Members present: Robert de Jongh, Matt Bowman, Kerrie Dunne, and Earl Kurtz.

Member(s) absent: Benjamin Alderton, Charles Dimmick, and Sheila Fiordelisi.

Staff Present: Suzanne Simone and Town Attorney Kari Olson.

Ms. Dunne served as secretary pro-tem in light of Mr. Alderton’s recent resignation from the Commission.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:31 p.m.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

III. ROLL CALL

Ms. Dunne called the roll.

Members present at tonight’s meeting were Robert de Jongh, Matt Bowman, Kerrie Dunne, 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 – May 4, 2010
   Regular Meeting – May 4, 2010

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

V. COMMUNICATIONS

1. Staff Report with Attachments
   Re: Sindall Road

   Ms. Simone reported that the first communication is a staff report with attachments for Sindall Road. Ms. Simone said that the Commission
can take this item up under new business; it’s not listed on the agenda but it can be discussed by majority vote.

Chairman de Jongh said the Commission would take this item up under new business.

2. Algonquin Gas Transmission, LLC Correspondence
Re: Natural Gas Pipeline Maintenance (C-1 System)

Ms. Simone stated that the second and third communication items were notices from Algonquin Gas Transmission regarding their maintenance lines.

3. Algonquin Gas Transmission, LLC Correspondence
Re: Natural Gas Pipeline Maintenance (C-System)

Ms. Simone stated that the second and third communication items were notices from Algonquin Gas Transmission regarding their maintenance lines.

4. Comments from Attorney Kari Olson
Re: P.A. 09-181; Proposed Amendments to Regulations

Ms. Simone stated that this communication was comment from Attorney Kari Olson regarding Public Act 09-181 which is listed under new business tonight.

5. Letter to Meiling Zhu and Wengeng Zhang
Re: Wetland Determination for 410 Westland Avenue

Ms. Simone said item five is a copy of the determination letter sent to the property owners at 410 Westland Avenue.

6. Letter to Dr. Robert Henry and Ms. Maria Passaro-Henry
Re: 5/4/10 Show Cause Hearing Determination for 12 Mountaincrest Dr.

Ms. Simone stated item number six is a letter to Dr. Robert Henry regarding the show cause hearing determination.

7. Correspondence from Attorney Kari Olson
Re: “Legal Hold” Compliance

Ms. Simone reported that item seven is a correspondence from Attorney Olson regarding a “legal hold” compliance.
8.  Letter from DEP to Jay Brodach - Richmond Glen, Wiese Road #2005-012A  
    Re: Clean Water Act Certification  
    Ms. Simone reported that number eight from DEP to Jay Brodach – Richmond Glen, Wiese Road regarding a clean water act certification.

9.  Letter to Ms. Eina Fishman, 6 Shipton Court  
    Re: Request for Determination Letter needed for pool and shed  
    Ms. Simone stated that item nine was a letter to Ms. Eina Fishman, 6 Shipton Court; this item is under new business on tonight’s agenda – a request for determination.

10. Request for Determination Letter from Eina Fishman  
    Re: Pool and Shed at 6 Shipton Court  
    Ms. Simone stated this item is a copy of the request for determination discussed in communication item nine.

11. Letter of Resignation from Benjamin W. Alderton  
    Ms. Simone stated that communication number eleven was a copy of the letter of resignation from Benjamin Alderton.

12. Engineering Comments  
    Re: #2009-012A, Elim Park, 140 Cook Hill Road  
    Ms. Simone said that item twelve were Engineering comments having to do with the application number 2009-012A for Elim Park.

13. MMI Restoration Plan for 35 Sudol Court  
    With Staff Correspondence with Ed Belinsky  
    Ms. Simone reported that item thirteen is Milone and MacBroom restoration plan for 35 Sudol Court.

14. Letter from Julie Sweigard, 59 Williams Road  
    Re: 35 Sudol Court  
    Ms. Simone stated that items fourteen and fifteen are letters from neighbors of 35 Sudol Court.

15. Letter from Amy Hourigan, 39 Williams Road  
    Re: 35 Sudol Court
Ms. Simone stated that items fourteen and fifteen are letters from neighbors of 35 Sudol Court.

Ms. Simone informed the Commission that handed out at tonight’s meeting were the following communications:

16. Comments from Regional Water Authority
Re: Application for 140 Cook Hill Road, Elim Park

This communication was reviewed.

17. Narrative re: Town of Cheshire Weeks Pond Road

Ms. Simone said the Commission received a copy of the narrative which accompanies the application for the Town of Cheshire for Weeks Pond dredging which is listed under new business tonight.

18. Resignation of Commission member Benjamin Alderton

Chairman de Jongh said he wanted to take this opportunity to thanked Mr. Alderton, even though he was not present for his service on this Commission. Chairman de Jongh said that Mr. Alderton was a valued member of the Commission and it is unfortunate that he and his wife have moved out of town.

Chairman de Jongh stated that he wanted the record to show that, speaking for himself and the rest of the Commission members – that they greatly appreciated Mr. Alderton’s presence and his input on this Commission.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated that written inspections were covered under communications.

2. Staff Inspections

Ms. Simone reported that the only staff inspection was covered under communications for Sindall Road.

VIII. ENFORCEMENT ACTIONS

1. Unauthorized Activities in a Regulated Wetland Area
Ms. Karin Eichten
Chairman de Jongh stated this item is subject of ongoing litigation and there is also an application under unfinished business.

2. Unauthorized Activities in a Regulated Wetland Area
   SC 1/06/09
   Mr. Chris Lambert
   SC 1/20/09
   Highland Avenue
   SC 2/03/09
   SC 2/17/09

Chairman de Jongh stated the next item was unauthorized activities in a regulated wetland area – Mr. Chris Lambert.

Ms. Simone stated there was no movement on this item

3. Unauthorized Activities in an Regulated Wetland Area
   SC 3/16/10
   Michael and Bonnie Donato
   35 Sudol Court

Ms. Simone reported that this item was under unfinished business for tonight.

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

Ms. Simone stated that she did speak with Dr. Henry today and that he had indicated that he would be coming to the meeting tonight to discuss with the Commission the letter he received and to get some further information.

Ms. Simone said that she informed Dr. Henry that if he were to come to tonight’s meeting that the Commission upon majority vote of Commission members here could enter into discussion with him even though this item is not listed on the agenda.

Chairman de Jongh said it was his understanding that there is a cease and desist order and the property owner was supposed to come before the Commission with an application explaining what the remediation was.

Ms. Simone stated yes – the cease and desist order outlined that an application for restoration was due tonight and that a wetland scientist or some other professional would present plans to the Commission and start a discussion as how they were going to remediate that area.
Chairman de Jongh asked if the applicant was noticed of that.

Ms. Simone stated yes.

Chairman de Jongh asked if anything had been received to that effect.

Ms. Simone stated no.

This item was deferred pending the possibility of an appearance by Dr. Henry.

X. UNFINISHED BUSINESS

1. Permit Application
   
   Laura Willhite DOR 1/19/10
   R.O.W. – 971 & 477 Allen Avenue
   Water Service Lateral Installation MAD 5/29/10

Ms. Simone stated there was a draft motion for this item and that the Commission did discuss this item at the last meeting; they received the plans they were waiting for.

Motion:

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

1. That the current application is for installation of an 1” diameter approximately 400 feet in length in the right of way of 971 and 477 Allen Avenue.

2. That the applicant’s engineer indicates that the new water service will be installed beneath the existing 30” reinforced concrete pipe housing a watercourse, running in a north to south direction under Allen Avenue. The water pipe is to be pipe jacked under the driveways and jacked under the existing storm sewer with a minimum clearance of 24 inches.

3. That the applicant’s engineer indicates this work is being required through a court order requiring water service connection to 46 Allen Avenue Extension, Meriden.
4. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2010-002, the permit application of Laura Willhite for water lateral installation as presented on the plans entitled:

“Water Service Plan for Property of Deanna G. Orzech
Located at 46 Allen Avenue Extension, Meriden, CT.
Dated December 3, 2009, Revised April 29, 2010
2 sheets, Prepared by OCC Group, Inc., 2091 Highland Ave., Cheshire, CT.”.

