



Norton Conservation Commission
70 East Main Street
Norton MA 02766

NORTON TOWN CLERK
MAY 18 2010
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Monday, April 12, 2010

Attendance

Ron O'Reilly (Chairman), David Henry (Vice-Chairman), Julian Kadish, Earl Willcott, Kathleen Giblin, Lisa Carrozza, Chris Baker and Jennifer Carlino, Conservation Agent

Minutes

The meeting started at 7:00 pm.

The members reviewed the draft minutes of **February 22, 2010**. Earl Willcott made a motion, seconded by David Henry, to accept the minutes as drafted. Approved.

The members reviewed the draft minutes of **March 8, 2010**. Earl Willcott pointed out two typos on the last page. Kathlin Giblin made a motion, seconded by David Henry, to accept the minutes as amended. Approved.

The members reviewed the Bills Payable Sheet (misc.). Earl Willcott made a motion, seconded by David Henry, to pay the bills. Approved.

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

The members reviewed the Bills Payable Sheet (Pare Corp.). The amount of the invoice was \$2,225.00. Jennifer Carlino suggested holding back \$500 for the bid review and pay the amount of \$1,725.00. Earl Willcott made a motion, seconded by Chris Baker, to pay the amount of \$1,725.00. Approved.

The members reviewed a Request for a Determination of Applicability – **(DET. #951) – Alec Rich III – Parcel 63 (assessors map 30) – 82 Maple Street** - for proposed plans to upgrade a sewage disposal system with related grading within 100 feet of wetlands. Alec Rich III described the project to the members. He stated that the existing septic system, which is within 50 feet of the wetlands would be demolished in place with the proposed system being located further away and out of the buffer zone. An abutter, Joseph Hanlin, 83 Maple Street had concerns with his well being affected by this project. He stated that water from the proposed septic system will flow into his well. Chris Baker asked Mr. Hanglin how deep his well was. Julian Kadish asked Mr. Hanglin if he had spoken to someone in the Board of Health because the only issues for concern by the Conservation Commission right now is the location of the proposed septic system (with regard to wetlands). Julian Kadish stated that there is not much difference between the new system and the old system in relation to the distance from Mr. Hanglin's well.

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He stated that both wells are approximately 150 feet from his well. The members advised Mr. Hanglin to speak to Leon Dumont in Board of Health with his concerns. Chris Baker made a motion, seconded by Kathleen Giblin, to close the public hearing. Approved. Julian Kadish made a motion, seconded by Lisa Carrozza, to issue a negative (#3) Determination of Applicability as long as the project is done according to the approved plans and after a check has been submitted for the publishing of the legal notice for this project. Approved.

The members reviewed a Notice of Intent – (#250-) – **Albert Reed – Parcels 40, 51 & 83 (assessors map 29) 40 Meadowbrook Lane** – proposed plans for an agricultural project/10-acre hay field and to re-grade an access road within 100 feet of wetlands. Mr. Reed described the project to the members. He stated he proposes to clear a parcel of land and turn it into a hay field, which he already started to do. He pointed out the area to be cleared on a map to the members. He stated the closest point of clearing is approximately 50 feet from the wetlands. Lisa Carrozza asked Mr. Reed if his property was flagged and he replied that it isn't. He stated that a neighbor had his property flagged. Jennifer Carlino stated the neighbor had filed an ANRAD and this is why his property had been flagged. Lisa Carrozza suggested putting a copy of the plan showing the wetland flags in Mr. Reed's file. She suggested that Mr. Reed have the un-flagged portions of this project flagged. Julian Kadish stated that, in his opinion, he did not see the necessity to have that portion flagged since this portion of the project is at least fifty feet from the wetlands. Jennifer Carlino agreed to meet with Mr. Reed on-site to put the distances to wetlands in his aerial photo.

Jennifer Carlino stated a DEP file number has not yet been received from DEP for this project. She suggested to Mr. Reed that she meet with him on his property so that she can measure the distance of the project from the wetlands. Chris Baker made a motion, seconded by Lisa Carrozza, to continue the public hearing until the next regular meeting of Monday, April 26, 2010. Approved.

