I. CALL TO ORDER

Dr. Dimmick called the meeting to order at 7:30 p.m.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

III. ROLL CALL

Mr. Alderton called the roll.

Members present: Matt Bowman, Charles Dimmick, Benjamin Alderton, Kerrie Dunne, Sheila Fiordelisi, and Earl Kurtz. Chairman Robert de Jongh was not present.

IV. DETERMINATION OF QUORUM

Dr. Dimmick determined there were enough members present for a quorum.

V. APPROVAL OF MINUTES – Regular Meeting – March 2, 2010
   Site Walk – March 6, 2010

The approval of the minutes was deferred to the end of the meeting; addressed after new business item number one.

VI. COMMUNICATIONS
1. **Correspondence from Dept. of Consumer Protection**  
   **Re: Geographic Information Systems (GIS)**

   Ms. Simone said the first communication was from the Department of Consumer Protection regarding their stand on Geographic Information Systems (GIS).

   The Commission reviewed this item.

2. **Letter to William & Lisa Ljungquist**  
   **Re: Drainage issues at 189 South Brooksvale Road**

   Ms. Simone stated the second communication was from staff to William & Lisa Ljungquist regarding a complaint of drainage issues at 189 South Brooksvale Road.

   The Commission reviewed this item.

3. **Letter to Mr. Mark Pasqualoni, 150 South Meriden Rd.**  
   **Re: Permit #2010-004**

   Ms. Simone stated the third communication was a letter to Mr. Mark Pasqualoni, 150 South Meriden Road regarding electrical service at the property; the Commission had approved a permit at the last meeting – permit number 2010-004.

4. **Letter to Ms. Mary G. Pasqualoni & Mary B. Pasqualoni**  
   **Re: Tree cutting at 456 East Johnson Avenue**

   Ms. Simone said the fourth communication is letter to Mrs. Mary G. Pasqualoni and Mary B. Pasqualoni regarding tree cutting at 456 East Johnson Avenue. The letter had requested that they either attend the meeting or contact staff or send something in writing regarding activities that took place as far as tree cutting.

   Ms. Simone explained she did hear from their (Mrs. Mary G. Pasqualoni and Mary B. Pasqualoni) nephew today that they just returned from Florida; he informed staff that the trees that were cut were done primarily to remove the cabins that were on the property and in addition there were some other trees that were unhealthy and needed to be cut down but that they don’t have any further plans on cutting.

   Ms. Simone asked that the nephew asked that he write that to the Commission for the next meeting and he stated that he would.
The Commission reviewed this item.

Mr. Alderton said he drove past this location because it was easy for him to do on the way to tonight’s meeting and he said it looked like as well they’ve leveled the area some as well – he was not sure what is going on there; he said it looks like they have gone from the stumps that were there so now it’s completely leveled off; he was not sure what their plans are for the property, he had no idea but in just driving past that was what he observed.

Mr. Kurtz said sounds like they are making a bigger corn field.

Mr. Bowman said that site has been a farm for 50-60-70 years so – you know.

Mr. Kurtz said he asked a question at the last meeting – who owned the property that is why he asked the question.

Ms. Simone said they’re still listed as the same owners – Pasqualoni.

Mr. Alderton said it looks like they could be preparing for either extending the farm land – that is defiantly possible.

Dr. Dimmick said staff could ask for further clarification and they will be alright.

5. Notification from Department of Environmental Protection
Re: Passage of Section 3 of Public Act 09-181

Ms. Simone said the fifth communication was a notification from DEP regarding a Public Act 09-181 which reads that any approvals given within a specific time period namely between July 1, 2006 to July 1, 2009 shall expire not less than six (6) years after the date of such approval.

Mr. Bowman asked – no matter what our regulation says.

Ms. Simone said well that’s something staff would need to look into but she just wanted to provide this notification to the Commission.

Mr. Bowman said he read the rest of the public act and he said he would like to discuss it at this point – is the maximal allowable time period for competition of work is going to be ten (10) years.

Ms. Simone said the Commission is able to extend the approval for the permit up to ten (10) years so there is a ten (10) year maximum.
Dr. Dimmick said he believed that act also changed ten (10) years to eleven (11) years did it not.

Ms. Simone said well this letter is just specific to section 3.

Mr. Bowman asked just for a three (3) year period correct.

Ms. Simone stated yes.

Mr. Bowman said so anything approved in that three (3) year period.

Ms. Simone stated permits granted in this time would be valid for six (6) years under this state action.

Mr. Bowman said anything that was approved in that three year period – okay is valid for six (6) years.

Ms. Simone stated yes – was valid for six (6) years.

Mr. Bowman said and then they are allowed one five (5) years extension – is that it – he said he read it and that is why he is questioning it.

Dr. Dimmick said when it was explained to him last summer that is what he was told.

Ms. Simone said it is stated in the act that it’s to be no more than eleven (11) years; so its six (6) years plus then a five (5) year extension.

Mr. Bowman said he was going to be hypothetical – if the Commission approves a subdivision and they have five years to complete the work and the road is completed but they haven’t sold all of the lots and they come back in for another five year extension which the Commission has the ability to grant them and again they don’t sell the lots – do they lose those lots or what happens to those when the time frame has run out.

Dr. Dimmick said he thinks they need to reapply.

Ms. Olson said they don’t actually lose the lots per se what happens is their permit or approval expires and they would have to come in and file a new application. She asked if Mr. Bowman was concerned about the subdivision regulations or inland wetlands.
Mr. Bowman said just strictly inland wetlands.

Ms. Olson said it means that their permit to conduct any kind of regulated activity expires by operation of law and they would need to come before the Commission again before they conduct any regulated activities.

Mr. Bowman thanked Ms. Olson for the information.

