibility approval from the Water Pollution Control Authority.

Attorney Fazzone said they went to the State of Connecticut – the Legislative Committee and they changed the site to what is called “neighborhood conservation” which is designated on the maps – it’s a pink color of the OPM map and it’s an area that’s allowed to be sewered. He said since then they went back to WPCA and they have their sewer approvals in place.

Attorney Fazzone said somewhere back around 2005 the Army Corp of Engineers changed their regulation and the amount of wetlands disturbance that they were approved for at that time brought this within us needing an Army Corp of Engineers permit that requires a DEP certification under the Clean Waters Act.

Attorney Fazzone explained that the DEP has somewhat of a policy now that if you come within any of their regulations – the Clean Water Act or whatever they want to see you 100’ from the wetlands, therefore they (the applicant) is here tonight to talk about modifications to the plan – he said he’ll have Darin explain them and
the good news is there’s less direct wetlands impact based on the revisions to the plan.

Darin Overton, PE addressed the Commission.

Mr. Darin said it took a little bit of brain storming and quite a bit of research to go back to 2005 and sort of go through all of the changes that they made in the plans for the various reasons – he said the majority of the changes came through the DEP approval process but as Attorney Fazzone explained it was quite a process getting the WPCA approval too and the various different designs they went through on that affected the grades on the site, etc.

Mr. Overton said he went through and put together a 100 scale composite plan and he put some color on to try to make it a little more clear.

Mr. Overton handed out copies of the plan to Commission members.

Mr. Overton said with a 100 scale plan and a 31 acre site the improvements look kind of small.

Mr. Overton said he did provide the narrative which outlines the majority of the changes. He said he would run through that in order and just highlight a few other things that are noted on the plan.

Mr. Overton said the first couple of things in the letter are regard to the sanitary sewer. He explained that originally this entire project was designed with a gravity sewer which drains to the pump station shown on the plans in red on the south side - in order to do that the northern portion of the site was elevated with quite a bit of fill; the new design has changed so that this pump station is now eliminated and there are individual pump stations for each of the units that pump into a common force main. He said because of that they are able to lower the northern portion of the site and there is not enough as much fill that’s there.

Mr. Overton said the connection to the sewer at the existing manhole in Buckland Drive. He said the premise is still the same to pump up to Buckland Drive – its just he method of doing it has changed and it’s actually effected some of the site design and grading.
Mr. Overton explained through the DEP process while the number of units remains the same – you can see in red on the plan – that shows the old unit locations – there are several units that shifted.

Mr. Overton said the concerns that DEP had was that Attorney Fazzone had mentioned while this Commission looks at 50’ upland review area – DEP looks at 100” particular from watercourses and their concern was Honey Pot Brook they really want to create a larger buffer to Honey Pot Brook and some of the wetlands that directly connected to it; he said there were a couple of units that were an issue.

Mr. Overton said they were asked to move unit 19 back and some of the units to the south were asked to be moved further away from the wetland finger so what they did was they took unit 19 and moved it the north to an opening in the northern part of the project and by moving the emergency access drive they could fit that in there.

Mr. Overton said the other unit they were concerned about (he said he did not recall the number of the unit) – he pointed to it on the map – it was about 50’ away from the wetlands before and they were now move it about 100’.

Mr. Overton said so they shifted these units in one area to move one unit away – they accommodated 19 which gave some room to shift some units in order to create more separation from the wetland (Mr. Overton showed on the plan the locations of the areas he was referring to).

Mr. Overton said there were also the units along Honey Pot Brook – he said you can see there was some shifting in there.

Mr. Overton said what they did was slit a portion of the road in the center of the project just north of the storm water management basin a little bit to the east to allow for a little bit more room to adjust those units further away from Honey Pot Brook.

Chairman de Jongh said he noticed there was another unit to the westerly side of the accessway to Buckland Drive – its in red – its kind of out there – three in on the left hand side – that looks like its been eliminated – has that been shifted down further.

Mr. Overton said it was shifted down to the south – he said you can see one unit with a longer driveway – it gave a greater separation
distance from the wetlands and still were able to accommodate the same number of units.

Mr. Overton said what they did was it created a nice open area which is part of the old horse pasture which its just kind of brush so what they did is they put a little gazebo in there – it can actually be nice little common space.

Dr. Dimmick commented about the storm water management basin – he said there was a stormwater management basin in the original plan – he asked what was done in terms of difference there.

Mr. Overton said one of the biggest thorns in the side of the DEP and to a certain extend the Army Corp was the fact that a portion of this basin was being proposed in this wetland finger – shown on the plan – he explained that their wetland scientist who went out there – he said this area had all been disturbed as part of the construction.

Mr. Overton said it can’t be seen on the plan but there is an existing barn there. He said this area had been disturbed – this had been put into a ditch.

Mr. Overton commented that the whole area had been disturbed - it was a very low quality and they were looking at the basin as creating a permanent pool in the basin as that is their wetland mitigation as part of it and the disturbance of this highly disturbed wetland as part of the stormwater management was really minimal loss then on the other hand regardless of the quality of the wetland just won’t want any storm water basins in any wetlands in any wetlands what so ever for any reason.