The members reviewed a Notice of Intent – (#250-) – **GPT-Norton Glen LLC, c/o Equity Residential Properties Management Corp. – Parcels 50-71 (assessors map 5) & Parcels 23-27, 61-62 (assessors map 6) Norton Glen Road** – for proposed plans to construct a sewer force main, wastewater collection system, pump stations and replace a storm water drainage culvert with minor grading and clearing within 100 feet of wetlands. Present at the public hearing were, Jim Manganello of LEC, Kevin Klein of Norfolk Ram Group and Melissa Kasessky of Equity Residential Properties Management Corp. Mr. Manganello described the project to the members. He stated the applicant proposes to construct a sewer force main, wastewater collection system, pump stations and replace a storm water drainage culvert with minor grading and clearing. He stated that most of the work will be out of the buffer zone of any wetlands. He said the portions within the buffer zone are at the corner of Burt Street and Rt. 123 and at the western side of the Norton Glen apt. complex would require removal of vegetation and a little fill from the wetland. He stated that the 36" diameter culvert will be replaced with a 10' wide by 1'- high concrete box culvert.

Mr. Manganello stated that the project will is required to be review by MEPA. He said that Jennifer Carlino had met with Norfolk Ram Group on-site and had pointed out several wetland areas that had been disturbed as well as filled. He said he had since spoke with Jennifer Carlino and suggested

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following a replication plan to restore the wetlands. He stated one area consisted of yard waste which has composted over a long period of time, which he says will be removed and probably used on-site.

He said the second area had been filled with loam, debris and concrete, etc. and the applicant proposes to pull back this area at least 15 feet into the upland and away from the wetlands. The third area, he stated, is a storm water ditch located in the west central area of the property where rip rap had been placed. He said the applicant proposes to pull back the rip rap approximately 25 feet and out of the wetland.

Kevin Klein from the Norfolk Ram Group addressed the Commission. He noted that Norton Glen consisted of 25 buildings with 150 apartments and was built approximately 35 years ago. He said the complex has on-site septic systems. He stated that after several meetings of different options, it was decided the complex would tie into the existing sewer system. He said this would involve 4,000 feet of gravity collection system, two pump station, one for the laundry and one for the main system, 4600 linear feet of force main which goes off the site, down Rt. 123, up Newland Street to tie into an existing 4" force main. Mr. Klein stated from there it would flow up to the "K" Streets development. He further explained that the collection system would run down the middle of Norton Glen Road with the collection systems behind the buildings. He said that the reason for this is because this is where all the existing septic systems are located at present. He stated all the existing tanks and leaching systems will be drained and abandoned in place.

Mr. Klein stated that the drainage system for the site runs through a 36" pipe to a culvert that will be proposed to be crossed. He stated the pipe will be replaced with a 1'x10' box culvert in order to get the sewer line on top of it. He said the culvert will be 5 feet back from the existing headwall in order to build a bigger forebay to prevent the encroachment of any existing wetland. Chris Baker asked what side of Rt. 123 would the sewer line run and Mr. Klein replied that, since there are active water lines on both sides of the road, he has to run the line under the pavement on the north/west side. Chris Baker asked how long the work in the road would be and Mr. Klein replied that approximately 400 to 500 feet of construction would probably be finished daily. Mr. Klein stated several manholes will be in place with a manhole with double check valves at the 4" force main on Newland Street. He said that the Water/Sewer Department has expressed a desire to take over the sewer lines at some point.

David Henry asked Jennifer Carlino if she thought, after walking the site, the replication plan proposed by the applicant would be sufficient and she replied it would be as long as they submit the written restoration plan and submit revised plans to show the restoration areas. He asked if a landscaping plan would be submitted to show where future dumping and composting would take place and Jennifer Carlino stated that, at present, all compost would be removed off site. Chris Baker asked if a post and rail fence or boulders would be required and Jennifer Carlino replied that a visual barrier is typically required to prevent further encroachment to the wetlands. Jennifer asked about the stockpile areas, and Mr. Klein stated the only stockpiling will be when the new culvert is dug. Jennifer Carlino asked for details of the proposed new box culvert and Mr. Klein pointed them out on page 15 of the submitted plans. Jennifer Carlino asked for details of the check dam.