6. Communication from Attorney Kari Olson
Re: Expiration of CIWWC Permit #2005-008 Summit Road Subdivision

Ms. Simone said communication 6 & 7 which is specific to the type of situation discussed in item 5; there is a subdivision on Summit Road which received their approval – some of the lots were allowed to be developed with a non-encroachment line to be established per the approved subdivision plans; those lots have not been developed; the permit has not been extended and now the permit has expired.

Ms. Simone said so those individual lot owners or the developer could come in either for – the developer could come in for a subdivision approval again – do the whole thing all over again – or the individual lot owners can come in for a site plan approval.

Mr. Bowman said he thought that happened on the corner of Mountain Road and West Main Street not too long ago – he said he remembered that in front of the Commission; maybe last year they came back in – he said he though they let their approval go – if he remembered correctly.

Ms. Simone said she thought they got their extension.

7. Letter to Silver Meadows Development, LLC
Re: Expiration of CIWWC Permit #2005-008, Summit Road Subdivision

Covered under communication number 6.

8. Letter from Environment Commission Chair Dave DeFusco
Re: Earth Day events

Ms. Simone said communication number eight is a letter from the Environment Commission chair regarding Earth Day events.
9. **SWCD Soil and Water Spring 2010 Newsletter (To be handed out at meeting)**

Ms. Simone said this item would be handed out for the Soil and Water Spring 2010 Newsletter.

10. **Staff Report, including attachments**
**Re: Wetland Violation: 35 Sudol Court**

Ms. Simone said item ten was a staff report including attachments regarding a wetland violation at 35 Sudol Court which is subject of a show cause hearing tonight.

11. **Cease and Desist Order & Show Cause Hearing Notice**
**Re: Michael & Bonnie Donato, 35 Sudol Court**

Ms. Simone said communication eleven is a cease and desist order for 35 Sudol Court.

12. **Communication from the Engineering Department comments**
**630 Cook Hill Road – under New Business**

Ms. Simone stated that handed out at tonight’s meeting was a communication from the Engineering Department comments regarding a new application under new business for 630 Cook Hill Road.

13. **Information re: Hettrick Application #2010-001**

Ms. Simone said that communication thirteen was information handed out regarding the Hettrick application; this is specific to the pond flow management.

14. **Forestry Information dated March 15, 2010**

Ms. Simone stated communication fourteen was forestry information.

15. **Letter from Amy Hourigan**
**Re: 35 Sudol Court**
**Neighbor Concerns**

Ms. Simone stated that items fifteen and sixteen are neighbor concerns regarding 35 Sudol Court.

16. **Letter from Julie Sweigard, 59 Williams Road**
Re: 35 Sudol Court  
Neighbor Concerns  

Ms. Simone stated that items fifteen and sixteen are neighbor concerns regarding 35 Sudol Court.

17. Other – none.

VII. INSPECTION REPORTS

1. Written Inspections
   
   Ms. Simone stated inspection reports were covered under communications.

2. Staff Inspections
   
   Ms. Simone stated inspection reports were covered under communications.

VIII. ENFORCEMENT ACTIONS

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

   Dr. Dimmick stated this item was still on the calendar.

2. Unauthorized Activities in a Regulated Wetland Area  
   Mr. Chris Lambert  
   Highland Avenue  

   SC 01/06/09  
   SC 01/20/09  
   SC 02/03/09  
   SC 02/17/09  

   Dr. Dimmick asked staff if she had any further information on this item.

   Ms. Simone stated there was no movement on this item.

3. Unauthorized Activities in an Regulated Wetland Area  
   Amit & Uma Joshi  
   175 South Brooksvale Road  

   SC 11/06/09  
   SC 12/01/09  

   Dr. Dimmick said he knew the applicant did a recovery on this site.
Ms. Simone said in speaking with Mr. Joshi recently he said the plans are to get the plants established within the next month to six weeks and they are looking to get everything wrapped up by mid-to-late Spring.

Mr. Bowman asked if they have been filing the written reports.

Ms. Simone stated that they have (filing the written reports).

SHOW CAUSE

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

Michael and Bonnie Donato were present.

The Commission reviewed the maps of the site.

Dr. Dimmick asked if staff would like to explain this item.

Ms. Simone said that she received a complaint on March 3, 2010 regarding activities taking place at 35 Sudol Court; looking at the soils maps as well as the site plan map for that property she could see there were wetlands on the property

Ms. Simone said when she got out to the site there were Police Officers already there; apparently neighbors had contacted the Police Department as well.

Ms. Simone said she did observe that there are wetland boundary markers in the field, there's 4” by 4” posts that delineate the end of the established lawn and the beginning of the wetland area that previous was naturally vegetated.

Ms. Simone said she did observe that there was a vehicle that had driven through the area in between the wetland buffer posts; there was a chipper that was also on-site that was in the upland review area but right in the neighborhood of the wetlands.

Ms. Simone said she did take pictures which are part of the staff report. She said when she went back to the office she looked through he documentation to see what documents the Commission has that show where the wetland line is, where the non-encroachment line is; staff was able to find a lot of documentation on that.
Ms. Simone said there was a subdivision approval from the Wetlands Commission dated June 21, 2005; on that subdivision map it shows the wetlands as well as the non-encroachment line as well as the modification of that plan which was granted by this Commission on August 2, 2005; the same is recorded in the Town Clerk’s Office on September 12, 2005; there is also a second subdivision map that was recorded in the Clerk’s Office because there was a name change – it used to be Daffodil Court then they changed to Sudol Court; again that maps shows where the wetlands are located, where the non-encroachment line is located – that was done March 13, 2006; there was a site plan approval for lot 5 which was referred to as 35 Sudol Court – that was granted by this Commission on May 16, 2006 as well as the Town receiving a survey map which is required for a certificate of occupancy and that also showed the wetland boundary as well as the non-encroachment line that is dated August 6, 2006.

