Members present: Robert de Jongh, Charles Dimmick, Benjamin Alderton (arriving at 7:31 p.m.), Matt Bowman, Kerrie Dunne, Sheila Fiordelisi, and Earl Kurtz.

Staff present: Suzanne Simone

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

III. ROLL CALL

Ms. Dunne served as secretary pro-tem in Mr. Alderton’s absence. Ms. Dunne called the roll.

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

Benjamin Alderton arrived at 7:31 p.m.

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES - Regular Meeting - January 5, 2010

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

V. COMMUNICATIONS

1. The Habitat, Fall 2009, Vol. 21, #4, CACIWC Newsletter (To be handed out at meeting.)

   This communication was reviewed.
2. Ben Alderton Ordinance Citation Comments, 01/21/09

Ms. Simone stated the next communication were comments regarding the ordinance citation from a Commission member dated January 21, 2009.

3. Town Attorney Response to CIWWC Questions
   Re: Citation Ordinance 02/27/09

Ms. Simone said the third communication was a response to the Wetland Commission questions regarding the citation ordinance dated February 27, 2009.

4. 02/17/09 IWWC Minutes – Ordinance Discussion

Commission members reviewed the minutes from the February 17, 2009 meeting regarding the ordinance discussion.

5. 03/03/09 IWWC Minutes – Ordinance Discussion

Commission members reviewed the minutes from the March 3, 2009 meeting regarding the ordinance discussion.

6. Wetland Determination for Forest Lane and Fawn Drive Public Works Drainage Project

Commission members reviewed this communication.

7. Certified Letter to James & Nichole Netherland
   Re: Use of motorized vehicles in a regulated wetlands area

Commission members reviewed this communication.

Ms. Simone said handed out at tonight’s meeting were the following communications:

8. Communication from Martin Madour from the Quinnipiac River Watershed Association regarding important stream flow regulations.

Commission members reviewed this communication.

9. Request for Determination from David Carson OCC Group
   Re: Water Service Lateral with Allen Ave Extension Right-of –Way

Commission members reviewed this communication.

Commission members reviewed this communication.


Commission members reviewed this communication.

12. Signed Inland Wetland and Watercourses Commission Meeting Dates for 2010

Commission members reviewed this communication.

13. Revised Wetlands Commission Membership List

Commission members reviewed this communication.


Chairman de Jongh said let the record show that Mr. Alderton joined the meeting at 7:31 p.m.

VII. INSPECTION REPORTS

1. Written Inspections

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

2. Staff Inspections

Ms. Simone stated there were no staff inspections.

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 on-going litigation.
   Ms. Simone informed Commission members there would be updates on this item available in executive session.

2. Unauthorized Activities in a Regulated Wetland Area   SC 01/06/09
Chairman de Jongh said this item was on hold. He asked staff if she received any feedback at all from the applicant.

Ms. Simone said she has not heard that they are prepared to get started on anything.

Mr. Bowman asked do we or do we not know that they were in a regulated area – do we just think they were in a regulated area.

Ms. Simone said that was part of the discussion that they needed to have their soil scientist flag the wetlands but from information that they provided it did show that they were in a regulated area – that they began clearing; first they began clearing outside the scope of what was allowed in the stipulations of their permit and secondly they went in without any erosion controls and they were in the regulated area.

Mr. Bowman asked if they have ever done the erosion controls.

Ms. Simone stated the erosion controls are up.

Mr. Bowman said okay then that part is done.

Ms. Simone stated yes but they are going to need maintenance with the snow storm – some of them (erosion controls) have become comprised but the soil should be stable enough at this point.

Mr. Bowman asked if there was absolutely nothing we can do – is there anyway of revoking their permit.

Ms. Simone said that was a question that was asked previously and she contacted the Town Attorney to ask them that. She said because whatever is required right now which is to have the soil scientist provide information about field locating the wetlands – she said there would really have to be another action brought against them – a cease and desist, something that they are in violation of because they have corrected measures on the ground as far as having erosion controls and stopping the work.

Ms. Simone explained the Town Attorney had suggested that that would not be proper to revoke the permit for this particular issue.

Mr. Bowman said so for now it sits in limbo.
Dr. Dimmick said or until it sits for so long that the permit automatically expires.

Ms. Simone said the wetland permits are for 5 years.

Ms. Simone said she believed the permit on this application was issued in 2005 but she would double check and report back to the Commission.