The permit is granted on the following conditions and stipulations, each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

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

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

3. Prior to the commencement of permitted activities under this permit grant, the applicant shall properly install erosion controls, as depicted on the above-referenced site plan. Staff may insist on additional controls if warranted by field conditions.

4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.

5. 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 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.
6. This permit grant shall expire May 18, 2015.

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

Chairman de Jongh stated for the record that of the seven members that the Commission normally has, two are absent or out of town, and one has resigned so the Commission is now down to six Commission members, with two being absent they have a bare quorum and there is another item under unfinished business tonight which the Commission will not be able to discuss; Mr. Bowman will have to recuse himself when they get to item two – the Plank Road application.

2. Permit Application APP #2010-005
   Diversified Cook Hill, LLC DOR 3/02/10
   Plank Road FT 3/06/10
   Resubdivision – 14 Lots FT 3/18/10
   Resubdivision – 14 Lots PH 4/06/10
   PH 4/20/10
   PH 5/04/10
   MAD 6/08/10

Mr. Bowman recused himself at 7:36 p.m.

Chairman de Jongh asked that the record show that Mr. Bowman recused himself because of an interest in the application.

There was discussion that there is a draft motion for this application but that no action could be taken tonight because there are not enough members present for a quorum for this item.

Chairman de Jongh asked that the record show that further consideration on this item was deferred until the next meeting, June 1, 2010.

Mr. Bowman rejoined the Commission at 7:39 p.m.

3. Permit Application APP #2010-007
   Karin Eichten DOR 3/16/10
   630 Cook Hill Road MAD 5/20/10
   Modification

Ms. Simone stated that a draft motion was sent to members today. In addition, the Town Attorney did review it and made some suggestions which are highlighted in item number six which was handed out at tonight’s meeting.
Chairman de Jongh said since this draft was handed out tonight, he would read it into the record:

Motion:

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

1. That the current application is for modification of permit grants #2009-015 and #2009-018 for methods to permanently reduce the pond surface area from +/- 19,135 square feet to +/- 12,653 square feet and reduce the pond volume from +/- 64,382 cubic feet to +/- 22,081 cubic feet. The applicant's engineer calculated this reduction will permanently reduce the pond water level to a maximum height of 224.1 feet.

2. That town records and information submitted by the applicant demonstrate the pond to be part of a dynamic system with the inlet and outlet structures connected to an unnamed watercourse to the north and south of the pond. The water enters the pond from the unnamed watercourse to the north, is detained in the pond, and exits the pond from the outlet structure to the south of the pond into the southern portion of the unnamed watercourse. This unnamed watercourse then flows southeast, and subsequently, off the property. The watercourse and wetlands associated with this pond are contained both on and off the subject property.

3. The applicant's engineer recommended the specific pump type and dewatering plan. The applicant's representatives acknowledge that the pond water level fluctuates without manual intervention, as the water level in the pond is dependent in part upon the volume of water in the watercourse connected to the pond. Review of town records and documents relating to the proposed pond water level reduction indicate the water level of the pond to have a history of fluctuation.

4. The applicant's engineer has stated that the reduction in pond water level will provide additional floodwater storage capacity in this wetland/watercourse system.

5. The applicant did not request to regrade the area exposed through permanent pond water level reduction.
6. That the town engineering department has reviewed the proposed pond reduction plans and provided comments to the Commission.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2010-007, the permit application of Karin Eichten for site plan approval as presented on the plans entitled:

“November 25, 2008
07-115 Eichten, East End Farm, 630 Cook Hill Road
Re: Drainage of Farm Pond
Prepared by Juliano Associates, Wallingford, CT.”.

And “April 26, 2010
NorthStar Extended Run Semi-Trash Water Pump
Cover letter and pump specifications
Prepared by Juliano Associates, Wallingford, CT.”.

And “April 28, 2010
Sealant specifications
9 pages
Prepared by Juliano Associates, Wallingford, CT.”.

And “January 25, 2010 Letter from Christopher Juliano, Juliano Associates, Wallingford, CT., Addressed to Mr. John R. Lambert, Esq. with attachments of outlet structure specifications
Re: East End Farm, Land of Karin Eichten,
#630 Cook Hill Road, Cheshire”.

The permit is granted on the following conditions and stipulations, each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

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

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

3. Prior to the commencement of permitted work, the applicant shall:
   a. Establish and record the water surface elevation a minimum of 5 days prior to the proposed start work date.
b. Notify the Commission in writing of the proposed start date, and anticipated work period, a minimum of 5 days prior to the proposed start date.

4. Throughout the course of conducting construction activities covered by this permit grant, 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 pond reduction activities are temporarily seeded and hayed until the site is permanently stabilized.

5. Within 7 days of project completion, the Commission shall receive written certification from the State of Connecticut licensed engineer organizing/supervising/witnessing the work, that the project was completed in accordance with the approved plans.

6. This modified permit is issued in part to facilitate remediation of an existing wetlands violation that is the subject of a cease and desist order and enforcement action styled Cheshire Inland Wetlands Commission v. Eichten, Docket No. CV-08-4040165S, currently pending in the Superior Court, Judicial District of New Haven. To facilitate the remediation required, all activities permitted pursuant hereto related to repair and sealing of the outlet pipe shall be completed by October 1, 2010. This permit shall expire on May 18, 2012.

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

4. Permit Application
Bonnie and Michael Donato
35 Sudol Court
Wetland and Upland Restoration

APP #2010-008
DOR 4/06/10
MAD 6/10/10

Bonnie Donato was present.

Ms. Simone reported to Commission members that the soil scientist working on this item did submit a plan and it was sent to Commission members. The plan does formalize what the applicant is proposing to do which is to have
the area that was disturbed, to annually mow that area in addition to plant some shrubs.

Ms. Simone said also sent out to Commission members are letters from neighbors that came to the office and reviewed the plans and have some questions or comments directed to the Commission.

The Commission reviewed the soil scientist report.

Chairman de Jongh asked if staff had an opportunity to look at that report.

Ms. Simone stated she had.

Mr. Bowman asked if the report followed what was discussed at that last meeting.

Ms. Simone said at the last meeting there was discussion that what was originally submitted which was dated April 15, 2010 was more of a general overview and more of a menu of things that could happen out there from the wetland scientist perspective and the Commission had discussed having that tailored specifically to the site so that the applicant would be applying for particular items which then has been submitted in the May 5, 2010 document (this document was sent in an email).

Ms. Simone stated that the document was received by email and a staff sent a response to Ed Belinsky in an email where just in summary that there was a 2005 wetland report which this Commission had reviewed previously when the show cause hearing came up and that that report had identified this area having high biological diversity. Ms. Simone stated that the report acknowledge that the protective of that area was important.

Ms. Simone stated that she had suggested to Mr. Belinsky that the Commission may have questions about the necessity to mow the area and how that’s a specific wetland benefit; if the 2005 report talked about protecting that area and now there is a proposal to mow that area annually what is the benefit to wetlands.

Mr. Bowman said they are not mowing wetlands, there mowing the upland review area.

Ms. Simone said upland review area and possibly even into some of the wetland area.

Mrs. Donato said Mr. Belinsky was in Maine was that she thought one of his colleagues was supposed to be present at tonight’s meeting.
Mrs. Donato said in speaking with Mr. Belinsky in detail there was no intention at all for any of the mowing to touch the wetland area at all; it was all the upland area where there was the invasive species.

Ms. Simone confirmed that Mrs. Donato was correct that the mowing is in the upland area.

Ms. Dunne asked if the information about the mowing was in the May 5, 2010 report; she said she need not see the mowing aspect in this report.

Ms. Dunne said that the neighbors are concerned about the mowing issue and that she did not see it in the May 5, 2010 report.

Ms. Simone said the mowing details would be in the upland zone area.