Mr. Bowman asked about markers.

Ms. Simone said yes there are markers in the field and in addition to those maps that are recorded with the Town there’s also the property deed that references some of the same maps that were just discussed as well as the individual site plan approval.

Ms. Simone stated so she did have a series of maps that show starting back in 2005 that this area has been documented as a wetland area. The orange line is the property boundary, the blue line is the edge of the wetlands, and the yellow line is the non-encroachment line.

Ms. Simone stated at this point it was proposed and then as you go through the maps you can see it (the line) is designated as the non-encroachment line.

Ms. Simone said then looking at the file for the first approval on this subdivision which was granted June 21, 2005, there is a report from Milone and MacBroom which is also included in the staff report; they go through a functional assessment of that wetland – they identify that area in particular as a wet meadow, a emergent marsh land – they identify it has having high biodiversity and they did not make any further recommendations for its protection because everything that was presented showed that there would be an non-encroachment line and no activity in that area.

Dr. Dimmick thanked staff.
Dr. Dimmick asked if representatives here for Michael or Bonnie Donato.

Michael and Bonnie Donato were present.

Mrs. Donato addressed the Commission. She introduced herself and her husband Michael.

Mrs. Donato said first they wanted to apologize to the Commission for going ahead with the activities that they did so they are sorry.

Mrs. Donato said she would go through what their intent was and their understanding so they (the Commission) have the clarity of where they were; she said she was sorry for both of them (her husband) – she said when they bid on that lot – they actually bid on that lot, she thought actually on the day they closed because they knew they had the extra land that kind of was no construction and they purposely did that because their previous house on the south side of Cheshire – they had a similar type of area that was not buildable but the power lines decided to come in and build and so they lost that buffer and when they saw this lot when they were looking to move that attracted their attention and they paid significantly more for having that space; she said if you look in the records it shows there’s an additional amount for that lot because of the land; so they went into that knowing and every year they pay the taxes on it knowing that there is no construction to be done in that area.

Mrs. Donato said with that being said what their intent was when they went forward with the action – first and for most was on the perimeter where their grass ends and into the area that they are talking about it was a dense area of pricker bushes and this area – she said they have young children that would play in the backyard with their friends and quite often playing ball or what not the ball would get into the pricker bushes and the pricker bushes would get into them (the children) or they’d get into the pricker bushes so they (Donatos) were concerned with their safety.

Mrs. Donato said in addition – if you went past this dense area of the pricker bushes it was relatively open and with the elevation – there is an elevation...higher up in the elevation probably about a third after the area that is a little bit wetter – numerous times they would see children in that area – not their children – not their neighbors on Sudol Court but around the neighborhood and they would hear them playing back there, they would see them playing back there and at
nighttime they would hear older children by their voices playing in the back area as well.

Mrs. Donato said so one they were concerned about their own liability and their safety – most recently one of the last snow storms we had there were about seven children back there – young – elementary school aged – and the little girl – I could distinctly hear her say “I’m tired I don’t want to walk back” cause the snow was pretty dense – and that concerned her (Mrs. Donato) – she did not know who this little girl was – I did not want to get involved as we know all the other neighbors and she had other children with her that actually gave her a piggy back ride on through the rest of the area towards West Main Street Route 70.

Mrs. Donato said so they were very concerned with the safety; we never wanted to do anything to the natural habitat – to be very honest we wanted that.

Mrs. Donato said what they really wanted to do was to enhance the beauty of this area – they would sit in their back yard and they felt that if these pricker bushes were a concern let’s enhance the beauty – let’s not modify the ecosystem and that was their intent.

Mrs. Donato said so they hired someone who was licensed to remove the pricker bushes; we did not want to remove the other material – they did not want to modify or dig up any of the soils and there is actually a dead tree back there that we said “leave that there because we know the habitat lives in that dead tree and we just knew we couldn’t do anything with the tree” - we did not believe that by removing the pricker bushes there would be a concern.

Mrs. Donato said so that was their intent and we did get someone certified to do this – she said they did not want to dig up the pricker bushes themselves because they were very dense as she said.

Mrs. Donato said so they are sorry.

Mrs. Donato said once they did receive the letter – just to let you know as their own follow-up they have reached out to two wetland professionals, they have spoken in detail with one of them and they are planning on meeting with them at the end of this week and it’s actually the company that did the survey - that is the Cheshire resident and so they knew about the lot and we felt after tonight’s meeting they are going to come to the house and they will talk with them further based on what the Commission says to them (the Donatos).
Dr. Dimmick said you know you (Mrs. Donato) said you were concerned about the habitat – those pricker bushes are prime habitat in the winter for birds – that’s the way they take shelter from predators is in those pricker bushes so you removed a major part of winter protection for birds in removing those pricker bushes.

Dr. Dimmick said also the Commission has received two letters from neighbors.

Dr. Dimmick said he was going to read one into the record and maybe the secretary (Mr. Alderton) could read the other one as his voice might not hold-up.

Dr. Dimmick read into the record the letter from Amy Hourigan, one of the Donatos neighbors. Ms. Hourigan strongly urged the Commission to block any further destruction of the protected wetlands area that runs between Sudol Court and West Main Street and behind Williams Road.

The letter detailed the events leading up to tonight’s show cause hearing.

Ms. Hourigan stated in her letter a resident of Sudol Court unlawfully mowed down approximately one-half acre of protected wetlands, causing a visual blight and noticeably displacing birds and other wildlife that made their homes in the area.

Ms. Hourigan suggested in her letter that the resident needed to be educated as to the value of the wetlands.

Ms. Hourigan also encouraged the Commission to do everything in their power to ensure that the resident restores the area back to its former status and is not allowed to destroy any more wetlands.

