

Monday, December 17, 2012

Attendance

David Henry (Chairman), Ron O'Reilly (Vice-Chairman), Julian Kadish, Michele Simoneaux, Scott Ollerhead and Jennifer Carlino, Conservation Agent

Lisa Carrozza and Chris Baker were absent.

Minutes

David Henry called the meeting to order at 7:00 pm.

The members reviewed the Bills Payable Sheet (Verizon). Ron O'Reilly made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Universal). Ron O'Reilly made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Chartley Landscape). Ron O'Reilly made a motion, seconded by Julian Kadish, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Auto Plus). Ron O'Reilly made a motion, seconded by Julian Kadish, to pay the bill. Approved.

Christina Hoffman – ERM – Presentation of Wetland Restoration at Shpack

Christina Hoffman addressed the board and said she works for ERM, the firm that is doing the Remediation Design for the Shpack superfund site. She stated that this site is a former landfill site with pockets of wetlands that were delineated by the Army Corps of Engineers in 2002. She said that ERM had confirmed the delineation in 2003. She said that some radiologic materials had to be removed from the site in 2005 by the Army Corps of Engineers. She noted that the Army Corps of Engineers have completed their activities on the site and will be transferring access to the site to other PRPs who are responsible to complete the remediation effort.

Ms. Hoffman pointed out the areas that have been remediated and the areas that have yet to be remediated. She said the remediation will consist of excavating contaminated soil and replacing it with clean backfill. She noted a lot of sand had been used to replace contaminated soil and her firm will be removing a lot of the sand and at least 12" of top soil to replace with clean soil that will be better for planting and vegetation.

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Ms. Hoffman noted that they will be creating at least another acre of wetlands as well as restoring the original wetlands. She said that approximately 3.3 acres of wetlands have been, or will be, impacted by the remediation and approximately 4.7 acres will be restored.

Ms. Hoffman noted that there is a National Grid Structure, Transmission Line Right-of-Way that covers the entire site. She stated they will be restoring the wetlands near the structure and maintain an access to the upland areas and existing poles. She pointed out poles that are going to be removed during excavation and to be replaced with new poles and she noted that at one area, the wetland area would be increased and the access path decreased. She pointed out a wetland area that is located outside of the excavation area consisting of phragmites. She said part of the restoration plan will be to plant a forested habitat to stop the migration of phragmites.

Ms. Hoffman stated that there are different types of wetlands on the site. She noted that one is a forested wetlands located outside of the National Grid Utility Right-of-Way. She said that within the Utility Right-of-Way National Grid has a Vegetation Management Policy in which nothing grows within 20 feet of the poles. She stated that anything growing within the Right-of Way would be a scrub shrub. She noted she is proposing to plant trees outside of the Right-of Way.

Ms. Hoffman noted that during the wetland delineation, several vernal pools were found, some within a wetland and some outside of the wetlands. She said they will use the bottom elevation of the vernal pools within the wetlands when grading the new ones and try to create the hydraulic regime that was found in the original vernal pool. She noted that once the soils are restored at the proper grades and the plants are installed, a 7-year monitoring plan will be in place with four goals:

1. vegetation coverage with 75% coverage with wetland plants.
2. increase species list by two new ones within three years.
3. hydrology will be checked to make sure the wetlands are functioning correctly.
4. survivability of the planted wetland plants will be monitored to ensure at least 80%.

Ms. Hoffman stated that any problems will be corrected on an annual basis. She stated they will inspect the site twice a year for the first three years, then yearly. She said inspections will be done on the fourth and sixth years, and any issues will be dealt with and corrected at that time. She said a report will be done during the first, second, third, fifth and seventh years, the seventh being the final report. She said in addition to the 7-year plan, there will be stone and boulder piles to enhance the wildlife habitat. Ms. Hoffman said she will be submitting a Remedial Action Work Plan (RAWP) early 2013.

Ron O'Reilly asked if copies of all reports can be sent to the Conservation Commission as well as to EPA and DEP and Ms. Hoffman replied they could be. Julian Kadish asked Ms. Hoffman when the excavation will be completed so she can start the restoration process. She replied that originally, the excavation was to begin in July of 2013 and be completed by December of 2013, but she said this has changed. She noted that the excavation will begin sometime in 2013, but she was not sure when. He asked Ms. Hoffman if all radiological materials have been removed from the site by the ACOE and she replied that the report given to her showed the depth of materials removed was according to their plan.