Mr. Bowman read the following language from the report: there was a annual late fall mowing regiment – cutting the grass of invasive species no shorter than 6” in height – this way it would encourage biodiversity as well as wildlife and insect habitat in addition the upland zone would be enhanced by Old Field Woody trees, shrub plants selected include Junipers, Apple Trees; the trees would be surrounded by a few low maintenance shrubs including Rhododendrons and Azaleas; disturbed soils would be reseeded as described earlier.

Chairman de Jongh asked who signed off on this recommended plan – he knew it was Milone and MacBroom but who was the individual person who signed the plan.

Ms. Simone said the plan was an email that was sent to her from Ed Belinsky; she said she did speak to him about it and he is the soil scientist from Milone and MacBroom.

Mr. Bowman said there was a discussion about this at the last meeting and he said he would be more than willing to put this item off until Dr. Dimmick returns since he and Dr. Dimmick had discussed this item at length about the annual mowing and they felt it was something that could and probably should be done to stop the invasive species from taking over the entire area.

Mr. Bowman said the idea was to mow the area once a year – in late fall so it wouldn’t become a grass area and the property owner couldn’t go in anytime they wanted and mow it; the mowing could only be 6” – it would have to be at least 6” high. He said that both he and Dr. Dimmick concurred that this is what they would like to see.

Mr. Bowman again stated that he would like this item put-off to the next meeting until there is a fuller Commission.
The mandatory action date for this item is June 10, 2010.

Mrs. Donato said the mandatory action date would need to be extended if needed.

Chairman de Jongh said he did not think it was necessary to extend the mandatory action date; he explained that more time was needed to digest the submitted information so they could make a decision based as opposed to reading stuff at the last minute. He said if it doesn’t create a hardship for the applicant it makes sense to wait until there is a full contingent before acting on this item.

Ms. Simone said a draft motion would be available for the next meeting. She asked if the Commission would like someone here to represent the application – to talk further about impacts.

Mr. Bowman said it seems like staff has a concern about it and neighbors are concerned about it so yes – there should be a profession present so the Commission could ask questions of to be sure the Commission’s concerns are addressed.

Chairman de Jongh said there is not going to be a public hearing on this but it makes sense to have the issues addressed.

Mrs. Donato stated she agreed.

Mr. Kurtz said in his opinion he did not think cutting the area once a year in late fall constituted mowing; cutting 6” is mostly for maintenance issues.

Mr. Bowman explained the area was once a farm and the mowing was what was done in the past; nothing more is being done then what was done being done to it on an annual basis anyway; the only difference is that it was hayed so it would have been done in late Spring and mid-summer and now they are doing it just to control the invasive species. He said they are not really changing anything they are still protecting the wetland and according to the professional the diversity of the area.

Mr. Kurtz stated for the record that he had an important point to make – he said his first reaction was to say “mowing” – what do you have to mow it for if its going to be natural; he said this is not like a golf course or like a lawn.

Chairman de Jongh said that was correct – there are not going to be any pesticides or any find of fertilizers used.
Mr. Kurtz commented that he did not think they were going to maintain the area around the mowed area.

Chairman de Jongh asked if it was the Commission members decision then – what they will do is put this item off until the June 1, 2010 meeting at which point if there would be a representative there just to answer some questions that are on the minds of not only the Commission members but also the public.

Mr. Bowman said that for the people who were not present tonight – the minutes will show the Commission’s discussion of the discussion details and they can bring themselves up to date on what the discussion was at the next meeting.

Chairman de Jongh stated the minutes of this meeting would become public record.

Mrs. Donato asked if the discussion the Commission had about the verbiage about the mowing and what was just said...

Chairman de Jongh said that is all on the public record and part of the minutes that would be posted.

Further consideration on this item would be deferred until the June 1, 2010 meeting at which point the Commission would be in a position to render some discussion.

5. Permit Application APP #2010-004A
Plants R Us DOR 5/04/10
150 South Meriden Road Modification MAD 7/08/10

Ms. Simone informed the Commission there is a draft recommendation on this item; there was no outstanding information that the Commission had requested.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners’ knowledge of the area, previous site visitations, and after review of written information provided by the applicant on this application, finds the following:
1. That at the April 20, 2010 the Commission determined that the installation of underground utility service is a regulated activity and therefore a permit from the Commission is required.

2. That the applicant’s soil scientist field located wetland soils and a watercourse on the subject property, as depicted on the approved site plan of permit grant #2010-004.

3. That the current application is the installation of underground utility service.

4. That according to the applicant’s engineer the proposed plan calls for installation of a one inch flexible pipe for water service, in addition to electrical service.

5. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2010-004A, the permit application of Plants R Us for placement of fill for greenhouse installation and piping of a watercourse as presented on the plans entitled:

“Improvement Location Plan, Land of Judith A. Pasqualoni
150 South Meriden Road, Cheshire, CT
Dated January 27, 2010, Revised April 21, 2010
Scale 1”=30’, Prepared by NET Engineering, LLC., 660 Moss Farms Road, Cheshire, CT.”.

The permit is granted on the following conditions and stipulations, each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

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

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

3. Prior to the commencement of permitted activities under this permit grant, the applicant shall properly install erosion controls, as depicted on
the above-referenced site plan. Staff may insist on additional controls if warranted by field conditions.

4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.

5. 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 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.

6. This permit grant shall expire March 18, 2015.

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

6. Permit Application
   APP #2009-012A
   Elim Park Baptist Home, Inc
   DOR 5/04/10
   Cook Hill Road
   Modification
   MAD 7/08/10

Ms. Simone said that she did have a staff recommendation available for Commission members review. She explained that they were waiting for the Engineering Department to conduct there review which according to the agenda they have; staff reported that she has not an chance to read the report – the May 11, 2010 review from the Engineering Department for Warren Disbrow states that “this office has reviewed the above reference application and based on the information presented has no comments at this time.

Ms. Simone asked that the Commission consider a change to item number six in the draft motion regarding the Engineering Department comments.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners’ knowledge of the area, previous site visitations, and after review of written information provided by the applicant on this application, finds the following:
1. That the current application is for reconfiguration and expansion of the parking area approved in permit grant #2009-012, granted with stipulations on May 19, 2009.

2. That the current application is for the addition of 4 paved parking spaces and 34 unpaved ‘grasspave’ spaces in a 13,000 square feet increased parking area from the approved 23,000 square feet parking area approved in permit grant #2009-012.

3. That the approximate 37.364 acre lot is bordered by the Mill River to the northeast, as identified in the field by the applicant’s soil scientist.

4. That the current application does not contain modifications to the previously approved direct wetland impacts as approved in permit grant #2009-012.

5. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2009-012A, the permit application of Ronald Dischinger for site plan approval as presented on the plans entitled:

“Elim Park Place Expansion and Site Improvements
140 Cook Hill Road, Cheshire, CT
Inland Wetlands & Watercourses Commission Application
Dated April 28, 2010
16 Sheets: Varying Scale
Prepared by LRC Group, 160 West Street, Suite E, Cromwell, CT.”.

And

“Engineering Summary Report
For the Proposed Expansion and Site Improvements at Elim Park
Located at: 140 Cook Hill Road, Cheshire, CT.
Submitted April 15, 2009, Revised April 26, 2010
Prepared by LRC Group, Cromwell, CT.”.

The permit is granted on the following conditions and stipulations, 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. All conditions and stipulations of CIWWC Permit #2009-012 granted, with stipulations, to Ronald Dischinger on May 19, 2009 are incorporated by reference as though fully set forth herein to the extent they are not in conflict with the present permit grant.

4. This permit shall expire on May 18, 2015.

Motion approved unanimously by Commission members present.

XI. NEW BUSINESS

1. PA 09-181
   Proposed amendments to regulations

   Attorney Kari Olson addressed the Commission regarding Public Act 09-181.

   Attorney Olson said she would refer the Commission to a letter she wrote to William Volker, Town Planner, on May 5, 2010. The letter was included in the Commission’s correspondence.