There was discussion regarding the permit date, renewal of permits unless there was a change in position.

Dr. Dimmick said in this case there is a change in position.

Mr. Bowman said huge (change in position).

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

   This item was deferred to unfinished business.

X. UNFINISHED BUSINESS

1. Permit Application  
   Linda Hettrick  
   30 Homestead Place  
   Pond Remediation  
   APP #2010-001  
   DOR 1/05/10  
   MAD 3/11/10  

   Chairman de Jongh said Mrs. Hettrick was supposed to get back to staff with details of a sequence.

   Ms. Simone said yes.

   Ms. Simone said at the last meeting she had suggested that Mrs. Hettrick give staff a call that following Monday and set-up an appointment so they could go through previous approvals so that she (Hettrick) could see what a construction was.

   Ms. Simone reported that she has not heard from Mrs. Hettrick.

   Chairman de Jongh said what he might suggest is that they send a letter out to Mrs. Hettrick letting her know that the preverbal clock is ticking for the mandatory action date and if she fails to provide that information for the Commission can make their determination the
application will be denied for lack of information without prejudice if the rest of the Commission members were in agreement.

Commission members agreed.

Ms. Simone said okay; she would send a letter to Mrs. Hettrick.

2. Permit Modification Application

Amit Joshi
DOR 1/05/10
175 South Brooksvale Road
Wetland Restoration & Upland Drainage
MAD 3/11/10

Ms. Simone stated there was a draft motion for approval on this item. She said beginning on page two, stipulation number five specifies the time frame for which the contractor is to make communication with the Commission; those deadlines start out at once a month during the winter conditions – January, February and March and then in Spring conditions it begins to be twice a month.

Ms. Simone explained the deadlines would provide enough time for staff to receive the information and forward it to the Commission in the mailed out packets and email packets prior to the next scheduled meeting.

Ms. Simone said and also stipulation number four; she included that the work covered this permit is to be completed by September 15, 2010 and if the work is not completed by September 15 that the applicant shall attend the October 5, 2010 meeting to discuss in detail with the Commission why the work is not complete.

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 in response to a notice of violation notice of permit #2009-021.

2. That the current application is for installation of 120 feet of 6” PVC pipe for upland drainage and restoration of a 3,500 square foot wetland area in the northwest corner of the property at 175 South Brooksvale Road.
3. That the applicant’s engineer designed the upland drainage system with native material which eliminates the opportunity of free draining in order to maintain the integrity to the wetland on site.

4. That the applicant’s engineer designed a curb less yard drain and inspection and repair of footing and roof drains in non-regulated areas.

5. That the applicant’s soil scientist indicated that the recently disturbed wetland soils remains intact and the wetland area will be restored to pre-disturbed grades, as depicted on map reference #2 of the below referenced site plan, without the inclusion of fill material or use of heavy equipment.

6. That the applicant agreed the contractor will provide written notice to the commission throughout the conduct of permitted activities covered under this permit.

7. 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 #2009-021A, the permit application of Amit Joshi for wetland restoration and upland drainage as presented on the plans entitled:

“Mitigation Plan – Wetland Restoration
Land of Amit and Uma Joshi, 175 South Brooksvale Road, Cheshire, CT.
Dated October 16, 2009, Revised November 30, 2009
Prepared by NET Engineering, LLC”.

And

“Planting Plan, 175 South Brooksvale, Cheshire, CT
Prepared by Kenneth Stevens, Registered Professional Soil Scientist
Three pages, Dated October 20, 2009”.

And

“Notice of Violation of CIWWC Regulations
175 South Brooksvale, Cheshire, CT
Prepared by Kenneth Stevens, Registered Professional Soil Scientist
Two pages, Dated December 8, 2009”.
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:
   
   a. Properly install erosion controls, as depicted on the above-referenced site plan. Staff may insist on additional controls if warranted by field conditions.
   
   b. Comply with recommendations set forth by Kenneth Stevens in the review dated October 6, 2009, addressed to Amit and Uma Joshi.
   
   c. Establish the non-encroachment line ten (10) feet from the edge of wetland, as depicted on the above referenced site plan. Lawn is permitted within this established non-encroachment area. No paved surfaces are permitted without the express written consent of the commission. The non-encroachment line is to be permanently marked in the field, as depicted in the above referenced site plan.