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David Henry suggested that the first year end report will be received probably in 2014 and she replied that was correct. Jennifer Carlino asked Ms. Hoffman when they were going to replace the utility poles which were expected to have been replaced by now. Ms. Hoffman replied they are expected to be replaced within the next few months and she would send her an email when the replacement begins. Michele Simoneaux stated that obviously one of the drivers for the restoration is the soil contamination and she asked Ms. Hoffman have they considered ground water and surface water. Ms. Hoffman replied that the Record of Decision issued by the EPA only addressed soil contamination, not groundwater. Julian Kadish stated that testing had been done on this site for contaminated materials a long time ago and it was discovered that a thick layer of peat had restricted the movement of any of the contaminated materials on the site and on neighboring sites.

Request for a Determination of Applicability – (DET. #988) – Chris Strynar – Parcels 90 & 90-01 (Assessor's Map 22) 64 West Main Street – (cont. from the November 19, 2012 mtg.) - for proposed plans to install a scoreboard and chain linked fence within 100 feet of wetlands. Jennifer Carlino stated that the applicant has requested a continuance of the public hearing until the next regular meeting of Monday, January 14, 2013. Julian Kadish made a motion, seconded by Ron O'Reilly, to continue the public hearing until January 14, 2013. Approved.

The members reviewed a Request for a Determination of Applicability – **(DET. #990) – Brian Knight – Parcel 105 (Assessor's Map 19) 43 King Philip Road** – for proposed plans to remove and replant trees and install a fence within 100 feet of wetlands and floodplain. Brian Knight described the project to the members.

Document List

1. WPA Form 2 – Determination of Applicability
2. Plan entitled "Survey Sketch Plan", #43 King Philip Road, Norton, MA prepared for Brian Knight, Scale 1"=20', by Arthur F. Borden & Associates, Inc., dated October 3, 2012 and signed and stamped by Arthur F. Borden on November 12, 2012.

Brian Knight described the project to the members. He stated that he would like to remove five trees, plant five trees, re-locate a shed and install a fence along the property line. Michele Simoneaux asked if the fence was going to go up to the stone wall and Mr. Knight stated it would go along the back wall adjacent to the stone wall. Mr. Knight stated he would like to prune a few trees on the property and David Henry replied that maintenance is allowed. Julian Kadish asked if erosion control would be required and Jennifer Carlino replied Mr. Knight is going to cut the trees as close to the ground as possible and will not be stumping. Julian Kadish suggested putting some type of decaying chemical on the stumps.

Michele Simoneaux asked Mr. Knight how he intends on moving the shed from one place to the other. He replied that the shed is in disrepair and he would like to construct a new shed to be put on concrete blocks. Julian Kadish asked Mr. Knight who was going to cut down the trees and he said originally it was going to be Baker's Landscaping but now it will be some one else. He stated that a neighbor has offered to let him put a crane in their driveway in order to access the trees for cutting.

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Michele Simoneaux made a motion, seconded by Julian Kadish, to close the public hearing. Approved. Michele Simoneaux made a motion, seconded by Julian Kadish, to issue a negative (#3) Determination of Applicability as long as the work is done according to the submitted plans. Approved.

The members reviewed a Notice of Intent – **(#250-899) – Keith Silver, Highway Superintendent/Town of Norton Highway Department – Parcel 1 (Assessor's Map 31) 166 John Scott Boulevard – (cont. from the November 19, 2012 mtg.)** - for proposed plans to widen a road and construct a 100' x 100' brush compost area within 100 feet of wetlands and 200-ft. Riverfront Area.

Document List

1. WPA Form 3 – Notice of Intent Form
2. Hand drawings of the road and proposed work
3. Portion of Assessor's map showing proposed work
4. Aerial photos of the West Hodges St. (31/1) proposed compost area

David Henry noted that the Commission has received a response letter from NHESP stating there will be no adverse impacts to rare habitat wildlife species under WPA. Jennifer Carlino stated that the applicant has to file with the Mass Endangered Species Act (MESA) before any soil or vegetation can be removed. Julian Kadish made a motion, seconded by Scott Ollerhead, to continue the public hearing until the next regular meeting of Monday, January 14, 2013. Approved.