Lisa Carrozza suggested to Mr. Klein, that instead of just improving the existing forebays, to install a much better system. She asked Mr. Klein if the work was going to be done during the summer when

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the system might be dry or have a bypass pumping system. He said the work is proposed for the summer when it might be dry. Lisa Carrozza asked Mr. Klein where haybales would be used and he replied at every catch basin. He said there is only one catch basin on the Norton Glen Road and none on the main road. She asked if the areas were flagged and Jennifer Carlino stated the flags will be put on the revised plans. Lisa Carrozza noted that the silt fence detail is incorrect at some areas and should be revised. Chris Baker asked if the project has gone out to bid, and Mr. Klein stated it had but no one has been chosen. David Henry made a motion, seconded by Kathleen Giblin to continue the public hearing until the next regular meeting of Monday, April 26, 2010. Approved.

The members reviewed a request for a modification to the Order of Conditions **#250-756** – Sinclair Mfg. Co./David LeMieux – 12 South Worcester Street which was included with their agendas. Lisa Carrozza asked Jennifer Carlino if she had ever seen this done and she replied she had not. The request was to conduct a MassDEP Remedial Pilot Test at the site by applying a liquid treatment agent into the groundwater well under the site. Lisa asked if new test pits were going to be excavated and Ron O'Reilly replied that, according to the request, the monitoring would be done from existing wells at the site. Lisa Carrozza asked if additional excavating was proposed and Jennifer Carlino said she would obtain that information before the next meeting. Jennifer Carlino stated she thought the modification was within the scope of work already permitted, but would get more information for the commission before the next meeting.

Ron O'Reilly stated a vote would be taken to ratify the signatures of the March 22nd meeting to sign and issue the Order of Conditions for Notice of Intent – **(#250-855) – Fairland Farm LLC – Lot E, Parcels 191 & 195 (assessors map 12) Bay Road** - for proposed plans to construct a paved driveway within 100 feet of wetlands and a vernal pool. Earl Willcott made a motion, seconded by Lisa Carrozza, to ratify the signatures. Approved.

Ron O'Reilly stated a vote would be taken to ratify the signatures of the March 22nd meeting to sign the Bills Payable Sheets. David Henry made a motion, seconded by Kathleen Giblin to ratify the signatures.

The members reviewed the annual Lease of Conservation Land/Norton Reservoir by **L.L. Bean, Inc.** and **Norton Kayak Co., Inc.** Lisa Carrozza made a motion, seconded by Chris Baker, to sign both leases. Approved.

Jennifer Carlino stated there were many repairs to be made at the Chartley Pond dam and she had a list of the repairs submitted by Pare Corp. on which the repairs were prioritized by urgency. She said there were enough funds in the regular budget to pay Pare Corp. to design the construction of the work to be done and advertise for bid for the repairs of two of the repairs needed. Jennifer Carlino stated that after July 1st, there would be another \$8,000 in the regular budget to pay for the two repairs. Lisa Carrozza made a motion, seconded by Earl Willcott, to authorize Pare Corp. to design and put out for bid the two repairs. Approved.

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Ron O'Reilly stated he received a call from the Army Corp of Engineers stating they would be coming out tomorrow to inspect the dam at the request of the Office of Dam Safety. He said that as a result of their inspection it is a possibility there could be a more urgent repair project than the ones listed in Pare Corp.'s letter.

Jennifer Carlino stated she received a letter from Pare Corp. regarding the construction work for the embankment at Norton Reservoir. She stated they had put the work out to bid and the bids were due by April 21st and would be opened by Pare Corp. She said this would complete their contract. She said once the work begins, an engineer should be on site monitoring the project. She stated an estimate has been received from Pare Corp. for \$49,000 to oversee the construction, which is estimated to cost \$330,000.00, which brings the total amount of the project to \$379,000.00 which will be on the spring Annual Town Meeting warrant under Capital Improvements. She said that there is an amount of \$54,404.59 which will be transferred from the Norton Reservoir Dredging account to offset the total amount.

Lisa Carrozza asked Jennifer Carlino what Pare Corp.'s experience in this field was and she replied that this is their primary occupation. Lisa Carrozza asked Jennifer Carlino what the construction duration would be and she replied that this would not be known until the bids are opened.

Jennifer Carlino noted that Town meeting has been moved to Monday, June 7, 2010.

Ron O'Reilly reminded the commission members that the Ethics Law requirement course was past due (April 2nd) and requested that any member not having completed this, to please do so.

Discussion: Proposed Bylaw Rules and Regulations

Jennifer Carlino stated she had received comments from Horsley Whitten Group for Section 5 which she would go over. Earl Willcott suggested discussing Sections 7 and 8 first.