4. The restoration work covered under this permit shall be completed, in full compliance of this permit, by September 15, 2010. Work remaining after September 15, 2010 will require review by the commission, at which time the applicant must attend the October 5, 2010 meeting to discuss in detail with the commission the details of the remaining work and explanation for lack of completeness.

5. The contractor shall provide written notification directed to the commission regarding the status of the permitted site work. This notification will detail the work completed since the previous notification and the pending timeline to complete the remaining permitted work. Notification shall be sent to commission staff for commission review per the following deadlines: January 27, 2010;
February 24, 2010; March 31, 2010; April 14, 2010; April 28, 2010; May 12, 2010; May 26, 2010; June 9, 2010; June 30, 2010; July 14, 2010; July 28, 2010; August 11, 2010; September 1, 2010 and September 15, 2010.

6. Monitoring of the plantings detailed in the above referenced restoration plan will be conducted for one year from the last planting date and all dead and damaged plants will be replanted in accordance with the above referenced planting plan. Cost of monitoring and replanting shall be borne of the applicant/owner of 175 South Brooksvale Road.

7. 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.

8. Upon completion of activities covered in this permit grant, the applicant shall provide the Commission with the written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been generally met, that all yard areas are properly stabilized, and that the work is completed.

9. This permit grant shall expire January 19, 2015.

10. Should the restoration work not be completed by September 15, 2010, the Commission shall require the posting of a bond, which shall be remain in effect until the work is completed to the satisfaction of the Commission. The amount of the bond shall be determined by Commission staff.

Chairman de Jongh asked if the word “shall” could be changed to “must.”

Mr. Bowman suggested that if the work is not done, so it shall be done by then, is there a way they would ask for a bond.
Ms. Simone stated yes. She said if the Commission would like to ask for a bond now that could be added as a stipulation.

Mr. Bowman said he thought the applicant has done enough work and really has probably cooperated fairly well. He said he would certainly want after the October a bond because his (the applicant) ability at that point to continue to do work that would have substantial growth or have an opportunity for the shrubs and things to take hold – he said he would want a bond if we could do it at that time. He said he did not know if staff wanted to put it in now as a stipulation.

Mr. Bowman said Mr. Joshi is here this evening – so just that he knows when he comes back...

Dr. Dimmick said we are hoping that the work is all done and there would be no further action would be needed.

Ms. Simone said the staff suggestion would be that if the Commission wants a bond that could be something that is added now instead of just having it on the record. She said it has to be in the stipulation to have more weight to it.

Mr. Bowman said okay then it would like to add a number ten to the stipulations stating that “should the work not be completed by September 15, 2010, the Inland Wetlands Commission shall require the posting of bond until the work is completed, the amount to be determined by staff.”

Ms. Simone reviewed the proposed wording. She confirmed the wording should read: “should the work not be completed by September 15, 2010, the Commission shall require the posting of bond until the work is completed to the satisfaction of the Commission; the amount to be determined by staff.”

Mr. Kurtz seconded the amended wording if that was a motion.

Mr. Bowman moved staff wording with the additional stipulations. Seconded by Mr. Kurtz.

Mr. Alderton asked if Mr. Joshi was aware of what Mr. Bowman has just added to the permit; the fact that the Commission will require a bond if the work is not completed by September 15, 2010.

Amit Joshi, property owner of 175 South Brooksvale Road said he would like to inform the Commission that he has every intention of finishing the work as soon as Spring arrives. He said the discussion
between him and his landscape contractor Mr. Arisco was that as soon as he gets back from his vacation and as soon as the weather starts warming up they will be finishing all unfinished business.

Mr. Joshi said the latest he has in mind to finish the work is the end of April or end of May 2010. He said it would definitely not extend beyond May or June 2010.

Mr. Joshi said the date of September 15, 2010 is certainly very much satisfactory to him and he has every intention of making that deadline.

Chairman de Jongh said he though the reason for the additional dates is to make sure the plantings that are made survive and don’t die; that everything would remain intact and take hold.

Ms. Simone asked to clarify. She asked if the stipulation is just for the restoration, not for the monitoring – the monitoring is still expected to last a year and will continue past the September 15, 2010 date, just the actually work.

Mr. Joshi said the reports will be bi-monthly for the non-winter months and then monthly for the winter months.

Chairman de Jongh said it would be bi-monthly beginning in April 2010.

Mr. Bowman said the reports are to be from the contractor.

