



**Norton Conservation Commission**  
70 East Main Street  
Norton MA 02766

NORTON TOWN CLERK  
SEP 15 2009  
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Monday, July 27, 2009  
7:00 pm

**Attendance**

Ron O'Reilly (Chairman), Earl Willcott, Julian Kadish,  
Kathleen Giblin, and Jennifer Carlino, Conservation Agent.

David Henry (Vice-Chairman), Lisa Carrozza and Chris Baker were absent.

**Minutes**

The meeting started at 7:00 pm.

The members reviewed the draft minutes of **June 29, 2009**. Ron O'Reilly submitted a copy of the draft minutes with a revision. The minutes were tabled until the next public meeting of Monday, August 10, 2009.

The members reviewed the Bills Payable Sheet (misc.). Earl Willcott made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Nextel). Earl Willcott made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Pare Eng./Chartley Pond dam). Kathleen Giblin made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed a Request for a Determination of Applicability – **DET. #941 – CSX Transportation, Inc. – CSX Right-of-Way –Norton** – for confirmation of wetland boundaries. Steven Herzog of AMEC Earth & Environmental, Inc., representative for the applicant, updated the Commission on the project. He stated that CSX owns a railroad right-of-way through the southern portion of Norton which is required, per State and Federal regulations, to be maintained by controlling vegetation growth along the right-of-way. He said annual inspection is done with some applications of herbicides to prevent weedy growth crossing the tracks or getting into the switches. Mr. Herzog stated that in Massachusetts, application of herbicides is regulated by the Department of Agricultural Resources. He stated that all right-of-way managers have to write up a vegetation management plan that explains how the vegetation will be controlled for the next five years. He said that railroads are not eligible for the WPA public utility exemption that electric and telecommunications receive.

Mr. Herzog stated that a Determination of Applicability is applied for every five years. He stated that railroad ties are marked in yellow at the areas that are within 10 feet of any wetlands or water bodies so that during the process of spraying herbicides the machine is shut off in those areas. He pointed out to

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the members the areas on the plans shown in yellow which are the areas that are within 10 feet of wetlands and the areas shown in blue are within 100 feet of wetlands and stated these areas have changed very little in five years. He stated that CSX is regulated by the Department of Agricultural Resources as well as the Wetlands Protection Act. He said that, normally, Determinations are valid for three years but requests that the Determination for this vegetation management plan is valid for the duration of the treatment plan which is five years. Mr. Herzog stated CSX is seeking confirmation that the areas shown in yellow as wetlands are correct. He stated that according to WPA regulations, as long as the application of herbicides is applied according to a vegetation management plan and has been reviewed by the Conservation Commission through a Determination of Applicability, there would be no impacts to the wetlands.

Mr. Herzog explained to the members that the herbicides used for the vegetation management of the right-of-way are approved by the Department of Agricultural Resources and are sensitive to the wetlands. He stated that even though these "wetland-sensitive" herbicides are required only within 100 feet of wetlands, they are used for the entire project. Julian Kadish asked if the herbicides are easily broken down and Mr. Herzog presented data printed from the computer to show the members that the herbicides do break down easily. Mr. Herzog stated the herbicides are applied by a truck-mounted sprayer which is easily controlled by the driver within the cab.

Jennifer Carlino asked how the ties and rails are marked and Mr. Herzog stated they are marked with yellow and blue paint. She requested that vernal pools be marked on the submitted plans and GIS maps. She said one of the members who couldn't be at the next meeting requested copies of aerial photos along the tracks. She stated to Mr. Herzog that one end of the tracks at the Taunton area is within the Three-Mile River priority habitat. He explained to Jennifer Carlino that Natural Heritage is notified everytime the right-of-way is treated and a letter is received from Natural Heritage stating that as long as the herbicides are applied according the the approved vegetation management plan, there will be no impacts to the priority habitat areas. Jennifer Carlino stated that normally if a project is within a Priority Habitat area, a Notice of Intent if required, but if a letter is received by Natural Heritage stating there will be no impacts to the areas, the project might b exempt from MESA. Mr. Herzog stated he would give the Commission a copy of the letter received from Natural Heritage.

Earl Willcott made a motion, seconded by Kathleen Giblin, to continue the public hearing until the next regular meeting of Monday, August 10, 2009 in order that the applicant may submit the required information to the commission. Approved.