The letter from Ms. Hourigan was entered into the record.

Mr. Alderton read the second letter from Julie Sweigard of 59 Williams Road, dated March 15, 2010 into the record.

Ms. Sweigard stated in her letter her concern over the destruction of about ½ an area of protected wetlands that took place on Tuesday, March 2 and Wednesday, March 3, 2010.

Ms. Sweigard stated in her letter that she was appalled that the homeowner on Sudol Court showed so little regard for the plant and wildlife that inhabit the wetlands as well as for the fellow neighbors.
who reap many rewards from having a protected wetland area near them.

Ms. Sweigard stated in her letter that one of the reasons she and her husband purchased their home was because of the assurance that nothing would ever be built or changed to the wetlands because it was protected by law from being altered. The letter went on to say that she and her family enjoy seeing many of the birds and wildlife that live in the wetlands including deer.

Ms. Sweigard concluded her letter by stating that as a resident directly affected by the destruction, she strongly urged the Commission to block any further destruction of the protected wetlands area that runs between Sudol Court and West Main Street and behind Williams Road. She also recommended educating the resident of Sudol Court about the benefits of the wetlands and what purposes they serve as well as make them perform restitution by restoring the many plants that were destroyed.

The letter from Ms. Sweigard was entered into the record.

Dr. Dimmick asked if Mrs. Donato wanted to respond to either of the letters from the neighbors.

Mrs. Donato said the response is that they did not plan to do any construction – any building whatsoever and what has been done is all that was going to be done so there was no further building that was ever going to happen in this area – whatsoever – so that is that response.

Mrs. Donato said the rest with regards to the education of the wetland area – she said “you know we educated ourselves actually when the power lines were being brought up off of Old Farms Road that is where their old house was and they worked very closely with Woodlands Coalition and others to try to block further development in other towns as well because of the wetlands so we did have that education.”

Mrs. Donato said again “we apologize that we didn’t have the depth that maybe our neighbors had been looking for.”

Dr. Dimmick asked if other members wish to ask any questions of the people.
Mr. Bowman asked Ms. Simone if she knew if they (Donatos) cut basically in the non-encroachment area or did they get into the wetlands themselves.

Ms. Simone said it appeared as though a portion of the work was done in the wetlands in addition to the upland review area.

Ms. Simone stated there were tire tracks that appeared to be in the wetland area and you can see in the picture that there are tracks.

Mr. Bowman said yes but he couldn’t tell the distance – he said he said the pictures but he couldn’t tell the distance.

Mrs. Donato said one thing – they did call their builder and Tony Napolitano did go out to their property this past week since he was very familiar with where the lines are and he actually did say it did not look like – that the pricker bushes had touched the actual wetland area – she meant not – she said she realized wetlands is also because of soil compositions but she went out there today just to look – just to see how wet the soil was after a couple of days of rain – which they do not want to disturb that because they actually get water in their basement and it was not what she would consider a wet area.

Ms. Simone said well again – well also just the accumulation of water doesn’t indicate the presence or absence of wetlands.

Ms. Simone said there was extensive activity – there’s tire tracks primarily in the wetlands area so – there was no requirement at that time to have the wetland flagged themselves because the Commission had discussed having a non-encroachment line that those buffer posts would be adequate to identify where the wetlands were.

Ms. Simone said and actually the non-encroachment line gets pretty close to where the wetlands area.

Mr. Bowman said in his opinion this is a perfect example of us requesting a complete non-encroachment easement rather than just signage up and also the prickers were acting something that they continually as a Wetlands Commission ask for and that is some sort of either man-made buffer or natural vegetative buffer and they both seem to be gone now.
Mr. Bowman said in the future they should get some sort of conservation easement so that can be done in there period or at minimum some sort of barrier.

Dr. Dimmick said it was his understanding if he remembered this that it was certainly the Commission’s intent that the non-encroachment line was just that that no activities were to take place beyond the non-encroachment line including no mowing or anything else.

Mr. Bowman said here is the problem and he is just going to say it from a layman’s point of view and from their point of view – he said he would kind take their side a little bit – here they saw a property with a large piece of extra land and okay tit said non-encroachment but non-encroachment doesn’t mean they can’t walk on it and kids can’t play in it because you certainly can do that – it doesn’t mean that at all but it that map stated that it was fenced or a vegetative buffer or even better yet like an easement they would know that can’t be used period.

Ms. Simone said well in the site plan the Commission had that language to say that it’s to remain in its to remain in its natural vegetative state and also the Commission did reduce the non-encroachment area because you can see from the those maps evens that its less than 50’ from the edge of the lawn to the boarder of the wetland so its less than 50’ in some areas.

Ms. Simone said she also wanted to point out that page two of the cease and desist there is an order it’s a five point order and staff did work with the Town Attorney on this and the majority of this information was balanced with information that was already on the record that there was extensive information indicating where the wetlands are located, where the non-encroachment line is located as well as there being the wetland assessment that had indicated that this is a highly diverse area for species.

Mr. Bowman said that you read to us before.

Dr. Dimmick said yes. He stated that he felt that staff did a fairly good job of laying it all out.

Mr. Bowman said an excellent job without a doubt.

Dr. Dimmick asked if other members of the Commission had comments.
Mr. Kurtz said he was curious how they were able to buy this parcel and not know any of these restrictions.

Mrs. Donato said they knew they would not be able to build at all on this land and they had no intention of building what so ever so they did know that.

Mr. Kurtz said he didn’t think the restrictions said you can’t build on it.

Dr. Dimmick said the restrictions said you can’t disturb it – the actual language was “no disturbance of any kind including lawn shall be allowed beyond the non-encroachment line” and that was part of the original agreement on that – so “no disturbance of any kind” goes far beyond no build it should also be no mow.