Mr. Joshi asked if the contractor was out-of-town was it okay if a member of his staff inspects it and then sends information in writing to Ms. Simone.

Chairman de Jongh said he thought as long as a representative of the contractor is capable of making the assessment and doing the monitoring report that was fine.

Motion approved unanimously by Commission members present.

3. Discussion
Citation Ordinance

Mr. Bowman asked if there was someone in the audience for new business.

Ms. Simone stated yes – new business.
Mr. Bowman suggested they take-up this item and then go back to the discussion regarding the citation ordinance.

Chairman de Jongh said the new business item is a request for determination.

Mr. David Carson of OCC Group said his presentation would be brief.

Motion: To address new business item one regarding a request for determination from David Carson OCC Group for a water service lateral with Allen Ave Extension right-of-way.

Moved by consensus of Commission members present.

Discussion regarding the citation ordinance would be address after item number one under new business was discussed.

This item was addressed after discussion of new business item number one.

Chairman de Jongh said there were two items sent out by staff in the packages – minutes from the February 17, 2009 meeting and March 3, 2009 meeting.

The Commission review the minutes.

Chairman de Jongh said what they are trying to do is find whether or not what lines their discussion has gone along in the past. He said he thought there was a lot of conversation about the citation officer and who is in charge and who really has control. He said there was a lot of discussion about that and he did not know if that was ever determined in the note that was sent out.

Mr. Bowman said he had asked staff if she could to find out who the citation officer was.

Ms. Simone stated yes and she would have to check with the Town Manager for that name. She said she spoke with one of the Town Attorney’s who informed her that yes that was written into the contract – this person but she (Town Attorney) did not recall the name of the person but staff would check the name.

Mr. Alderton asked if it was a citation officer or hearing officer.

Ms. Simone stated hearing officer.
Mr. Alderton said the way he was reading the note it sounded like staff could be the citation officer. He said a hearing officer and citation officer are two different individuals.

Ms. Simone said the hearing officer would play the role of somewhat of a mediator and they may not be bound by wetland law or take into account any position from the Commission.

Mr. Bowman said or he also has the ability if we were satisfied to continue to fine until he was satisfied which was one of things that in reading these past minutes was at least bothersome to him. He said he did not like the idea of losing control. He said he wish they could say – ok start it, you are the hearing officer you start the fine procedure and we have a fine in place and then we are satisfied saying to the hearing officer okay you can stop now that he doesn’t have to listen to the Commission.

Dr. Dimmick said it is the same thing as a policeman, once he issues a ticket he has no control of what happens after that.

Mr. Bowman said right – he understood that. He said this is not the Court just a hearing officer and what would then be the appeal process was if there was an appeal process allowed.

Mr. Bowman said he has a lot of unanswered questions.

Ms. Simone said there was a question from one of the Commission members asking if Planning and Zoning was planning on adopting a similar policy. She said she spoke with Bill Volker (P&Z Director) and his opinion was no that they were not going to be moving in that direction to have the zoning officer to have the power to issue citations when comes to Planning and Zoning – staff said she was going to have to double check to see if it’s also it the wetlands ordinance - the person who issues the citation in Planning and Zoning is liable for treble damages – meaning that if someone finds that the citation that was ordered was improper that individual can be sued for three times worth the damage.

Ms. Simone said from an enforcement end of things that can be scary for whoever is going to be issuing – she said again she did not know if this applied to wetlands but its something written into the statutes for Planning and Zoning.

Chairman de Jongh said it struck him as odd that Planning and Zoning is not stepping out on a limb to do something like this then it seems counter productive then at this point for the Wetlands Commission to step out on a limb.
Dr. Dimmick said then except they are still stuck with living with a bit of nothing that would enforce their regulations.

Chairman de Jongh said he agreed but for example from what staff pointed out they might be liable for the same kind of damages individually – he said they do not have a determination on that.

Ms. Simone said that was an ongoing right now.

Chairman de Jongh said he thought the frustration that he thought they have found as a Commission is that they have people that come before them and basically plead mea culpa and they plead ignorance and there is no way the Commission can enforce anything other than just taking a ream of paper and hitting them over the head.

Mr. Bowman said he believed they could site the land records and again, he is not an attorney but there are a couple here, he said he knows most of the mortgages he signed when they are doing parcels of property say the property would be kept free of encumbrances if he was not mistaken and that is an encumbrance if he was not mistaken.

Mr. Alderton stated it would be a condition of default.