The members reviewed a Abbreviated Notice of Resource Area – **(#250-898) – Campanelli Thorndike Norton, LLC - Parcels 61 & 76 (Assessor's Map 11) 274 East Main Street – (Cont. from the November 19, 2012 mtg.)** - for verification of the Resource Areas.

Document List

1. WPA Form 4A – Abbreviated Notice of Resource Area Delineation
2. Plan entitled "Plan to Accompany ANRAD, East Main Street, Norton, Massachusetts, Prepared For: Thorndike Properties of Massachusetts, LLC, Scale 1"=50', prepared by Yarworth Engineering Co., Inc., signed and stamped by Christopher D. Yarworth and dated October 19, 2012, Revised November 19, 2012.
3. Letter dated November 30, 2012 from Brona Simon, Mass Historical Commission

Present at the public hearing were Mark Manganello of LEC Environmental who stated that he understood that the primary issue for tonight's public hearing is to choose a Peer Review to review the Isolated Land Subject to Flooding. (ILSF) David Henry stated the Commission received four bids for the review. Michele Simoneaux stated that after reviewing all bids, she noticed that Chessia Consultants was the only bidder offering to do an on site visit. David Henry suggested that whoever is

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selected to do the review of the ILSF should also be qualified to do the stormwater review when the Notice of Intent is filed. The board agreed that a site visit is essential to the review.

Carl Johnson of 83 Coddling Road asked why only two wetland areas were being reviewed by the Peer Review. Jennifer Carlino explained that the other wetlands have already been delineated in a previous filing and the permit has been extended for that delineation. She said the only two areas not already delineated are the two Isolated Land Subject to Flooding areas.

Leo Conlon of 79 Coddling Road noted that there were three Isolated Land Subject to Flooding areas included in the previous ANRAD filed by Raymond Passenti and he felt that a site visit to the property is necessary for the review. Jennifer Carlino explained that two of the previous three wetlands were joined together as part of the Red Mill Village project and why there are only two wetlands now.

Michele Simoneaux made a motion, seconded by Scott Ollerhead, to retain Chessia Consulting Services, LLC for the Peer Review of the Isolated Land Subject to Flooding (ILSF) for this project. Approved.

Attorney William Manganiello addressed the board to announce that he is representing the Kingsbury Hill Condo Association at 283 East Main Street throughout the public hearings for 274 East Main Street project.

Mark Manganello asked what the time frame would be for the Peer Review and Michele Simoneaux replied three weeks from the date funds are received by the applicant. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to continue the public hearing until the next regular meeting of Monday, January 14, 2013. Approved.

The members review a Notice of Intent – **(#250-897) – Emerson Martins/Best Hands Construction and Repairs, Inc. – Parcels 62 & 128 (Assessor's Map 17) – 142 East Main Street - (cont. from the November 19, 2012 mtg.)** - for proposed plans to construct a 40' x 60' garage, greenhouse and landscaping yard within 100 feet of wetlands .

Document List

1. WPA Form 3 – Notice of Intent
2. Stormwater Pollution Prevention Plan (SWPPP)
3. Plan entitled "Plan of Proposed Landscape Yard, 142 East Main Street, Norton, MA, Prepared for Emerson Martins, October 30, 2012, Scale 1"=40', prepared by Yarworth Engineering Company, Inc. and signed and stamped by Christopher D. Yarworth. (Sheets 1-4)
4. Letter from Yarworth Engineering Company, Inc. to Jennifer Carlino, dated December 17, 2012 in response to her email comments.

Chris Yarworth of Yarworth Engineering Co., Inc. noted that he has made two changes to the plans per comments from the last meeting. He said the biggest issue was the berm of which he has incorporated

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the details onto the plans. He said that the proposed earth berm, which will be located inside of the silt fence, is 18" high and covered with mulch or woodchips with a post and rail fence installed on top. He stated that a well will be installed for irrigation on the uphill side of the property, which he showed on the plans.