   Attorney Olson said she was asked to briefly explain what this item was all about. She said she though the letter was pretty self explanatory.

   Attorney Olson explained that a number of Planning and Zoning attorneys got together and basically proposed to the Legislature that given the current economic climate that various permits for land use should have there expiration dates extended because developers were having a very difficult time getting financing. She explained that some of these projects had involved months and months of deliberation by Planning and Zoning Commissions or Wetlands Commissions and the
concern that they were going to be forced to start all over again put a lot of pressure on the Legislature.

Attorney Olson said if the Commission notices from the public act that it is really limited to permits or approvals that were issued between July 1, 2006 and July 1, 2009, so she did not know what the impact was going to be on any permits issued by this Commission but she said she was asked by Mr. Volker to propose amendments to the existing regulations to address the new public act.

Attorney Olson said the Commission could see that there are only a couple of amendments that effect this Commission; they relate to section 11.3.a of the regulations – she said she basically recommended that section 11.3.a which currently tracks the language of the existing statute basically indicating that permits issued would be good for only five years for specific activities and approvals relating to subdivisions and the like and any permit issued under the section for any other activity shall be valid for no fewer than two years and no more than five years.

Attorney Olson said her proposal is to add to the end of the section the wording, “except as set forth in section d below” and the section “d” would be a new section added under 11.3 which basically indicates that not withstanding the forgoing rules if there is a permit issued between July 1, 2006 and July 1, 2009 it should not expire in less six years after the date of the approval; she explained that this tracks the language of the act – what is proposed under subsection “d” really tracks the language of the act – she said she didn’t create anything new there she just provide for a separate section that would address the changes.

Attorney Olson said so for the most part the Commission would be looking a subsection “a” but there may be a circumstance where a developer comes back to the Commission and says he has a permit issued during this time and is looking for an extension; they are going to try to rely on the public act for that purpose.

Chairman de Jongh asked Attorney Olson if the Commission had to make a change to their regulations and then put it through DEP for approval since that is what they have had to do to change their local regulations; he explained they have to set up changes to the State for approval – do they have to do the same thing on this.

Attorney Olson commented that she did not believe so again because this change tracks the Legislative mandates.
Chairman de Jongh explained at one point the Commission had to change their regulations in accordance with DEP regulations so he was wondering if they make the proposed changes do they again have to send the changes to DEP for their stamp of approval.

Attorney Olson said the Commission not have to because it’s implied because it tracks the Legislative language. She said she thought what Chairman de Jongh was talking about was when the DEP required certain changes and therefore what was proposed was in accordance with the DEP mandates – they wanted to make sure it complied – but that should not be the case here because they would be complying with the statutes that grant the DEP their authority.

Mr. Bowman asked if this should be done through a public hearing.

Attorney Olson stated yes.

Ms. Simone asked if the Commission wanted staff to schedule this item for a public hearing.

A public hearing on this item was set for Tuesday, June 1, 2010. Ms. Simone agreed to properly notice the hearing date and time.

Chairman de Jongh thanked Attorney Olson.

Attorney Olson stated she would provide the Commission with a copy of the act for the next meeting.

2. Request for Determination
Eina Fishman
6 Shipton Court
Pool and Shed

Eina Fishman was present.

Ms. Simone informed the Commission that there were communications provided; there was a request in the Building Department for a permit to construct a shed as well as an above ground and at looking at the map it is within the 50’ non-encroachment area and therefore staff was not able to sign off on it without review with the Commission first.

Ms. Simone reported that in the letter it summarizes what’s going to be.
Chairman de Jongh asked if there was a map of what is proposed to be done.

Ms. Simone said looking at the town’s soils map it shows that the entire area is wetlands – the subject property is off of Dundee Drive. She said so looking at the map it shows that the house is in the area – so that whole area is defined as wetland soils.

Chairman de Jongh said he did not remember what the topography is this area was.

Mr. Bowman said you would have to go back to the subdivision because there’s no way this Commission would have let them build or fill that amount of wetlands to construct this.

Ms. Simone said the whole street – Shipton Court – looking at the soils map it is wetland soils. There was some delineation done that showed that there were some dry areas but for the most part those house were built in a wetland area.

Mr. Bowman asked – so we allowed that.

Ms. Simone stated – yes.

Mr. Bowman asked if that was because we got the rest of the land in conservation.

Ms. Simone stated she did not know; but that there was town open space that abuts this property – town open space.

Chairman de Jongh said what he thought they might have to do was have a field trip on this just to take a look at the sight.

Ms. Simone said she had been by the neighborhood. She explained the yard itself – the topography of the yard is relatively flat and it is an existing lawn so there are no proposed trees to be cut down so its already an existing lawn area; the letter does specify that there is not going to be any construction because there is not going to be any excavation.

Ms. Fishman stated that was correct.

Ms. Simone said the proposal is just for the installation of a shed on the ground as well as an above ground pool that will be closest to the house.
Chairman de Jongh said one of the questions that is always asked of above ground pool owners is what type of filter are they going to use and relative to the discharge of the water how is that going to be handled.

Ms. Fishman said that it’s going to be a cartridge filter – its going to PE or sand so there shouldn’t be any out flow that could potentially contaminant the wetlands.

Mr. Bowman asked about the shed.

Ms. Fishman said the shed was a pre-fabricated shed and just delivered and leveled; she said the shed would be placed on cinder blocks and maybe a piece of wood if the ground is not level.

Mr. Bowman said this was the concern of the Commission’s.

Ms. Fishman asked if the Commission would tell her what needs to happen and she would be happy to do that.

Chairman de Jongh spoke about sheds being placed on cinder blocks and leveled with paving blocks or cinder block.

Ms. Simone said there was no application for this proposal – it was a request for determination; and again because of the distance to the soils staff wasn’t able to sign off on it that is why it has come before the Commission.

Chairman de Jongh asked if there were any other questions or concerns from Commission members.

Motion: That the proposed activity does not need an application and the work to be done on the subject parcel is de minimus.

Moved by Mr. Bowman. Seconded by Mr. Kurtz.

Mr. Kurtz asked staff if this issue was the only thing that prevented staff from signing off on this.

Ms. Simone stated yes because it’s within the jurisdiction of the Commission. She said staff did not have any other concerns because there’s no excavation proposed.

Motion approved unanimously by Commission members present.
Ms. Simone said that tomorrow staff could sign off on the building permit saying the Wetland Commission determined that a permit was not needed so then it just needs the Zoning Enforcement officer’s okay that it meets the setbacks and then project would be fine from the planning perspective.

Ms. Fishman thanked the Commission and noted that she appreciated their time.

3. Permit Application
   APP #2010-009
   Town of Cheshire
   DOR 5/18/10
   Highland Avenue
   MAD 7/22/10
   Dredging of Weeks Pond

Ms. Simone informed the Commission there was no one present to present the project tonight. She said there is a narrative that was handed out at the meeting tonight that summarizes what is proposed.

Ms. Simone said there is an assumption that the Commission may find the activity significant and that there would be a public hearing so instead of doing the preventative twice. She explained the narrative discusses what is proposed. The proposal is for the dredging of an existing sediment forebay – it does talk about the work is going to be directly in the watercourse and the material will be dredged out of there and stored on site outside of a regulated area but stored on the site; the narrative goes on to say that looking at the December 2009 map for CT Natural Diversity Database that there are no threatened, endangered or special concerned species in the area; they talk about installing the sediment check dam and dewatering the area using an access road and basically getting equipment directly into the watercourse area to remove the sediment.

Mr. Kurtz asked if they had done this a few years ago and that they did this every once and a while.

Ms. Simone stated yes.

Mr. Kurtz asked who the contractor was.

Ms. Simone said she did not know if they have a contractor.

Mr. Kurtz said the contractor would be responsible for the preparation of a weekly report.
Ms. Simone said what they have done in the past is go through the process and obtain the permit and then write the specifications for someone to bid on the project.

Mr. Kurtz asked if Public Works was doing the project.