Mr. Bowman said exactly so therefore his feeling was – he said he was as frustrated as everyone else and that he did not like sitting here two nights a month and having people go – you know whatever – but he thought at least they should try another approach and in today’s mortgage atmosphere these mortgage companies do want to take any risk whatsoever of them not having an approval because most of the time when you get a mortgage the bank is counting on there being a ten lot subdivision – a 5 lot subdivision – some sort of subdivision and if the Commission is not going to grant them permission for that or have the ability to withdraw their approval because they are not doing something that puts the mortgage company’s money in jeopardy.

Ms. Simone said they do have that provision right now – she said when it comes to a violation it is recorded on that land records so if someone is searching for that they will find it.

Mr. Bowman said they could do a title search and it would not take two minutes to do it to find out of there was a mortgage on the property and you have every right to notify the lien holder. He said he did not want to go down the ordinance path – he said they could spend hours discussing an ordinance here and then find out moving
forward to Town Council who has final approval for this and say they are not interested in it.

Chairman de Jongh said the problem is they entered into an area where there is no precedent and what they are trying to is create something that has some teeth in their regulations but it’s like walking on Jell-O because they don’t have anywhere to go and every time they turn around there is another hole that has to be filled before they can move further.

Mr. Bowman said he knew of another Town Department that is trying to do this and he could tell the Commission at this point he did not believe the Town Council at this point has any intention of trying to do their fine ordinance either.

Chairman de Jongh said what he wanted to try to do is bring this up and resurrect a discussion on this.

Ms. Dunne said our Town Attorney seems to indicate in the response that there are a lot of different towns that actually do use this approach that do have finds and it seems if our Town Attorney knows this – does the Town Attorney have a graph or something with the towns and what the different fines are.

Ms. Simone said she could fine out what towns have it in place.

Dr. Dimmick said he would love to be able to go talk to some of the people in some of those towns.

Ms. Dunne said she would also be glad to take a couple of towns and call them and get their ordinances and they could split up the towns. She said it seems though from his (the Town Attorney) response that different towns use different approaches; he is making it sound like other towns do this so it seems like before we say – oh we can’t do this that we should look and see what other towns are going because it makes sense to do something.

Chairman de Jongh said he agreed.

Ms. Dunne said she also thought they did need to also ask those towns and ask the Town Attorney the liability issues.

Chairman de Jongh said gain his reasons for bring this issue up again is because it has been almost a year since the Commission talked about this and it has kind of just laid dormant. He said it is important that they try to get some additional information and try to shore up their arguments for or against and then make a
determination as a Commission whether they want to move forward with it or whether they thing it’s just not appropriate for the Commission.

Chairman de Jongh said he thought Ms. Dunne’s comments were valid and the Commission needed those pieces of information and they will just keep adding information to the file until they have something that is complete.

Ms. Simone said she would work on getting the information – the list of towns.

Mr. Bowman asked that staff also provide the name of the hearing officer and to find out if the Commission needs Town Council approval after they put together an ordinance because if they do...

Ms. Simone agreed to get the name of the hearing officer.

Ms. Dunne said also if they are going to be calling these towns they need to find out if the ordinance is working and the pros and cons so they know what they are up against.

Commission members agreed with Ms. Dunne.

Mr. Kurtz asked staff if the Town Planner had reasons for P&Z not being interested in a fine ordinance – maybe be could sent a little note.

Ms. Simone explained that the Town Planner has had experience in other towns and had seen that it didn’t hit the mark of what they were looking for – not for P&Z and that the treble damages really impeded the whole thing. She said speaking as a staff person, and if it were treble damages and she was going to be personally responsible she would not want to issue an order.

Chairman de Jongh said they Commission would try to gather some more information on this and bring it up when they have more complete discussion points.

At this point in the meeting the Commission returned to new business item one to accept the permit application submitted by Mr. Carson.

XI. NEW BUSINESS

1. Informal Discussion
   Request for determination from David Carson OCC Group
Re: Water Service Lateral with Allen Ave Extension Right-of-Way

Mr. David Carson of OCC Group was present.

Ms. Simone said the proposed project will take place on the Allen Avenue Extension right-of-way.

The Commission reviewed the plans of the proposed project.

Mr. Carson said his business partner was actually handling this project but he is at Meriden PUC this evening. He said he just received a text message that Meriden PUC has just approved this plan.