Discussion ensued regarding a complaint received regarding **Fairlee Lane by Mary Jane Ryan**. Mary Jane Ryan did not attend the public meeting. Julian Kadish stated that as long as Fred Bottomley is conducting the work according to his approved plans and permits, there is nothing the Commission can do about this complaint. It was agreed by the members that the owner of a property has the right to do what he wants with the property with the proper permits. Jennifer Carlino stated she will draft a letter for Ron O'Reilly to sign to send to Ms. Mary Jane Ryan. She said she will put in the letter the dates public hearings were held for the project which were open for discussion by anyone. Kathleen Giblin stated that according to the letter received by Mary Jane Ryan, it was implied that Mr. Bottomley has received special privileges from Fred Bottomley because of his money.



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The members reviewed a request for a Certificate of Compliance for file **#250-799 – Wheaton College - Parcel 93 (assessors map 17) Pine Street**. Jennifer Carlino stated the project has been completed according to the approved plans. Earl Willcott made a motion, seconded by Julian Kadish, to issue the Certificate of Compliance. Approved.

The members reviewed a request for a Certificate of Compliance for file **#250-627 – Paul Martin – Parcel 609 (assessors map 10) 20 Johnson Drive**. Jennifer Carlino stated the project has been completed according to the approved plans. Earl Willcott made a motion, seconded by Julian Kadish, to issue the Certificate of Compliance. Approved.

The members reviewed the draft Order of Conditions for Notice of Intent – **(#250-846) – Ann O'Donnell, New Wading River Country Club, c/o Massachusetts Golf Association, Inc. – Parcel 139 (assessors map 26) 300 West Main Street** – for proposed plans to demolish an existing and construct a new clubhouse, utilities, water line and associated grading within 100 feet of wetlands and 200 feet of Wading River and Chartley Brook. Ron O'Reilly pointed out a typographical error in condition #18 and had a question on the wording for #33. Kathleen Giblin made a motion, seconded by Julian Kadish, to sign and issue the Order of Conditions as amended. Approved.

The members reviewed the draft Order of Conditions for Notice of Intent – **(#250-841) – Joseph Nocera, Bay Road Norton Realty LLC, c/o Chateau Waltham – Parcel 52 (assessors map 19) 54 Bay Road** – for proposed plans to raze a house and garage and construct a parking lot with associated grading and drainage within the 100-year floodplain and 100 feet of Lake Winnecunnet. Ron O'Reilly requested a change of wording for condition #16. Kathleen Giblin made a motion, seconded by Julian Kadish, to sign and issue the Order of Conditions as amended. Approved.

The members made corrections to the Norton Conservation Commission member list.

Jennifer Carlino noted that the representative for Determination of Applicability **#938 – William Cuming/Norton Bird Garden on Mansfield Avenue** called her and requested a change on the Determination. She said to him that he would have to submit a letter to the Commission for the change and he stated that if the Determination cannot be changed he would more than likely appeal the decision. She stated she received the letter asking to remove the portion of the Determination that states that there is a vernal pool at the rear of the property that cannot be filled. Earl Willcott made a motion, seconded by Julian Kadish, recommending there be no changes to the Determination. Approved.

Jennifer Carlino noted that she received a letter from the Mass Electric Company notifying the commission of the moving of a couple of poles. She stated that they were not under any obligation to notify the commission so she drafted a thank-you letter for Ron O'Reilly to sign on the Commission's behalf. Julian Kadish made a motion, seconded by Kathleen Giblin, to sign and send the letter as written. Approved.

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Jennifer Carlino noted that a resident had caught a piranha fish at the Norton Reservoir. She stated that someone from the Highway Department had taken a picture of it with his cell phone. The person who caught the fish notified the Environmental Police who stated they would contact Jennifer Carlino after they investigate the situation. The resident kept the fish.

Earl Willcott made a motion, seconded by Kathleen Giblin, to adjourn the meeting at 8:10 pm. Approved.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jennifer Carlino". The signature is fluid and cursive, with the first name "Jennifer" written in a more compact, stylized manner and the last name "Carlino" written more fully.

Jennifer Carlino  
Conservation Director  
JC/pmb