Mr. Kurtz asked if he was a lawyer and title searched that property he wouldn’t come across that restriction – without there being a conservation easement on the land.

Ms. Simone said there is information on the record – yes. She said all the information there (available to Commission members) those are maps that are recorded that show the non-encroachment line and then the deed does specifically reference the permit.

Mr. Bowman said it is on the land records.

Mr. Kurtz stated then it is available information.

Mr. Bowman stated absolutely.

Dr. Dimmick commented that a good lawyer should have picked it up.

Mr. Bowman said in his opinion they need a definition of non-encroachment because non-encroachment could mean a building not just a no-mow area; here you do have written in there “there shall be no disturbance and the area shall be left in its natural vegetative state.”

Mr. Bowman stated he would love to have a definition in their regulations as to exactly what non-encroachment means.

Mr. Bowman said in his opinion they (Donatos) need to sit down with an environmentalist or a wetlands scientist this week and get back to
the Commission the first meeting in April 2010 with some sort of remediation.

Ms. Dunne said in this case she thought it was clear from the language that was on the record what could or could not be done.

Ms. Simone stated yes and on page two of the order it does specify actions to take place and just to summarize it - first that the work would stop with the exception of removing the chipper that seemed to be somewhat stuck in that area; second was attending the meeting here tonight; third submitting a completed application that is also designed by a wetland professional and to have that completed by April 1, 2010; in addition to that they June 7, 2005 wetland function assessment report would be used in developing that plan; number four that the applicant and the applicant’s professional would come to the meeting of April 6 and present the wetland restoration plan; and five that they work, if it was approved by the Commission that it would then be completed by July 31, 2010.

Dr. Dimmick said he thought at this point they needed a motion from the Commission to validate staff's work to declare in deed a violation of the wetland regulations have taken place and that remedial action is warranted.

Motion: That the Commission has validated staff's work in determining that in deed a wetland violation has occurred remedial action is warranted and the cease and desist order will remain in effect.

Moved by Mr. Bowman. Seconded by Ms. Fiordelisi.

Ms. Olson said she thought part of the purpose of the show cause hearing was to indicate whether the cease and desist order should remain in effect and it might be worth while if that is basically what they are stating here and to say that on the record.

Mr. Bowman moved to amend the motion by adding the language “and the cease and desist order will remain in effect.” Seconded by Ms. Fiordelisi.

Motion approved unanimously by Commission members present.

Dr. Dimmick said that they assumed they would be hearing from the Donatos the soonest through staff since she was available in the
Dr. Dimmick asked about the two people that were contacted were both residents.

Mrs. Donato said she actually faxed over the letter they received to Milone and MacBroom. She said fax over the three page letter to them since she realized they were the company that had done the original survey and she felt that they had the data and information regarding with regards to the back area – that they would be the best to actually work this and so one of their wetlands professionals are coming to their house later this week and they will definitely work with them and make sure the time limits are met and if not they will bring that back to the Commission why the time lines would not be met but they haven't met with them to say its within their domain.

Dr. Dimmick said it was called to his attention that some of the Donatos neighbors are present. He said he should ask at this point if any of them want to speak now that they've hear what they have heard so far or if they were satisfied that they were moving ahead.

Julie Sweigard of 59 Williams Road addressed the Commission. Ms. Sweigard said that it was said that “you couldn't tell how far into the wetlands from the pictures” she said that she has about an area of property and her whole backyard property is bordered by pricker bushes that border the wetlands.

Ms. Sweigard stated that she has knew for ten years that she has had her house that nothing could be done to the wetlands; it’s not even her property and her children do not play in there.

Ms. Sweigard explained that she has four children - she said they lose plenty of balls in there but she has never altered the pricker bushes.

Ms. Sweigard said she just thinks they would have known – they keep saying no construction on it – but what they have done to the wetlands was shocking to her – shocking when you see it. She stated it almost looks like strip mining – when you take a truck and just drive it though.

Ms. Sweigard said when the destruction was occurring there were two trucks back there actually and workmen – she thought three or four workmen taking plants and chipping wood and things like that for two days so it wasn’t just removing a few pricker bushes.
Ms. Sweigard said again – it was just shocking to them – she said the amount of wetlands is quite – she said they went all the way in through her property into a neighboring property.

Ms. Amy Hourigan addressed the Commission.

Ms. Hourigan stated that the last thing they wanted to do was get into an issue with the neighbors but a third of her property and all of Ms. Sweigard’s property has been affected.

Ms. Hourigan said she pays high property taxes also – almost $10,000 she thinks.

Ms. Hourigan stated that she knew going in that the area was wetlands – she said she checked with her realtor, she checked when the development went up.

Ms. Hourigan stated in her opinion you would have to be willfully ignorant not to know that you can’t touch that – its wetlands – there’s streams back there.

Ms. Sweigard said she thought that if she knew it was wetlands and couldn’t touch it or do anything to it, she would hope the person who actually owns the property would know that.

Ms. Sweigard said when she bought her house they (Donatos) actually had the same realtor who told them – nothing will ever be done to that – it will stay exactly as it is. She explained that Sudol Court was a farm when she bought her property so when that was developed a few years after she purchased her property – so she was bordered by a farm and the wetlands – so when the development went in she said at least the wetlands would never be developed.

Ms. Hourigan asked when the Commission gets the recommendation is there a chance it could stay destructed – she said it almost looks like its been burned – like a control burn.

Ms. Sweigard said it was almost worth the Commission taking a look at how far in it is – its not just 10’, its not 20’ its long.

Ms. Hourigan said it’s not a little bit - it’s extensive.

Dr. Dimmick said anything that comes in on this would be in the Planning Office.
Ms. Sweigard said that Ms. Hourigan actually called when she first saw it happening to try to get it stopped but it was too late.