Ms. Simone said she did not know.

Mr. Kurtz said he only asked the question because it says on the form that the contractor will be responsible for the preparation of weekly reports.

Ms. Simone said she imagined through the process when someone is here to represent the applicant and application that they would have that information.

There was discussion regarding the application process to follow in light of the fact there is in one present on behalf of the applicant and no presentation has been presented to the Commission.

The Commission reviewed the submitted materials for the proposed project. A complete application was submitted for the proposed activity.

Chairman de Jongh said he thought there was a lot of information that is written about the proposed project but information is missing in terms of what they are able to see.

Ms. Simone said there is an application – this is being represented by Cardinal Engineering out of Meriden, CT.

The Commission reviewed the plans.

Ms. Simone stated that the application goes on in detail to say the project consists of the maintenance dredging of the existing sediment forebay approximately 10,700 SF of Weeks pond; the accumulated sediment with a volume of 684 cubic years will be removed by mechanical means to the original elevations and deposited in a dewatering – upland, located 200’ west of the pond; prior to sediment removal as access road, a haul road, an access ramp and sediment check dam will be built.

Ms. Simone said there is no requirement for the Commission to make a determination tonight, if they prefer to have someone here to give a presentation that certainly could happen.
Chairman de Jongh said they could accept the application but definitely speaking for himself he would like for someone from the town to come to explain in more detail exactly what they are doing and have someone here to answer questions.

Motion: To accept the application.

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

Chairman de Jongh recommended that further consideration on this item be deferred pending the presence of representative from the town as well the addition of the full Commission and then determine whether or not a public hearing is needed.

Mr. Bowman said he wanted staff to inform or explain to the town that it is better to do this project in the drier season so the sooner they get before the Commission the better everyone is going to be.

Further consideration on this item was deferred until the next meeting.

4. Permit Application
   APP #2010-010
   Cheshire Academy
   10 Main Street
   Site Plan – Athletic Field & Track
   MAD 7/22/10

Mr. Michael Joyce, PE of Milone and MacBroom was present on behalf of the applicant.

The Commission reviewed the plans for the proposed athletic field and track.

Mr. Joyce addressed the Commission. He said that the project before the Commission tonight is for the reconstruction of the existing track and field.

Mr. Joyce shared with the Commission a map of the existing conditions map showing Sheriff’s Drive which is the main drive that comes down off of Route 10 crossing the intersection of Main Street and Route 68; the roadway comes down along the new humanities building and loops around back to the current field house.

Mr. Joyce explained the existing track is a stone dust track and has been there for more years than anyone on campus can remember.
Mr. Joyce said the field itself is an existing turf – non-irrigated; there is drainage on the track – generally flat in nature. He explained the track does sit below Sheriff Drive at about 6’ to 7’ at the steepest point. To the north of the existing track is existing Cheshire Hillside Village Residential Facility; to the west of the track is the existing maintenance department and to the east is the ravine which leads to Honey Pot Brook and areas to the back rear portion of Cheshire Academy’s property.

Mr. Joyce explained that currently under existing conditions the drainage system is picked up by catch basins on the roadway which are connected to yard drains around the field which discharge to two locations out along the steep bank on the northern section of the field.

Mr. Joyce said that early on in the application process he and Matt Sanford from Milone and MacBroom met with Suzann Simone to walk the regulated corridor between wetlands and watercourse and the upland wetland area.

Mr. Joyce said the original proposal was to pipe a section of this watercourse; right now some of this drainage that flows through this area actually flows onto the track – there are some ground water issues on the track. He said if you have ever seen the track after a rain event it’s more like a steeple chase event opposed to a regular track; there is quite a bit of standing water on a portion of the track.

Mr. Joyce explained that what feeds this area is a drainage system that comes off of Route 10; collects the intersection. He said when dealt with the faculty housing units a few years ago they attempted to get DOT to support them in trying to get some water quality measures; their response was that they did not have that many catch basins so they are not required to put water quality in, in order to treat that. He showed where the system discharges and then extends down along the fence line, crosses through a fence line between the properties and works its way through a small wetland area and works its way through an intermittent watercourse which then feeds down to Honey Pot Brook.

Mr. Bowman asked if it filtered the pond.

Mr. Joyce said that it doesn’t go to the pond – it stops before the pond. He explained that all of this area is on the northern side of the roadway and the western side of the pond where Honey Pot turns and goes back to the north.
Mr. Joyce said the area is question is very degraded; a lot of sediment, a lot of invasive species.

Mr. Joyce said per staff’s recommendation the application submitted before the Commission includes not only the engineering report for sizing of improvements of the swale in the drainage channel but also a soil scientist report and a non-invasive species management plan. The non-invasive species management plan talks about what’s out there, how they are going to remove it and what they are going to put back in place. He said this is shown on the landscaping plan that has been submitted with the application.

Mr. Joyce shared with the Commission the overall sight plan showing the erosion and control measures; he said that during the project for constructing the field there is going to be some surplus material that the Academy may need to use to create other practice field areas; not using it to create bigger areas but they often need practice field areas when games might over lap a little bit so instead of having to come back again it, if they find material that they have to find a place for and instead of trucking it off site, they have included an area which it identified with the wetland limits – there is no activity proposed in the upland review area.

Mr. Joyce said that they wanted to put all their cards on the table now regarding the fill area so they would not have to come back.

Mr. Joyce explained that Cheshire Academy is on a fairly aggressive schedule for this track and field.

Mr. Joyce provided a little bit of background. He explained that the field would be named in memory of a former student – Armando Somosa who graduated two years ago and last year pasted away in a car accident so in memory of Armando the field itself will be named after him as a gift from his parents.

Mr. Joyce said they are looking to move this project forward and possibly play the first football game in November 2010.

Mr. Joyce said the proposed project – the current track right now is six lanes; the proposed facility will be a six lane track with eight lanes straight; currently the track does not have an eight lane or a straight section for sprinting events so the areas you see at the western and eastern end of the proposed track are the straight lane sections to allow for all the sprinting events to occur.
Mr. Joyce said the width of the field is slightly larger than the existing soccer field; currently they meet the NCAA guidelines when it comes to athletic play for soccer and other events because there are post-graduate players who are often in a preparatory stage for college events; he said in doing that their achieving competitive play for soccer, football, Lacrosse and field hockey on the synthetic turf that is going to be constructed in the center of the track.

Mr. Joyce said in providing the eight lanes straight they will also be able to host the potential competitive meets for track and field events as well.

Mr. Joyce said that the current driveway will need to be realigned around an existing bend to accommodate the new footprint of the field. The realignment is also tied to some future planning; Cheshire Academy is in the early, early planning stages of a new filed house building that will be married to the location of this track; integrally tied so the locker rooms and bleachers can walk out on the track; so there is a little bit of forward planning with the layout here to accommodate that future plan and that will come before the town after they go through the proposed plan before the Commission tonight.

Mr. Joyce commented about the regulated activities for the project; for the direct first impact they looked at some grading and they will be able to keep the channel open – they are going to improve it, stabilize it, widen it a little bit so it can convey the water flow down in the area in a more stable manner than it does currently.

Mr. Joyce said the other two areas that are called activities one and two mitigation or enhancement areas; they are going to go in and remove the accumulated sediment and remove the non-native invasive species, they are going to stabilize a portion of the area, they are going to provide a plunge pool that can capture the sediment that comes off the highway in as easier location to manage and maintain – Cheshire Academy can then come up and get to it at the end as opposed to having to wait for it to build up in the wetland area that is down below.

Mr. Joyce said in that area as well they are going to put in a planting plan of appropriate wetland species to support and revegetated that area including seed mixtures for erosion control methods to help stabilize the bank because the section in question is a steeper water course and because its tied to a drainage system it does have a flashy flow component to it as opposed to a trickle effect that the rest of the watercourse tends to have on a daily basis.
Mr. Joyce said those three areas combined total 4,250 SF of direct wetland impact, 2,000 SF are mitigation or enhancement plantings.

