

Monday, July 22, 2013

### **Attendance**

Ron O'Reilly (Vice-Chairman),  
Julian Kadish, Lisa Carrozza, Scott Ollerhead  
and Jennifer Carlino, Conservation Agent

David Henry (Chairman) and Chris Baker were absent.

### **EXECUTIVE SESSION**

### **Minutes**

Turtle Crossing Denial Order of Conditions.

John Goldrosen from Kopelman and Paige was present for the discussion. He updated the members on what lead to the denial of this Notice of Intent. He noted that the project was continued to June 10, 2013 and no representative appeared for the meeting so the public hearing was continued to June 24, 2013 and, again, no one showed up to represent the applicant. At that time a vote was made by the members to deny the project for lack of information. He stated that the engineer for the project was aware of the proposed denial before the next meeting. On July 8, 2013 the Commission signed the Denial Order of Conditions.

Mr. Goldrosen noted he had spoken with Mr. Sean Walsh, Attorney, for the DEP in Lakeville. Mr. Goldrosen stated that Mr. Walsh had spoken with other attorneys regarding the possibility of rescinding the Denial Order of Conditions. He noted that the applicant has two more days to file for a Superceding Order of Conditions. He said that Mr. Walsh stated that the DEP would not have an issue if the Conservation Commission rescinds the Denial Order of Conditions as long as the Notice of Intent process for another hearing is followed completely and correctly. Mr. Goldrosen commented that he asked Mr. Walsh to send something in writing with this information and he seemed very reluctant to do so.

Mr. Goldrosen noted DEP insinuated that they would rather the Conservation Commission write the Orders rather than have them issue a Superceding Order of Conditions. Jennifer Carlino stated she did hear back from DEP today and replied to thank them for responding.

**Monday, July 22, 2013**  
**Minutes (Executive Session) page 2.**

Mr. Goldrosen noted the two possible options that the applicant has; 1. to file for a Superceding Order of Conditions, which, in his opinion, DEP would not issue for lack of information and 2. to re-file, which would cost the applicant \$16,000, again, for the application fee.

Julian Kadish commented that he thought it very rude that anyone would think of the Norton Conservation Commission as acting selfishly or foolishly.

John Goldrosen noted that, in his opinion, and given his years of experience in these matters with other towns, it would not be economically feasible to allow an appeal to happen. He also stated the DEP is likely to remand it back to the Conservation Commission for substantive review anyway. It was his suggestion to rescind the denial and allow the applicant to resubmit another application.

Lisa Carrozza asked if the Conservation Commission will be rescinding the Denial as well as the Order. Mr. Goldrosen replied it would be the entire Denial Order.

Jennifer Carlino asked if it was legally correct to rescind the Denial Order which was issued as a result of a vote taken by the members and Mr. Goldrosen replied it was.

Jennifer Carlino asked how, under the Mullens Rule, a hearing can be re-opened without taking into consideration all the previous public hearings for the project. Mr. Goldrosen replied that the Mullens Rule ensures that all voting parties hear all submitted information. He stated that if this project is allowed to re-open, the applicant would have to make sure any new members, as well as all abutters, are informed of all information that has been submitted to date. He suggested all information be re-discussed as a new formal presentation.

Jennifer Carlino wanted to read into public record;

1. the email which was sent to Dustin J. DeNunzio on Wednesday, May 15, 2013, in reply to his email of Wednesday, May 15, 2013, informing him that the public hearing will be continued until the next regular meeting of Monday, June 10, 2013.
2. the email which was sent to John J. Goldrosen by Jamy Buchanan Madeja, Esq. on July 11, 2013 which she says was very offensive and unprofessional.
3. the fee schedule that was submitted by the applicant.
4. the fact that the applicant stated he has been wanting to comment on the Peer Review's report but has not requested a copy of the report until July 8<sup>th</sup>.

Jennifer Carlino stated that if the Commission rescinds the Denial Order of Conditions, and agrees to re-open the public hearing, the applicant has to show a significant amount of good faith in order to move forward.

**Minutes (Executive Session) page 3.**

Lisa Carrozza made a motion, seconded by Julian Kadish, to end the Executive Session. Lisa Carrozza voted yes. Julian Kadish voted yes. Scott Ollerhead voted yes. It was unanimously voted to go back to public session. Approved.

Executive Minutes Approved by Committee on: \_\_\_\_\_  
(Date)

Respectfully submitted,

*Signature:*

\_\_\_\_\_  
( Name)

Chairman, \_\_\_\_\_