Chris Yarworth stated that some of the cleared areas were already disturbed. He said he filed a NPDES and he said he has submitted a SWPPP. He noted that he has responded to Jennifer Carlino's email comments regarding the revised plans and SWPPP that he revised and submitted. David Henry asked him to go over his response letter dated December 17, 2012. He went through the letter as follows:

1. he noted he would add the CVP #2166 to the revised plans.
2. he noted that there was a question regarding endangered species for the EPA NOI and he said he said that he took the information from the Natural Heritage Maps.
3. he said that notification would have to be submitted to the Mass Historical if wetlands are disturbed, but the areas were already disturbed.
4. he stated that EPA requires that if the natural buffer zone is 50% or less disturbed, it would have to be compensated for. He said a natural berm is proposed for the compensation.
5. he noted that he will have to meet with Jennifer Carlino to correct his Operations and Management Plan and SWPPP to list where the information can be found.

Jennifer Carlino noted that Lisa Carrozza will want to review the SWPPP. Michele Simoneaux asked where the truck wash down area was located and Chris Yarworth pointed out the area which will consist of 8 inches of stone.

Ron O'Reilly made a motion, seconded by Julian Kadish, to continue the public hearing until the next regular meeting of Monday, January 14, 2013. Approved.

The members reviewed a Abbreviated Notice of Resource Area Delineation – (#250-893) – **Walter Landry – Parcels 10-01, 101, 182-185 (Assessor's Map 35) & Parcels 114-117, 138 (Assessor's Map 36) – East Hodges Street – (cont. from the November 19, 2012 mtg.)** - for verification of the Wetland Resource Areas.

Document List

1. WPA Form 4A – Abbreviated Notice of Resource Area Delineation
2. Plan entitled "Plan of Wetland Resource Boundaries, East Hodges Street, Norton, Massachusetts Prepared for Walter Landry by Yarworth Engineering Company, Inc., Scale 1"=120', signed and stamped by Christopher D. Yarworth (Sheets 1-5). (REVISED on November 12, 2012).

David Henry stated that an email was received from Scott Goddard, Goddard Consulting LLC, requesting a continuance of the public hearing. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to continue the public hearing until the next regular meeting of Monday, January 14, 2013. Approved.

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Notice of Intent – (**#250-888**) – **Turtle Crossing, LLC – Parcels 4 & 22 (Assessor's Map 2) – Newland Street – (cont. from the November 19, 2012 mtg.)** - for proposed plans to construct 7 buildings, 8 garages, driveways, parking, utilities and associated grading within 100 feet of wetlands.

Document List

1. WPA Form 3 – Notice of Intent
2. Stormwater Report
3. Plans entitled “Turtle Crossing Comprehensive Permit Application Local Initiative Program, Newland Street, Norton, MA, prepared by Level Design Group and signed and stamped by Nicola Facendola dated April 12, 2012.
4. Turtle Crossing Comprehensive Permit-Local Initiative Program, AM2/Parcels 4 & 22, Newland Street, Norton, Massachusetts, Off-Site LP Sewer Line dated March 5, 2012. (Scale 1”=40’)

Nick Facendola, Level Design Group, addressed the board and stated that the applicant has requested a continuance of the public hearing. He noted that the appeal with the state for the ORAD has been resolved. He noted that the previous wetland permit delineation is upheld due to the Permit Extension Act and the appeal has been withdrawn. He said that modified plans with revised wetland resource delineations for this application will be submitted and abutters will be re-notified. Jennifer Carlino asked Mr. Facendola when the new information will be submitted and he replied the first week in January, in order to allow time for the information to be reviewed. He stated he would be ready to re-file sometime mid-February. Jennifer Carlino noted that the Commission would need 6 copies of the new plans. She suggested that since there has been no discussions since last May, abutters should be re-notified. Mr. Facendola asked when the meetings would be held in February and it was agreed he would re-file for February 25th. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to continue the public hearing until the regular meeting of Monday, February 25, 2013. Approved.

The members reviewed a Notice of Intent – (**#250-**) – **Duane Knapp/Norton Walter & Sewer Department- Walker Street – Town Right of Way** – For proposed plans to replace approximately 330 l.f. of water main piping with directional drilling within 100 ft. of wetlands and under the Wading River culvert crossing.