Mr. Overton said they filed there first permit with the DEP and Army Corp with the basin as it was approved in the wetlands and they fought the battle for about a year and a half before they reject their application and they started looking at alternatives. He explained that through that process they expanded the basin to the east – they kind of moved the grading out. He said at one point they were trying to save one of the structures that was there and turn it into a picnic pavilion – keeping the slab for one of the barns that was there and they had a walking path around there – they were going to kind of use this for some kind of an amenity but they abandoned that to expand the basin to the east and get it out of the wetlands.
Mr. Overton said they then filed instead of an individual permit – that got them down to a category 2 – a lesser permit with the Army Corp and then the re-filed and that is the applicant that was approved.

Dr. Dimmick asked how many barns were or is on that property now.

Mr. Overton said there were two in this area.

Dr. Dimmick asked if there was another structure – a residence of some sort at one point.

Mr. Overton said there is an existing residence. Units 14 and 15 are a conversion of the existing house that’s out there. There was a previous house that was larger that was torn down – this house that was constructed still remains on the site and is going to be converted into units and then there is an accessory structure that is connected by a covered bridge over to where what was the guest house of the original house; that is still connected to the house that exists there now; that portion of the structure will be removed.

Mr. Overton said there is one other change which is a minor change - he said the crossing of Honey Pot Brook. They originally had it as a 20’ wide by 5’ high by 30’ long concrete arch; they then went through the preliminary design for the structure and with the changes in the sewer – what they found was they needed some more room for the utilizes to cross there and even though the basically the size of the structure is the same the shape of the arch – going to a square - a three-sided box culvert gave them a little bit more room – it was easier to design structurally so that changed that from an arch to a three-side concrete box.

Dr. Dimmick said that was some kind of limited access – are they going to have a barrier across there.

Mr. Overton said this is strictly an emergency access – there is going to be gates on either side of it. He said they kept the width of it down to the minimum they could possible. He said they worked with the Fire Department and Emergency services to make sure it was adequate for their needs.

Mr. Overton said he thought the length of the culvert widened out about 3’ in order to accommodate as they went through the Planning & Zoning process – to accommodate the width they wanted – the shoulders, the guide rail, etc. – there is about a 3’ gain in length.
Mr. Overton said in going through the DEP process there was a couple of other things that they wanted incorporated – their LID manager did a review of the application as well and suggested some changes to incorporate low impact development. He explained many of them they couldn’t incorporate but some of them they did agree to.

Mr. Overton showed on the plan the portion of the roadway which is highlighted in yellow – they eliminated the curbs on there and they just have some small roadside swales – they essentially no watershed other than the roadway itself so it was easy to eliminate that sheet flow off – there are not that many units along this portion of the access so they are essentially building it over the existing driveway that is there now which does not have curbs so it made sense.

Mr. Overton said they also incorporated a few rain gardens or bio-infiltration areas behind the group of units where the surface water runs down there – they collected in those small areas before it overflows towards the wetland – he said there is a fourth one on the south side and the actually suggested that they depress this island in the middle – he said the access drive splits and they have an island and they put a raised structure in there so they have some storm water storage and some bio-infiltration proposed there – proposing some soil amendments.

Mr. Overton said they were asked to incorporate some impervious pavers – they were also asked to consider doing that in the roadway – the applicant informed to date that the Town of Cheshire has never allowed a paver road like that and some areas that it was tried for emergency access ways – the Fire Department hasn’t really liked the way it turned out.

Mr. Overton said what they agreed to put pervious pavers in for the visitor parking spaces and there is a couple of what they had was painted islands before – they have agreed to change those to pavers so it won’t really change the access for vehicles so they thought that would be an easy change to make to incorporate some of DEP’s ideas.

Mr. Overton said he thought this was it as far as the changes.
Mr. Overton said the net effect was they were approved back in 2005 for a little over 7,300 SF of direct wetland impact. The current plan proposes just over 6,000 SF of direct wetland impact.

Dr. Dimmick asked Ms. Simone if the applicant submitted all of the materials they needed for this modification.

Ms. Simone stated yes.

Motion: To accept the application for modification.

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

Dr. Dimmick said the modification is a reduction in impact to something the Commission has already proposed.

Motion: To declare the proposed permit modification not significant within the context of the Commission’s regulations.

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

Attorney Fazzone said he wanted to suggest that since this is certainly less impact then what the Commission approve that they might even consider this to be de minimus in terms of the application process and get them out of here in one evening.

It was noted that there was a public hearing was held for the original application on this proposal.

Dr. Dimmick said de minimus is usually used when none of the activities fall within the set-back and this application did not qualify for that and besides which if they were to do so and the people over on Buckland heard about it the Commission would hear screams.

Chairman de Jongh said this allows staff to go back and research the wording on the approval of 2005 and make sure there are constancies where they need to be and highlight the improvements at the same time.

Further action on this item was deferred pending staff review and recommendation.
This item would be addressed at the next Commission meeting which would be held on Tuesday, December 7, 2010.

2. Approval of Minutes from the November 2, 2010 Regular Meeting

Motion: To accept the minutes of the November 2, 2010 Regular Meeting with corrections.

Pg. 3 L5 delete “had”, L6 “where” to “were”, L48 “where” to “there”; pg. 4 L11 “are” to “area”; pg. 10 L27 “as” to “has”; pg. 14 L27 “think” to “thing”, L33 “drew” to “drawn”, L48 add “from” after “work”.

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

XIII. ADJOURNMENT

The meeting was adjourned at 7:54 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills, Recording Secretary
Cheshire Inland Wetland and
Watercourse Commission