Mr. Joyce said the upland area is 22,000 SF. He said to keep in mind within about 5' of the existing footprint of the existing track; they are actually sliding the track away from its current boundary to the north; he said they are not encroaching into the upland area with more track in this particular case – that area has already been disturbed – its already been worked in so they are not looking to push that boundary but actually to pull that back to get away from the steeper slope.

Mr. Joyce talked about the drainage system that not only collects the field but the track and the roadway will be directed in two locations one to the north to the existing watercourse and the other area – the bulk of it down to a new small detention basin at the north eastern corner of the field which will collect the wet bottom; they will use wet bottom plantings for water quality, it will then go through an outlet control structure to a row of galleys that will act as infiltrators as well; should those not perk it also as an overflow down the hill as well.

Mr. Joyce said currently right now there are two locations including the watercourse itself that its in a very unstable condition – the pipes where the existing drainage discharge are actually falling out where they have been undermined by flow over the years; they are staying away from any discharges in the steepest slopes. The discharges have been pulled over to the flattest area behind the field; in total they have been able to reduce slightly the peak run off rates for all storms two to one hundred under existing and proposed conditions and given the fact they are doing these improvements along the watercourse the ultimate final plan not only will produce a new high quality track and field but also an environmental friendly product for the Town and the Academy to be proud of.

Mr. Joyce said he would be happy to answer any questions regarding significance.

Mr. Bowman asked if there was a perimeter drain around the track.

Mr. Joyce said yes – he said the way the field works is the top surface has a slight crown to it, the sub-surface has a steeper crown to it so its flat drains that are placed on that sub-grade layer; the turf cross section itself after you go through the grass and go through the rubber you get into a stone layer.

Mr. Joyce described how the stone layer functioned.
Mr. Bowman asked if the track was going to be rubber or sand.

Mr. Joyce said both rubber and sand.

Mr. Joyce said an extensive process has been conducted regarding what type of turf they would like to use; they are moving forward with a state of the arch – top of the line athletic field surface for the campus based upon their level of play for safety and playability for all four sports.

Mr. Bowman asked about the level of wetlands quality that is there now because its really coming from storm water from Route 10 and further down its coming from the storm water from Maple Croft Plaza and storm water from Hillside Village; he asked if it was a natural watercourse or a manmade watercourse.

Mr. Joyce explained that the section of watercourse in question is manmade; there may have been a small pocket that was a natural wetland in this area but preliminary conveys storm water run off; he said if you go out there after a storm event there will be a wet pocket in one section and dry in another section and then down below it gets wet again.

Mr. Joyce said there is a pedestrian bridge that comes across from Cheshire Hillside Village; the school has met with them and they would like the school to improve that bridge as residents often come over and use the track for exercise and Cheshire Academy wants to support that.

Mr. Joyce said another component is that the field will be an illuminated field in accordance with Cheshire zoning regulations so lighting will be provided in four locations; two on each side of the track – similar to what Cheshire High School has.

Mr. Bowman commented about the lights and track at Cheshire High School.

Chairman de Jongh asked what the applicant’s time frame was for the project.

Mr. Joyce said they are hoping to have a shovel in the ground in August 2010 if not late July; he said they are moving pretty quickly on selecting the actual turf product – a lot of the stuff has a lot of lead time so their actually in the process now of selecting their product and finalizing those details and moving concurrently with regulatory drawings and construction drawings; if they have to amend or append
the construction documents with changes that come out of regulatory that will happen as well.

Mr. Joyce said that they are looking to start the project at the end of July or early August 2010 timeframe right through November 2010. He said one thing they are toying with a little bit is to just get the infield done; get the infrastructure for the lighting done; get the infield done to play on – you can play on it in November; come back in the Spring and actually pave the track surface that comes around the outside; this will be a synthetic paved track surface that is very sensitive on weather so they might not want to push that issue until the Spring but they would like to hold the last game of the year on November 13, 2010.

Motion: To accept the application.

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

Chairman de Jongh said he wanted to take a look at the two regulated activity areas were and where the drain-off to the north west corner was located.

Mr. Joyce said on the landscaping plan calls for the removal of a row of Hemlocks on the outer layer of the track that serve as a barrier for the track as there is no fencing; the Academy is trying to minimize the fencing and have a soft campus approach to it – they want to have it integrated into the campus. He talked about clearing the area of vegetation that is currently obstructing the track and will be cleared for the lighting; and to provide a little bit of screening for the neighbors.

Mr. Bowman asked if there were deer on the site because deer like Arborvitae.

Mr. Joyce stated yes.

Chairman de Jongh suggested that Commission members take a look at the site on their own.

Mr. Joyce said he or one of the staff members could be available anytime to walk the site with Commission members.

Ms. Simone asked if it were possible to have the area staked out in the field where the detention basin is being proposed.
Mr. Joyce said sure – that would not be a problem. He talked about the location of some of the proposed changes at the site including arrangements for seating.

The Commission talked about setting a public hearing on this item based on the proposal and public interest.

Motion: To declare the proposed activity significant with the context of the Commission’s regulations specifically section 10.2 a and f and for public interest.

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

A field trip was set for Tuesday, June 1, 2010.

Further consideration on this item was deferred pending the public hearing.

Ms. Simone said there were no other scheduled items on tonight’s agenda but there two additional parties present – one party for Sindall Road and one for 12 Mountaincrest Drive. She said the Commission could make a motion and a vote to take up new business that is not listed on the agenda – Sindall Road and 12 Mountaincrest Drive.

Motion: To add to the agenda discussion under new business for Sindall Road and 12 Mountaincrest Drive.

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

5. Sindall Road – discussion and determination of next steps

Ms. Simone informed the Commission that information was provided to the Commission for discussion and determination of what next steps would be.

Dan Kroger, PE of Milone and MacBroom was present on behalf of Krista and Jeffrey Ostuno to provide information for the Commission.

Krista and Jeffrey Ostuno were present in the audience.

Mr. Kroger explained that the Ostunos were the new owners of the subject property on Sindall Road.
Mr. Kroger reviewed the history on the property located in both Meriden and Cheshire, property in total is 14 acres in size; the majority of the property is in Meriden – 10.3 acres and 3.8 in Cheshire.

Mr. Bowman stated for the record that he has walked the property extensively and he looked to purchase this property within the last twelve months. He stated he wanted this to be known for the record and did not know if the owner had any problem with that; if they do he would recuse himself.

There were no objections from the property owners.

Mr. Kroger said the property is located just east of Cheshire Street and north of Route 70 on Sindall Road; the Cheshire portion on Sindall Road and the Meriden portion on Finch Road.

Mr. Kroger said history the property was a sand and gravel quarry; lots of good sand and gravel material was taken out of this property over the years; recently the property was in pretty tire condition.

Mr. Kroger said the slopes around the perimeter around the property are significantly steep at about 1:1 grade; he said there was letter debris around the property so when Jeffrey and Krista purchased the property in October 2009.

Mr. Kroger explained that when the Ostunos purchased the property in October 2009 they were eager to get out there and improve the property to clean it up a little bit.

Mr. Kroger said they looked at some historical maps found in files; he spoke about a map prepared by Conklin and Soroka in May 1999; the map was included in the Commissions packet of materials.

Mr. Kroger talked about the 1999 map titled the slope restoration plan; he said in 1999 the owner of the property was issued a cease and desist from earth work operations on the property; he said he thought they met their quota for the amount of material that was being removed from the site and they were no longer supposed to do any work – they were getting too close to the property lines and there was a bunch of stuff going on.

Mr. Kroger said in 1999, the City of Meriden required that the slopes be restored; he said Conklin and Soroka did a survey and came up a plan to restore the slopes to 2.5:1 grades along the outside; 1:1 grades is not adequate to maintain vegetation on the slope.
Mr. Kroger said after 1999 apparently there was more work that happened after the cease and desist; the slope restoration was not completed as the City of Meriden requested.

Mr. Kroger explained the Juliano Associates did a general location survey and topo survey on March 14, 2008; that is the second map in the plans handout out. He spoke about the map and the possible reasons for the preparation of the map.