Document List

1. WPA Form 3 – Notice of Intent
2. Stormwater Pollution Prevention Plan (SWPPP)
3. Plan entitled “Town of Norton, Walker Street, Water System Improvements, Contract No. 12, Norton, Massachusetts Change Order #2, Walker St. Site Plan and Profile prepared by Otter Creek Engineering, Inc., Scale 1”=20’, signed and stamped by Mark R. Youngstrom, and dated November 29, 2012.

Present at the public hearing were Duane Knapp and Carl Crawford of Otter Creek Engineering, Inc.

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Duane Knapp explained that, what he thought was a guard rail that looked like a cement arch, was, in fact, a 12" water main. He noted that the culverts are rusting and he doesn't know if they need to be changed immediately by the town. He said that the cement arch is sagging, cracking and starting to twist. He noted that 100 lbs. of water pressure goes through that pipe. Duane Knapp stated now that he is aware of this problem, he would like to correct it, which will include directional drilling in the Wading River.

Chris Crawford had a color-coded map to show the members and pointed out the different areas and structures involved with the project. He stated that the easiest way to begin this project is to start the directional drilling approximately 150' away from the river on both sides and then tie back into the main. He said this is a lot like previous projects and they would be using high density polyethylene pipe and drilling at least 14 feet below the surface of the roadway and at least 5 feet below the culverts to get the radius bend needed for the drilling.

Julian Kadish asked Mr. Crawford how the depth of the drill is established and he replied that there is a machine that is driving the drill that determines the location and depth of the drill. He noted that the pipe is flushed out after the installation. Michele Simoneaux asked what the total length of the pipe/drilling would be and Mr. Crawford replied about 300 feet. She asked what happens to the abandoned pipe and he replied the two ends will be capped after the new pipe is tapped into the main. Duane Knapp noted that the old water main will remain in place and act as a guard rail as it always has been. Julian Kadish asked if he knew how old the water main is and Duane Knapp suggested it was probably installed in the 1970s. Mr. Crawford stated two shut off valves will be added on each side of the river crossing to allow maintenance in the future.

David Henry asked if a turbidity curtain will be used and Mr. Crawford stated that he and Jennifer Carlino had discussed the issue. He said one was not going to be used because it would not work properly with the rate of flow in the river and might even dam the river. He said they are usually used on the sides of lakes and ponds. Jennifer Carlino stated she asked for a turbidity curtain because at the project at Mulberry Meadow Brook on Plain Street a lot of silty soil from the bottom of the river was disturbed and brought to the surface. She said that the applicant has to figure out a way to control the sediment. Mr. Crawford noted he would be using some sedimentation control. Jennifer Carlino asked if soil borings have been done to know what kind of sediment to expect. Mr. Crawford replied he had not.

Jennifer Carlino noted a DEP File number has not been received. Michele Simoneaux made a motion, seconded by Scott Ollerhead to issue an Emergency Certificate. Approved. Julian Kadish made a motion, seconded by Ron O'Reilly, to continue the public hearing until the next regular meeting of Monday, January 14, 2013. Approved.

Request for a Certificate of Compliance for File #250-582 – Mansfield Airport Commission – Parcel 428 (Assessor's map 3) Fruit Street, Mansfield (Mansfield Airport).

David Henry stated that since Michele Simoneaux and Scott Ollerhead have to recuse themselves from the project, there is not quorum for voting. He said the request will be tabled until the next regular meeting of Monday, January 14, 2013.

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The members reviewed an Amended Order of Conditions for File #250-895 – **Ralph Fairbanks – Parcels 47, 47-01 & 47-02 (Assessor's Map 14)**. Ron O'Reilly abstained from voting. Jennifer Carlino stated that the amendment was to show the new location of the driveway and dry well. Julian Kadish made a motion, seconded by Scott Ollerhead, to approve the amended Order of Conditions as written.

Old Business

Reservoir Dam spillway design – David Henry stated that Pare Corp has emailed that the review of hydropower is not part of the submitted contract. He said Pare Corp has offered to review it for \$1,500.00. The Commission agreed not to have the hydropower reviewed.