David Henry suggested asking if anyone present had any general questions to ask and a resident, Cogliano, had a few questions. Julian Kadish explained to Mr. Cogliano that, as a result of last year's annual fall town meeting, proposed rules and regulations were being drafted. He further explained that the town meeting vote will be to accept, or not accept, a Town Bylaw and the rules and regulations drafted at tonight's and other meetings, would not be included in the bylaw but adopted later after a public hearing.

Mr. Cogliano asked where the source of the draft rules and regulations come from and Lisa Carrozza explained that the Mass Association of Conservation Commissions publishes draft guidance and bylaw models for Commissions to use in their drafts and other Town's bylaws are reviewed as well. Mr. Cogliano asked where "the distance of 100 feet from a wetland" came from and Lisa Carrozza stated this is taken from the Wetlands Protection Act as it is enforced at the present time. Lisa Carrozza stated that, as of January 21, 2010, the Army Corp. of Engineers has adopted the 100-foot buffer zone from a vernal pool in uplands. Julian Kadish stated that this new regulation may never be applied in Norton because of the size requirement.

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Mr. Cogliano referred to Section 8, b and c and asked where the information to back up what the “assumption of the best scientific evidence available of the gross impact would be” would come from and Jennifer Carlino replied that it would come from the literature from the latest journal articles and scientific evidence. Mr. Cogliano asked if there was a specific distance stated and Jennifer Carlino stated that at the present time, activities would have to be at least 50 feet away from a wetland with a new activity to not have an impact. She said she has a three-inch binder containing journal articles that is used for her review and research. Mr. Cogliano asked if anyone could define “agriculture relics” as stated in Section 8 d. Julian Kadish suggested an old mill with water works could be defined as an agriculture relic and Jennifer Carlino suggested that examples of agriculture relics could be irrigation canals, old farm ponds, cart paths, stone walls, etc. She stated that if at one time in the past, there existed a project and now that project is abandoned or completed, any relics left behind such as stone walls, etc. would be encouraged to remain in place in order to give the area a historical look included in the new project proposed for that area. She explained that these things would only be encouraged or reviewed if within Conservation jurisdiction.

Mr. Cogliano referred to Section 12 and asked if and when the Conservation Agent would be allowed on private property and it was explained to him that only after an application for a permit was submitted and issued would this be allowed. Lisa Carrozza explained that if a possible violation was spotted as the agent drove by, the agent, with permission of the owner of the property, would enter onto the property for review. Mr. Cogliano had concerns about the distances from vernal pools or bodies of water an applicant would have to keep away. It was explained to him that it would depend on the value of the vernal pool or body of water to conclude the distance a project would have to remain away from. Julian Kadish explained that in extreme circumstances, where an applicant has a very small plot of land, the no-touch zone would be less than a larger plot of land.

Mr. Cogliano asked when visual barriers would be required and Julian Kadish stated, that since the average homeowner is not familiar with wetland regulations, a visual barrier is currently required to be installed to alert the homeowner of the wetland line. Mr. Cogliano asked if there was an appeal process included in the rules and regulations. Jennifer Carlino stated the appeal process is covered under all bylaws and does not have to be described in the rules and regulations.

Section 7: Waivers:

Jennifer Carlino stated that a “waiver” would be included under the “Findings” section of an Order of Conditions for any article that might be waived by the Commission and that will suffice as documentation.

Section 8: Enforcement:

Julian Kadish asked what the logic was in the the last sentence of the first paragraph which reads “Each day a violation exists constitutes a separate violation.”. He said he was not in favor of extending a fine for more than a day. It was the consensus of the other members that the violator would be given ample time to come up with a plan to fix the violation or file for a wetland permit. Lisa Carrozza stated, in her opinion, the sentence should remain as drafted since that is the current wording of the Wetland Protection Act.

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Julian Kadish suggested adding the word "may" to D. under Section 8. Enforcement, after the words "as listed in the Bylaw, and after the word "that" and before the word "include".

Lisa Carrozza made a motion, seconded by David Henry, to accept Sections 7 & 8 of the proposed bylaw as drafted. Approved.

Jennifer Carlino stated each member would receive a copy of Section 5, as revised using comments from Horsley Whitten Group. She said Section 5 will be placed on-line along with sections 7 & 8.

Earl Willcott made a motion, seconded by Kathleen Giblin, to adjourn the meeting at 9:30 pm. Approved.

Respectfully Submitted,



Jennifer Carlino
Conservation Director
JC/pmb