Mr. Carson explained what is involved here is a Court order to provide water service to 46 Allen Avenue Extension due to a contaminated well on that property.

Mr. Carson said the water main is Meriden’s water main within Cheshire’s street. He said the main is in Finch Avenue.

Mr. Carson said the project proposed is to extend a service up the southerly side of Allen Avenue Extension to reach the subject property.

Mr. Carson stated again, just this evening Meriden PUC approved the plan. He said he previously reviewed the plan with the Cheshire Town Engineer and it’s gone to Regional Water Authority who has sent back a letter stating they have no involvement because it’s Meriden water main.

Dr. Dimmick asked if this was going to have to cross the RCP.

Mr. Carson said yes. He explained there was a profile going under that RCP.

Mr. Carson said what this is a 1” service.

Dr. Dimmick noted that the north arrow on the map is not correct.

The Commission discussed the location of the proposed project and the location of the White’s property.

Dr. Dimmick said what he was concerned about was even though they would be crossing a part of the stream that is in a pipe they would be crossing a stream.

Mr. Bowman said they are crossing under it – they have to cross under the 30” pipe.
Dr. Dimmick said this project was in the street right-of-way but was it in the pavement.

Mr. Carson stated no. He said the proposed service line is 3’ off the curb line.

Dr. Dimmick said there is a slope there going down.

Mr. Carson said he had a couple of pictures looking in each direction.

Commission members reviewed the pictures.

Dr. Dimmick said there were wetlands and they are on the slope and there are erosion controls.

Mr. Bowman stated the erosion controls are going to be critical.

Dr. Dimmick said in his opinion they were getting to the point that they were going to need a permit; he said there were so many chances that something could go wrong.

Mr. Bowman asked who was putting the service in – a private contractor or the City of Meriden.

Mr. Carson stated a private contractor to the best of his knowledge.

Mr. Bowman and Dr. Dimmick agreed this project would need a permit.

Ms. Simone asked then what would the Commission’s position be on getting owner’s signature.

Mr. Bowman asked who owned the road.

Dr. Dimmick said the Town of Cheshire owns the road itself.

The project is within the Town right-of-way.

Chairman de Jongh said then they would not need property owner’s signature if it’s in the Town right-of-way.

Dr. Dimmick asked if the erosion controls would be entirely within the Town right-of-way.

Mr. Bowman said that is what it looks like.
Chairman de Jongh said if it’s in the Town right-of-way then they do not need the property owner’s signature. He said you need to notice the property owner but you don’t need their signature.

Mr. Carson said his concern that the water main in being put in by Court order. He said he did not know what the timely of it was – this has already taken quite some period of time to get to this point.

Mr. Carson said he did know that the return date to Court was December 3, 2009 – they were under order to get the plan prepared and bring them back to Court on December 3, 2009; at that point nobody knew exactly what the approval process would be.

Mr. Carson said with that they then took the plan to Meriden PUC. Meriden PUC wanted Joe Michaelangelo, Public Works Director, to look at the plan – he looked at it now it’s going back to PUC and it approved.

Chairman de Jongh said so Cheshire’s Town Engineer is aware of the plan.

Mr. Carson stated right.

Chairman de Jongh asked Mr. Carson if Mr. Michaelangelo expressed any concerns about this plan.

Mr. Carson stated no.
Dr. Dimmick said he did not see the Commission denying the applicant a permit but he wanted to be able to monitor the erosion controls.

Mr. Carson said he realized that and he was wondering if there was any way of expediting this through staff enforcement of what needs to be done.

Mr. Bowman said he thought Dr. Dimmick was right. He said if this was April 1st and you had the Court order that said it had to be done April 15th he could see the process expedited but all they had was a Court order to get the plan in and that has been done and they have met that part of it.

Mr. Bowman said there is no Court order as to when to get the water main in – there is no way at least in his opinion that he could see the Commission denying this but there is also no way he could see a contractor going through 18” to 20” of frost which is in the ground right now to try to install this water main and if they did, the difference between today and February 2, 2010, the Commission’s next meeting which would be the approval is not a big deal.
There was discussion regarding the timing of the submission of the application, the normal two-week waiting permit, the Court order, and the permit approval.

Mr. Kurtz asked if Mr. Carson had a copy of the Court order.

Mr. Carson stated he did not.

Mr. Kurtz requested that the Court order presented with the application at the next meeting.