Ms. Hourigan said now that it’s done what are the chances that they are going to be able to leave it like that.

Dr. Dimmick said this is a case of “watch this spot” but they are certainly asking for a restoration of some sort and if they are bringing in an environmental professional then they will look at what is being recommended and the Commission will approve or not approve of it.

It was asked if the Town has its own experts.

Dr. Dimmick stated that the Town has a variety of experts’ available if necessary including staff who has a certain amount of training.

Dr. Dimmick also noted that he has done a little environmental restoration work himself.

Ms. Sweigard said she also wanted to state that she thought that Mrs. Donato was saying “no construction has been done – no construction has been done.”

Ms. Sweigard said in her opinion, she does not think Mrs. Donato understands that it doesn’t matter that no construction was done – she destroyed very important plant life – it doesn’t matter that you were not going to build a building on it.

Dr. Dimmick said he was hoping this is all going to be educational for everyone.

Dr. Dimmick thanked Ms. Sweigard and Ms. Hourigan for their comments. He stated they could be assured that the Commission would be attentive to this issue.

Dr. Dimmick asked if there was any need to continue this show cause hearing at this point.

Ms. Simone stated no since the Commission has voted on the cease and desist.

There was no further discussion on this item at this time.
X. UNFINISHED BUSINESS

1. Permit Application
   Linda Hettrick
   30 Homestead Place
   Pond Remediation

Dr. Dimmick stated the application for this item was received on January 5, 2010, the Commission took a field trip on it, and staff has prepared a draft motion including information received from the applicant on the method for pumping water.

Ms. Simone stated the Commission did receive the information on how the applicant plans on pumping the water – the details were handed out at tonight’s meeting.

The Commission reviewed the revised draft motion; finding number three was revised to reflect the referencing of the letter and also in the findings the plans are listed as the third item for water flow control plan.

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 the restoration of a pond by dredging accumulated organic material from the pond bottom, removal of downed trees in and around the pond, removal of trees necessary for reconstruction of controlled release structure and spillway located at 30 Homestead Place.

2. That according to the applicant’s contractor, the western slope of the pond will not be altered or tampered with in anyway in order to protect the integrity of seeps in that area.

3. That according to the applicant the flow of water into the pond will be controlled during pond dredging activities in the methods set forth in the document titled Addendum to Letter of February 23, 2010 and dated March 16, 2010.
4. That according to the applicant 500 yards of dredged material will be used to create an earth berm behind the restored spillway. All other dredged material will be stored in the southeast area indicated on the below referenced site plan, in order to truck the material off site.

5. The applicant has stated that the tree cutting and preparation work will be conducted in May and June, the dredging of the pond will take place in the drier seasonal conditions of July and August.

6. 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 #2010-001, the permit application of Linda Hettrick for pond reconstruction as presented on the plans entitled:

“Proposed Grading Plan
Hettrick Property, 30 Homestead Place, Cheshire, CT
Dated February 11, 2010
Scale 1”=20’, No Preparer’s Name”.

And

“Linda Hettrick, 30 Homestead Place, Cheshire, CT
Re: Pond Dredging at 30 Homestead Place
Construction Sequence”.

And

“Linda Hettrick, 30 Homestead Place, Cheshire, CT
Re: Addendum to Letter of February 23, 2010
Water Flow Control Plan”.

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. The construction sequence shall be adhered to.

4. Prior to commencement of dredging activities the flow control methods shall be in place and all erosion control measures shall be properly installed. All disturbed areas on the site not directly required for permitted 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 16, 2015.

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

2. Permit Application
Laura Willhite
R.O.W. – 971 & 477 Allen Avenue
Water Service Lateral Installation

Dr. Dimmick asked if any progress has been made on this item.

Ms. Simone said there has been a request to extend the mandatory action date which is now reflected on the agenda – it is now May 29, 2010.

Ms. Simone explained that the applicant is still working with Meriden as well as other Cheshire departments to finalize the plan.

Dr. Dimmick asked if there was any objection to extending the mandatory action date.

Commission members were all in agreement to extend the mandatory action date.
Mr. Bowman asked if the Commission received a copy of the court order.

Ms. Simone stated that they did.

Dr. Dimmick said it was very specific in places and very vague in places.

Further action on this item was deferred.

3. Permit Application                      APP #2010-005
   Diversified Cook Hill, LLC               DOR 3/02/10
   Plank Road                                FT 03/06/10
   Resubdivision – 14 Lots                   PH 04/06/10
                                             MAD 5/11/10

Mr. Bowman recused himself from this portion of the meeting at 8:11 p.m.

Mr. Bowman stated his reason for recusal is he is one-half of one percent owner of part of the property that is part of the subdivision.

Ms. Simone informed the chair that there was not going to be any discussion on this item as it is subject of an April 6, 2010 public hearing.

Mr. Kurtz asked about a suggestion made regarding a new site walk.

Ms. Simone stated yes there was one walk that was already held and another walk is scheduled for Thursday, March 18, 2010.

The site walk is scheduled for Thursday, March 18, 2010 at 3:30 p.m.

Further action on this item was deferred.

Mr. Bowman returned to the meeting at 8:13 p.m.

4. Permit Application                      APP #2010-006
   Saddlebrook LLC                         DOR 3/02/10
   Huckins Road                             MAD 5/06/10
   Resubdivision                            MAD 5/06/10

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 resubdivision of a 2.6-acre property of lot 5 located on Huckins Road (R-40 zone) into 2 lots, grading and installation of the driveway.

2. That the proposed lots will be served by public water and sewer systems.

3. That the applicant’s engineer stated that there are no proposed direct or indirect impacts to the wetlands or watercourses as identified and located by William Root, soil scientist with Milone & MacBroom, Inc.