Chairman de Jongh explained there was a violation of the wetlands section on the Cheshire side of the property and the application was withdrawn.

Mr. Kroger said from 1999 to 2008 and in looking at the contours in the area of two of the wetlands; in 1999 there is only one wetland shown on the map in the north east corner of the property and on the 2008 map you see that Juliano Associates appears to have wetland flags on two wetland areas; he said in comparing the two maps you can see there was a wetland created, man-made wetland that was created in the center portion of the property. He said there was about 25' to 30' of material excavated out in the nine year span – when the area was mapped by Juliano Associates a soil scientist classified that area in the center portion of the property as a wetland. He said this is an important distinction.

Mr. Kroger said the Ostunos acquired the property in October 2009 and Milone and MacBroom was retained in early 2010 – January or February to help implement to create another slope restoration plan to rehab the slopes that Conklin and Soroka had mapped out that needed to be fixed; he said the City of Meriden was still very eager to have the slopes rehabbed; and that they would not do anything until the slopes were rehabbed according to the Conklin and Soroka plan.

Mr. Kroger said at that point a limited topographic survey was done; the results of that were consistent that this work was not done so they worked with the applicant on getting approvals from the City of Meriden to come and get filling permits and restore that slope.

Mr. Kroger stated that the City of Meriden approved the slope restoration in March 10, 2010 and work immediately began after that approval was granted. He said there is a large amount of material being brought into the property to restore those slopes because they were so over excavated; that work began in March 2010.

Mr. Kroger said that they received a call; town staff was called out to the property about three weeks ago and at that point he, John Milone,
and the Ostunos were out at the site. He said the wetland that was shown on the 2008 on the Juliano map no longer existed – the wetland in the central area of the property.

Mr. Kroger stated that the Ostunos indicated that that wetland was not filled by them; he said they have no proof either way whether it was filled.

Mr. Kroger said moving forward on this – there is a wetland that was clearly generated – created in the last nine years and then someone since 2008 filled the wetland and it is no longer in existence.

Mr. Kroger said the majority of the wetland in contention is in the City of Meriden. He said they were before the City of Meriden Wetlands Commission and they are requiring that they restore the slope in this area as shown on plans before the Commission.

Mr. Kroger showed on the plans the layout of the slopes and what the City of Meriden is requiring that is there be a 30’ landscape buffer at the top of the slope – that was the original requirement that the developer had and then come down to a 2:1 grade.

Mr. Kroger said on the plans you can see the existing condition and the proposed 30’ flat area with a 2:1 slope. He said basically what it comes down to is fills about 75 percent of the wetland – it doesn’t fill the wetland in Cheshire but the City of Meriden has indicated that they want that slope restored.

Chairman de Jongh said so the City of Meriden is rendering that wetland however it was created as not significant and they want it filled in.

Mr. Kroger replied exactly – and they had made that decision at a meeting two weeks ago.

The Commission and staff discussed a previous site walk of the area and the conditions on the site at that time.

Ms. Simone asked if there was an application before the City of Meriden.

Krista Ostuno addressed the Commission; she stated there was not an application before the City of Meriden. She explained there was a meeting about a week after they met at the site and there was a determination was it was decided that they needed to restore the slope.
Chairman de Jongh asked if there was an application.

Ms. Ostuno said she did know that John Milone did attend the meeting. She stated that she did not have to fill out an application.

Chairman de Jongh asked Mr. Kroger what effect does filling the wetland have on that 25% piece left in Cheshire and how effective is that wetland – has his office done a determination on that.

Mr. Kroger said there has not been a determination; he stated that his firm has not been retained to do any wetland analysis but they could; he said there is not filling in the Town of Cheshire.

Mr. Kroger talked about visiting the site with Cheshire and Meriden staff (Jim Anderson from Meriden) they could see the wetland no longer exists; there is not depression there anymore.

Chairman de Jongh said the picture that staff just gave him from October 17, 2008 is what he remembered – standing on that dirt and looking back towards that wetland area – there was a wetland area that served some kind of function and the way it exists right now its just dirt.

Mr. Kroger stated clearly there was something there and it was certified from a soil scientist perspective.

Mr. Bowman asked how many square feet was it.

Mr. Kroger said when he overlaid the maps the property lines don’t complete jive so he did his best to overlap the one piece located in the middle of the site; he said its about 1,900 SF in the Town of Cheshire – so he said the other piece is probably another couple thousand square feet.

Chairman de Jongh said that is a rough guess on his part.

Mr. Kroger said if you look at the Juliano map the wetland is not actually delineated; he said he thought the map was done for Cheshire – there is no wetland delineated – there is one flag in one location and one flag in another location – the wetland does not close back on itself, so he could not tell where the exact limit of that is because it was never delineated on the map. He said it was his best guest that there are about 1,900 SF on the Cheshire side and a little more on the other side.
Chairman de Jongh asked if the purpose of coming to the Commission tonight was to determine if a problem needs to be fixed.

Mr. Kroger stated that was correct. He noted that Krista and Jeff were here and will basically do whatever they need to do – they plan to be completely corporative in anything the Commission requests to be done in the area; if an application needs to be made or there is something that the Commission has tonight that they would like to see done.

Ms. Simone said in the memo that was sent out to Commission members said that staff was out on the property on April 30, 2010 and the picture shows what the area currently looks like however there is a larger wetland system that starts on the Cheshire property and continues off of where you see the property line.

Mr. Bowman said the Ostunos own that. He said all the pieces owned should be mapped.

Ms. Simone stated yes they do own that parcel; she said this area in not affected there is no fill being deposited in that area. She said there was discussion that the property owner would be willing to do some sort of remediation in that area – some shrub plantings and other things to enhance that wetland area with the understanding they do not have an interest in going into that wetland area – they are just complying with the corrective order on the Meriden side so they would not be doing anything in that area.

Chairman de Jongh talked about the wetland that was filled in per the order of Meriden; he wanted to know if there was a way to enhance the larger pocket of wetland on the Cheshire side and in his opinion that makes a lot of sense.

Chairman de Jongh said recognizing for the record, Krista has been in town for a good number of years, and he knows the families tie very closely to the Cheshire community so they are certainly aware of the impact of what they do and they are very sensitive to that. He said if there was a way to do something to that pocket area and per Mr. Kroger’s firm’s recommendations that might be something the Commission would entertain.

Mr. Kroger said absolutely – he pointed to the map in the area of the true wetland. He said as the history tells them there was a manmade area (the wetland filled in); the wetland there now does have value. He said when they were at the site it was discussed making sure this area was protected with haybales and silt fence – there are no activities
proposed in the wetland area; he stated that the wetland area present
does have value.

Chairman de Jongh talked about the road accessing the area; he said
he remembered the area being littler with pieces of tar – he asked if
the debris in the larger wetland pocket was pulled out at all.

Ms. Simone stated there was debris in the area – she believed there
are some tires in the area.

Chairman de Jongh stated that any attempt to try to clean and
enhance that section is to the advantage to the wetland but for the
overall property.

Ms. Simone so with that does the Commission have any direction for
the property owners as to requiring an application.

Mr. Kurtz stated that an application would be needed to clean up the
major wetland area.

Chairman de Jongh said he agreed with Mr. Kurtz – he would like to
see an application and in working with Milone and MacBroom to say
this is how we think we might be able to enhance the larger pocket of
wetland and try to mitigate that lost wetland area – he thought that
would be acceptable by the Commission.

Ms. Simone asked if the Commission would want details on the area
that has fill in it currently such as square footage or anything like that
just to acknowledge on the record that it was a wetland area – it is no
longer so what is being proposed acknowledges that.

Mr. Bowman said he thought that issue was acknowledged by
providing the number of square feet that was there.

Ms. Simone said she was just inquiring if the Commission wanted that
as part of the application.

Chairman de Jongh said it makes sense to justify the work being
done.