Chairman de Jongh said if the Commission was in agreement that an application was required with details that the Commission needs, then whether or not they might be able to waive that two week requirement because there was a Court order.

Ms. Simone said one solution may be, if the Commission feels that the plan now has enough detail that the Commission would feel comfortable at the next meeting making a decision that Mr. Carson could fill out an application form tonight with the understanding that it would be just bare bones having map and lot information, submit one of the maps and the mandatory action date could start from today so the earliest action could at the next meeting but in the mean time the Commission could receive more information at the meeting but staff could have a draft available.

Chairman de Jongh said he did not have a problem with that since there is a Court order and a contaminated well.

Mr. Carson agreed to fill out an application and submit at tonight’s meeting.

Dr. Dimmick said the thing is the property owner is the Town of Cheshire and the application is supposed to have a signature of the property owner.

Chairman de Jongh said he thought they could work around the signature and get it the property owner’s signature later.

Mr. Bowman asked if Mr. Michaelangelo has been put on notice – correct.

Mr. Carson stated yes. Mr. Carson said the plan was just revised today and Mr. Michaelangelo has not had a chance to review the revisions.

Mr. Carson said he was not aware of what the specific Court date was and that he appreciated what the Commission was trying to; he said
maybe time is not a problem – he honestly didn’t know because he personally has not been handling this project.

Chairman de Jongh said knowing that date would be important because otherwise if you have the preverbal gun to your head to move this forward then obliviously the impetuous in on the Commission to make that happen but if they have some time to breath there are details that the Commission would like to have relative to the process of the project, specially how are they going to get through 6” to 8” of frost.

Dr. Dimmick said the frost varies right now – it’s all over the place.

Mr. Bowman said it does vary and there is equipment that can get through it but you have to haul that material out; you can’t back fill with frost so you are talking about a more costly project to dig it out then replace with clean fill.

Chairman de Jongh said there are some concerns and issues that need to be addressed.

Mr. Bowman commented that the plan has the location of the silt fence, the trench details, the meter pit details and the back fill details – he said the plan was substantially complete.

Mr. Carson said what was needed was a construction sequence. He said there may be there is a specific contractor already selected to do this work.

Dr. Dimmick commented on some of the plan details regarding the inspection of the erosion controls in Cheshire by the City of Meriden.

Mr. Bowman said the erosion controls do cross the line by 2’.

The Commission discussed the plan details.

Mr. Bowman said whoever the contractor is they are going to need to be bonded in the Town of Cheshire so you do have some protection there.

Chairman de Jongh said what is important is to know the Court order deadlines and the details on how the project is going to proceed.

Motion: That the Commission declared the activity proposed for the installation of water main in Allen Ave is going to require a permit from the Cheshire Wetlands Commission.

Moved by Dr. Dimmick. Seconded by Mr. Kurtz. Motion approved unanimously by Commission members present.
Motion: To accept the application for water main installation at 940 Allen Ave Extension.

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

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

The Commission returned to unfinished business item number three – discussion of citation ordinance.

2. Approval of Minutes from the January 5, 2010 Regular Meeting.

Motion: To accept the minutes of the January 19, 2010 Regular Meeting with corrections.

Pg. 5 L48 Ms. “said” to “commented on”; pg. 7 L19 “expectation” to “exception”, L37 “specially” to “specifically”; pg. 8 L20 “why” to “way”, L26 “used” to “use”; pg. 9 L27 add “to” after “was”; pg. 12 L19 “existing” to “existing”, L37 “prevue” to “purview”; pg. 13 L22-23 “in for within the prevue” to “it falls within the purview”; pg. 16 L24 add “of mulch”, L28 “shipped” to “chipped”; pg. 17 L43 after “drain” add “on the”; pg. 18 & 19 L20 & L49 & L6 “affect” to “effect”, L48 “no” to “any”; pg. 20 L5 after “carries” add “flow from”, L8 “area” to “are”, L13-14 flood “plane” to “plain” and “initiates” to “and inundates”; pg. 22 L13 “an” to “as”; pg. 23 L5 after “back” add “filled”.

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

XII. EXECUTIVE SESSION

The Commission went into executive session at 8:18 p.m. The Commission came out of executive session at 8:33 p.m.

No votes or motions were taken in the executive session.

XIII. ADJOURNMENT

The meeting was adjourned at 8:35 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills, Recording Secretary
Cheshire Inland Wetland and Watercourse Commission