4. That the stormwater management system incorporates a rain garden.

5. That the applicant’s soil scientist stated that Cuff Brook flows west to east through the site along the northern property boundary.

6. That the proposed construction activities will not have a significant adverse effect on the adjacent wetlands and watercourses.

7. That the Commission declared this application not significant within the context of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2010-006, the permit application of Saddlebrook LLC for resubdivision as presented on the plans entitled:

“Saddlebrook Farms Subdivision
Lot 5 Resubdivision, Huckins Road, Cheshire, CT
Dated February 23, 2010
6 Sheets, Scale As Noted
Prepared by Milone & MacBroom, Inc.”.

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 by the Cheshire Inland Wetlands and Watercourses Commission.

3. Individual site plan review and approval is required for lot 5 prior to any construction and/or activities aside from activities covered under this permit grant.

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

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

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

5. This permit grant shall expire on March 16, 2010.

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

XI. NEW BUSINESS

1. Permit Application
   Karin Eichten
   Cook Hill Road
   Modification

   Attorney John Lambert of 25 Trumbull Place, North Haven was present on behalf of Karin Eichten, who was also present in the audience.
Dr. Dimmick said moving to new business there is a permit application – Karin Eichten, 630 Cook Hill Road for modification of the permits which were granted previously; he said he believed it was a single application for modification of both permits.

Dr. Dimmick asked if any Commission member had a problem with having modification for two permits on a single application; there the same issue.

Ms. Olson said at this juncture – she said she has not actually studied the new application – she said at this point it is really up to the Commission. She said she thought they were split out the last time because of the fact they wanted the remediation to be separate from the request to lower the pond.

Ms. Olson said she did not know in this instance where they are just seeking to modify the existing permits that were approved if the same concerns would exist.

Dr. Dimmick asked if anyone had any problem with that.

Mr. Bowman said no.

Mr. Alderton said he thought it’s easier based on reading the application – it’s easier to consider it in one (application) because it’s addressing both applications at the same time; so it seems appropriate to him personally.

Ms. Dunne said she did not have a problem with it the way it’s worded; she said they will see as they go.

Dr. Dimmick asked if staff has received the proper paper work on this – he said there are questions that have come up. He asked if they had enough to proceed – to start with.

Ms. Simone said yes – they have the owner’s signature.

Dr. Dimmick asked if Mr. Lambert would like to the floor for a bit or the mike.

Attorney Lambert said he would try to keep it as little as possible but he would like to explain the background of this.

Attorney Lambert said it was very advertent that he filed one application for the modification of two permits; he said if the
Commission recalled the applicant only wanted one permit last year that was for the lowering of the pond.

Attorney Lambert said that the Town insisted on the applicant having a second permit; when the first permit was granted Mr. Bowman asked “why are we granting the second permit when there is no need to – we’ve told them to lower it – where are we telling them to fix it – and when we are telling them to fix it it’s a little inconsistent if we’re allowing them to have holes in it because there were not holes in it before.”

Attorney Lambert said so it is very advert – he said it seems to him there is only need for one permit and so modifying both of them to what they want to do is the appropriate way to go.

Attorney Lambert said when the second permit – what was called the remediation permit was being discusses and when the first permit was being discussed Mr. Bowman suggested a “V-shaped” weir instead of holes as being a more efficacious means of keeping the water level; he said he believed Mr. Bowman’s concern was the small 1” holes were going to plug-up; that a V-shape weir would sort of automatically cleaning because anything that got stuck in the bottom water pressure would end up washing and keeping it clear.

Attorney Lambert said but no one was willing at that time to make any modifications because the hearing had closed, etc.; but they were welcomed back he recalled coming in with a modification and that is what this is a simple modification. He explained it does two things – it asked to change the method of keeping the pond at the level that was approved.

Tape Change.

Attorney Lambert said what was proposed by taking off about 5” of the pie taking off all of the damaged area making it a flat surface on the top that will still be the over flow area and it suggests again in the description given and the drawing given how the shaped weirs would work.

Attorney Lambert said he received an email from the Commission’s council yesterday about dewatering and that was not part of the first plan.
Attorney Lambert said he had a couple of things to say about that – first of all in the permits we are given we have two years to do them (the work) as he recalled – they concept of this is to have this done by October – this is part of trying to resolve other enforcement issues with the Commission and part of it would be to get it done.

Ms. Dunne asked October of what year – you said October.

Attorney Lambert said “October” of this year.

Attorney Lambert stated again “October” – he said the idea is they need to get it done in less than two years – they would need to get it done in six –seven months from now and he did not think any of you – he said he knew he couldn’t tell you what this summer is going to be like – is it going to be rainy like last summer or is it going to be dry like the Mohave Desert – he can’t tell you.

Attorney Lambert said so what was proposed here was dewatering and what was proposed was dewatering in accordance with the 2002 CT Guidelines.

Attorney Lambert said it isn’t quite true they didn’t discuss dewatering before – Richard Snarski got up before you and said “this pond could be dewatered in 24 hours using pumps” – floating he thought 6” below the surface or something like that and using plastic tarp type of material lied out and just sheet flowing it across the entire lower property.

Attorney Lambert said that Penelope Sharp had said that when the damage was done when Karin Eichten’s employee took a sledge hammer and started whacking away at the outlet structure – what Penelope Sharp told you was there absolutely nothing – no damage done down stream at all – in other words the increase flow when into a stream bed and the stream bed wasn’t re-routed it wasn’t erosion that is what the streambed does – it has a certain amount of erosion that is natural.