Violations:

--Norton Mobile Home Estates – 157 Mansfield Avenue – oil spill, clean-up update. Jennifer Carlino stated that sod had been placed on the site. She noted that the LSP sent a letter stating that he has stopped work for non-payment. She said that the contractor has completed nearly all the work including stabilization.

--12 Forest Lane – Jennifer Carlino stated she received a letter from Sharlene Smith stating she is in the process of hiring a wetland consultant.

--18 Richardson Avenue – Jennifer Carlino stated that the contractor's PE is still claiming the project as an exemption. She said that DEP has confirmed this is not an exemption. She suggested to the well contractor to either attend a Conservation meeting or submit a Request for a Determination of Applicability.

241 Mansfield Avenue – Jennifer Carlino stated that the owner, manager and engineer will be meeting with her in the office in January. She said that they requested to have an informal meeting with the Commission outside of a meeting which is not allowed under the Open Meeting Law and she advised them that they could not.

6 Rumford Road – Jennifer Carlino stated that the owner does not want to apply for a permit at this time and she notified him that he has to block the area off and let it grow back naturally until he does get a permit.

45 Crane Street – Jennifer Carlino stated the owner said she had contacted Outback Engineering and was waiting for a reply. She said she was expecting a response soon.

418 Reservoir Street – Jennifer Carlino stated that the owner had come in to start filling out the application and she expects a filing soon.

#250-455 – COC letter – Jennifer Carlino stated that they are working on the As-Built to apply for a Certificate of Compliance.

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#250-552 – COC Letter – Jennifer Carlino stated the developer is ignoring her letters but the engineer has the As-Built completed but needs to get an estimate to have the wetland replication report completed. Jennifer Carlino said that the bond money can pay for the report and As-Built.

New Business –

Right of First Refusal – Reilly property – Jennifer Carlino stated this is the land on Pine and Crane Street that is proposed for the Tri-town sewer plant location. She said she received notice that the property is going to be removed from Chapter 61 and the Town has the right-of-first-refusal. The Commission agreed not to pursue the purchase. Ron O'Reilly made a motion, seconded by Scott Ollerhead to decline the offer and have Jennifer Carlino send a letter to the Selectmen stating such.

Land Transfer – Woodlock Road – Assessor's Map 16, Parcel 178 – Jennifer Carlino stated that the Treasurer advised her that a resident is looking to purchase this property. She said it provides access to the reservoir and maybe the Commission would be interested in acquiring the property. Michele Simoneaux made a motion, seconded by Scott Ollerhead, to advise the Treasurer that the Commission is interested in acquiring the property. Approved.

Waterbodies Committee update – Jennifer Carlino noted that the meeting for December 20th has been cancelled to be re-scheduled on January 7th. She reminded the Commission that they had only committed themselves to attend one meeting per month and they should send a letter to the Committee reminding them of such. They agreed to send a letter to the Waterbodies Committee to remind them that a Conservation representative will attend only one meeting per month.

Jennifer Carlino noted that she received a Bankruptcy Notice for Parcel 202, Assessor's Map 21, property next to Rose Farm. She stated the Commission does not have money to purchase the property and a neighbor is using the property already.

Jennifer Carlino noted that she did not get the Land Grant to purchase the Erikson property but will try again at a later date.

At 8:57 pm Ron O'Reilly made a motion, seconded by Julian Kadish, to adjourn the meeting and go into Executive Session to discuss litigation strategy for DEP File #250-882- Pheeny's Island. Approved.

At 9:15 pm the members re-convened to the regular meeting.

Ron O'Reilly made a motion, seconded by Julian Kadish, to accept the Settlement Agreement as presented and the Final **draft** Order of Conditions. Michele Simoneaux voted yes, Scott Ollerhead voted yes, Julian Kadish voted yes, Ron O'Reilly voted yes and David Henry voted no.

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Ron O'Reilly made a motion, seconded by Michele Simoneaux, to adjourn the meeting at 9:17 pm.
Approved.

Minutes Approved by Committee on: _____
(Date)

Respectfully submitted,

Signature:

(Name)

Chairman, _____