Mr. Kroger said an application would be submitted immediately and
have one of their soil scientists go out to the site and look at the
larger wetland and give an analysis of what could be done to mitigate
and to enhance that wetland.
There was a brief discussion about the Meriden side of the property; Meriden has not seen anything for the property since 1999; there was something before Cheshire in 2008. It was noted that the map in 2008 would have been sent to Meriden—they would have been noticed.

Ms. Ostuno said the reason they would not have seen an application is because they purchased the property from two different people; what came in front of Cheshire was an application from Theresa Holmes which was the 3 acreage parcel but the Meiden property was purchases from Mr. Biafore.

Mr. Bowman said it was three parcels – there is a CT Yankee parcel.

Ms. Ostuno stated that was correct. She said they purchased all three lots; she said there was the Biafore piece, the old gravel pit and the one acreage parcel where the house sits so its now one big parcel.

Ms. Ostuno asked if they can continue to restore the slope or not until after the June 1, 2010.

Chairman de Jongh said they can do on the Meriden side what they need to do but with regard to Cheshire the Commission would like to see an application at the next meeting that addresses the restoration plan for the area.

Mr. Kroger said the area is flat and at grade—he said they are starting to put fill on the slope and the road is coming in on the Cheshire side.

Chairman de Jongh said but it is not going to have any affect on the wetland pocket or there is no activity on the Cheshire side accept for the access on the existing road. There will no activity on the Cheshire parcel except for accessing the property from the Cheshire roadway.

Mr. Kroger stated that was correct.

An application would be submitted by the next meeting for this item.

6. Dr. Robert Henry - 12 Mountaincrest Drive

Ms. Simone said if the Commission will remember that this was subject of a show cause hearing at the last meeting and there was an order that was upheld by the Commission to have an application in and Dr. Henry has some question and wants to have some discussion.

Dr. Robert Henry of 12 Mountaincrest Drive addressed the Commission.
Dr. Henry addressed the Commission. He informed the Commission that his homes sit about 85' above the street vertical from the elevation; he said they brought in the same person to build their house to try to move some earth in an effort to restore a retaining wall which had come down in the last store which was about two weeks before they were out there.

Dr. Henry said the front of the house is about four acreages and behind it there is about 9.6 acres mostly dry but some wetlands; the constructors when in with an excavator to take some of the earth to try to make a berm on the driveway to prevent his wife from spinning on driveway in the winter because they were so worried about sliding. He said it appears the contractors went into an area that was wetlands.

Dr. Henry stated he takes responsibility for the activity that occurred because he told them to the back not knowing what was dry and what was wet – most of it is actually dry. He said they moved dirt in an effort to move it to the driveway – none of the dirt actually made it to the driveway it is actually still sitting there everything was just pushed up; there is like a big berm about five acres back off the street and its just still sitting there; he said that is where they stand right now.

Dr. Henry said they are not building anything on the site; they do not want to build anything they just want to leave things the way they are. He said now he just needs to know what to do to restore the area to make the Commission happy; he stated that whatever needs to be done he would do it.

Chairman de Jongh said he thought where the problem arose when the lot was approved it was clearly delineated what areas could and could not be impacted; he said he thought that was on the land records so there would not be a problem like this.

Ms. Simone stated yes – it was.

Chairman de Jongh explained in CT wetland soils are not determined by if the soil is wet or dry it determined by soil type; he said they were very deliberate in defining what could and could not be worked on or constructed on this parcel.

Dr. Henry said the area in question now never came up when they were building the house because it is further back into the woods; there was an area where they constructed a chain link fence to keep the kids from going into the wetlands; he said initially there were to be
plantings but then they came back for a modification and they put up a fence so they could not physically at all go into the wetlands or do anything there. He said that is not near the area of where they are now – the area now is further back.

Dr. Henry stated there was a lot of effort to make sure that that area was not touched; the area in question is much further back into the woods.

The Commission reviewed the map of the subject parcel.

Ms. Simone said when she spoke to Dr. Henry today, they spoke of the as-built survey and this is what is required by the town prior to signing off on a certificate of occupancy; she showed on the map the location of the driveway, the house, and the area of the fence; she said the map did identify there were wetland posts and did identify a wetland. She showed Dr. Henry on the map the area that was disturbed when she viewed the site from the State property adjacent to his property; she observed clearly that there was a large cleared area. She said the Commission has reviewed pictures of the clearing as well.

Ms. Simone clearly showed on the map the area that was cleared for Dr. Henry’s benefit and this is the area that is referenced in the letter sent to Dr. Henry.

Dr. Henry talked about the area the work was done in.

Ms. Simone said whoever did the work did push the material out to the side but it is in her estimation within the regulated area – and 50’ within the delineated edge which is within the jurisdiction of the Commission.

Mr. Bowman noted that anything with the delineation line has to come before the Commission.

Dr. Henry said he thought the distance was 20’ but even so he thought it was further out and that they were safe. He talked about where he actually wanted the work done and the issues they have in the winter months on the driveway; all they want to do is to make the driveway a little safer.

Chairman de Jongh asked about the value of the wetland pocket – on the finger of wetland and what the value was.
Ms. Simone said there was discussion – she explained this was part of an approval back from 1998 for the site plan prior to that there was subdivision approval; and looking at the record it appears there was no significant information provided at that time because there was no proposal to have anything developed in this area so it was not looked over in that level of detail.

Dr. Henry said he would do whatever was needed at this point; he said he has spoken to one person so far regarding a restoration plan but it is not clear if the person has the exact certification to do the restoration work.

Chairman de Jongh stated that a certified soil scientist would be needed to be able to identify the value of the wetland rather than a landscape engineer but they would not be able to determine the quality of a wetland. He said the value of the finger of wetland needs to be identified and assess the effect of the impact.

There was discussion about the finger of wetland and the location of the intermittent watercourse and the need to delineate the wetland and watercourse.

Ms. Simone informed Dr. Henry that there was a society of soil scientists and he could choose from one of those individuals to see who is qualified to deal with wetlands; there are firms in town qualified to do the work.

Chairman de Jongh said it was important to determine the quality of the wetlands and once they have that benchmark they can begin to mitigate that area but that is up to the professionals. He said the next step for Dr. Henry was to hire a professional, work with staff and come up with a restoration plan.

Ms. Simone asked what the Commission would be looking for from a soil scientist – an application or report.

Chairman de Jongh said a report would be appropriate at this time until the wetland value is determined.

Dr. Henry said they do not want to do anything in that area except walk out there in the woods with the kids.

Ms. Simone reviewed the status of the cease and desist and the steps the Commission needed to take at this point; the order did call for the submission of an application and a wetland restoration plan. She stated the order had been recorded on the land records.
There was discussion regarding amending the order on the land records

Motion: To amend the April 29, 2010 order for 12 Mountaincrest Drive and instead of asking full application the person who has violated the wetlands will hire a certified soils scientist and give the Commission a report at the June 1, 2010 meeting at which time it would be determined if an application was necessary.

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

Further action on this item was deferred to the June 1, 2010 meeting.

7. Approval of Minutes May 4, 2010 and Public Hearing and Regular Meeting and April 20, 2010 Meeting

Motion: To approve the minutes from the May 4, 2010 public hearing and regular meeting. (corrected minutes to appear in the June 1, 2010 minutes).

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

From the May 4, 2010 meeting: Motion: To approve the minutes from the April 20, 2010 public hearing and regular meeting with corrections.

RM 4.20.10 Pg. 2 L19 after “determination” add “has been received”; pg. 3 L19 “we are” to “they were” , L24-25 add “staff will contact” ; delete “762 Allen Avenue to]”, L42 delete “but”; pg. 7 L19 “all be it” to “albeit”; pg. 10 L7 “conservations” to “conversations”; L14-15 “suit sayer” to “soothsayer”. L38 delete “in wasn't in”; pg 13 L11-12 delete “at ease of the operation”

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

XII. ADJOURNMENT

The meeting was adjourned at 9:29 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills, Recording Secretary
Cheshire Inland Wetland and Watercourse Commission