Attorney Lambert said so what Mr. Juliano is proposing is simply to make it clear he is proposing putting pumps into the pond and putting the outflow hoses of those into the outlet structure; what he (Juliano) said to Attorney Lambert, he was unable to be here tonight but he said he thought it was fairly straight forwards and Attorney Lambert said he thought it was straight forward too.
Attorney Lambert said pumper pumps would be put into the pond so the water would be pumped out; the water exiting out of the pump hose would be directed into the outlet structure via the large opening in its top; the water would then fall to the bottom of the structure losing most of its kinetic energy thereby losing velocity and erosion potential; it would then flow out the outlet structure via the outlet pipe much the way the water existing the pond does – the results – what he (Juliano) would be no different than when they get very heavy rains and large flows are moving through the outlet.

Attorney Lambert said he didn’t think once he (Juliano) was going to use the 2002 CT Guidelines that there would be much of a concern about a narrative or some sort of detail but that pretty much sums it up – there are really three things – and what he (Juliano) said was - if you read his brief request – the reason he wants dewatering is because he wants people to be able to cut the notch correctly on a dry surface – he said the angle is important there and therefore getting it lowered before you do it to him makes sense – it also by dewatering it allows the person there to put the sealant on the concrete.

Dr. Dimmick asked if there was objection to accepting the application for action.

Mr. Kurtz asked if everything been submitted correctly.

Dr. Dimmick said we have a few questions he thought but he thought staff said there was enough to move ahead.

Ms. Simone said as far as having the owner’s signature, the payment, all of that is in order.

Mr. Alderton said so you (Dimmick) are looking for a motion to accept the application.

Dr. Dimmick said yes.

Motion: To accept the application.

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

Dr. Dimmick said there are a few questions that the Commission needs before they can move ahead; he said he was sorry that Mr. Juliano couldn’t be here because they are engineering type questions; one is a memo from the Engineering Department.
Dr. Dimmick asked Attorney Lambert if he received a copy of a memo from the Commission just got from the Engineering Department.

Ms. Simone said the memo was emailed to him (Attorney Lambert) today.

Dr. Dimmick said the Engineering Department had some questions which the Commission would like to see responses to.

Attorney Lambert stated he checked his email after 6:30 p.m. this evening and he didn’t have the email – he asked that it be resent.

Ms. Simone said that she would check to see why Mr. Lambert did not receive the email, as it was sent to the Commission and Mr. Lambert; Commission members did receive the copy via email.

Attorney Lambert was handed a copy of the memo from the Engineering Department.

Dr. Dimmick said the other question he had for Mr. Juliano was – he gave a fairly good description of the method, the notch weir and so forth and he did remember the discussion where both Mr. Bowman and he (Dimmick) had talked about advantages of a notch weir; but there was a formula he used to determining discharge through the notch weirs – it’s not clear whether he (Juliano) had the right formula – there is one for a broad crested weir and one for a sharp crest weir and they aren’t the same and he didn’t specify which he had there.

Dr. Dimmick said it’s been at least twelve years since he designed one of these but he was not sure that’s the right formula.

Dr. Dimmick clarified the difference between a board crested and sharp crested weir – he said he wanted it verified that he (Juliano) used the right formula.

Attorney Lambert asked if there were any other questions if they could have them in writing before.

Dr. Dimmick said he would try to instruct staff to send any more questions other than the ones from the Engineering Department and his question.

Ms. Dunne said the Engineering Department said they are missing information in order to make a full analysis – is someone providing that information.
Ms. Simone said there is reference of dewatering in Juliano’s comments and he makes reference to another document but however that document is not part of this record; and so Mr. Lambert – she would even suggest if are going to be looking at Mike Guaglianone’s recommendation which Juliano references that you make that part of the record because they don’t automatically take from previous approvals and put them as part of this record – you will need to submit something for them to review.

Attorney Lambert said he supposed that true but every decision he has ever seen says that the part of the decision is based upon the knowledge of the Commission members an since they all had it.

Ms. Simone said at the very least if Mr. Lambert could provide the actual date of the letter so nothing is assumed.

Attorney Lambert said he would send the information – he said he did put in the Penelope Sharp and the – he didn’t think they needed those but he – it seemed so slim he thought it should have something in it; he said he would be more than happy to provide you with what you want and he did not think there could be any further report because he did not think Mr. Guaglianone works for Water company anymore.

Ms. Simone said she is just using that as an example – if you are going to be referencing any documents if you would please submit those documents or at the very least be specific as to what date of the document so they can look though the file for the letter and not assume.

Dr. Dimmick asked if there were other questions of Commission members.

Dr. Dimmick said this item would be continued until they get the additional information.

Mr. Kurtz said he did not want write down his questions – he said he might have a question or two after hear what is presented.

Dr. Dimmick said he was referring to anything thing that would be fresh to mind that they (the applicant) could be prepared to answer – it would speed things up if they had that. He said obviously they were not going to think of everything tonight that you might want answered.
Further action on this item was deferred to the next meeting.

2. Approval of Minutes  
Regular Meeting – March 2, 2010  
Site Walk – March 6, 2010  

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

Motion: To approve the minutes from the March 2, 2010 regular meeting and minutes from the March 6, 2010 site walk.

Regular meeting corrections: pg. 5 L16 delete “was”; pg. 7 L20 “dam” to “pond”; pg. 14 L45 delete “have”; pg. 15 L8 “should” to “shoulder”, L12 7 17 “site” to “sight”, L26 “of” to “up”; pg. 17 L30 “thing” to “think”; pg 18 & 19 L39 & 45, L 5, 9 12 and 18 “plane” to “plain”; pg 19 L43 “tow” to “two”; pg 21 L17 delete “he”.

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

XII. EXECUTIVE SESSION  
The Commission went into executive session at 8:30 p.m.  
The Commission came out of executive session at 8:48 p.m.  
No decisions or motions were taken in the executive session.

XIII. ADJOURNMENT  
The meeting was adjourned at 8:48 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills, Recording Secretary  
Cheshire Inland Wetland and Watercourse Commission