



Norton Conservation Commission
70 East Main Street
Norton MA 02766

NORTON TOWN CLERK

SEP 15 2009

RECEIVED

Monday, August 10, 2009

7:00 pm

Attendance

David Henry (Vice-Chairman), Earl Willcott, Julian Kadish, Lisa Carrozza, and Jennifer Carlino, Conservation Agent.

Ron O'Reilly (Chairman), Kathleen Giblin and Chris Baker were absent.

Minutes

The meeting started at 7:00 pm.

The members reviewed the draft minutes of **June 29, 2009**. The minutes were tabled until the next public meeting of Monday, August 24, 2009.

The members reviewed the draft minutes of **July 13, 2009**. Lisa Carrozza made a motion, seconded by Earl Willcott, to accept the minutes as written. Approved.

The members reviewed the Bills Payable Sheet (misc.). Julian Kadish made a motion, seconded by Earl Willcott, 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. David Henry stated that a request for a continuance of the public hearing until the next meeting has been received. Julian Kadish made a motion, seconded by Earl Willcott, to continue the public hearing until the next regular meeting of Monday, August 24, 2009. Approved.

The members reviewed an Appeal to File **DET. #938**. Jennifer Carlino stated the applicant has requested the mentioning of a vernal pool on the property be removed from the Determination. Julian Kadish asked on what basis was the applicant making the request and Lisa Carrozza replied that the applicant has stated that, since the vernal pool area was removed from the request form, it should not be mentioned in the Determination. Jennifer Carlino stated this information should be under the section "Findings of Facts" since a vernal pool was found on the property and they had so much trouble with the submitted plans over the last 7 meetings. She submitted a draft letter for David Henry, Vice Chairman, to sign to send to the applicant. She stated that the Appeal meeting is Tuesday, August 25th. Lisa Carrozza made a motion, seconded by Julian Kadish, to have David Henry, Vice Chairman, sign the letter with one revision of the date change. Approved.

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Discussion ensued regarding the Fairlee Lane complaint received by Mary Ryan. Jennifer Carlino stated Ms. Ryan did not attend any of the public discussions for this project. She submitted two letters for the members to review, one longer than the other, and asked the members which one they would like her to send to Ms. Ryan. It was the consensus of the members to send the shorter letter with a couple of revisions. Julian Kadish added the sentence "This project was designed according to the requirements of the Wetland Protection Act.". David Henry added the sentence "It is unfortunate that you were unable to make any of the public hearings on the Project.". Lisa Carrozza made a motion, seconded by Julian Kadish, to have Jennifer Carlino revise the shorter letter and have David Henry, Chairman, sign the letter, then send to Ms. Ryan. Approved.

David Henry announced that the annual Fall Town Meeting will be held on Monday, October 5th. Jennifer Carlino stated the ByLaw Article for the Warrant is due on August 17th.

Jennifer Carlino stated that the bylaw is done, but all definitions and details have to be correct. She stated that Horsley & Whitten had a few comments.

Discussion ensued regarding the finalization of the proposed bylaw. Jennifer Carlino proceeded to point out the changes for approval by the members;

- a. the **Purpose** section and the **Jurisdiction** section were finished and already voted on.
- b. that one section will require that an ANRAD be filed for confirmation of "area resource boundaries" **and not** a Request for a Determination of Applicability.
- c. that one sentence was re-worded at the suggestion of Horsley & Whitten. The sentence would read "The Commission shall take into account written comments received from other boards or commissions but which shall not be binding on the Commission."
- d. she took the "interests" for the ACEC areas and listed them all in one paragraph.
- e. she pointed out the words, "historic" and "minimum" to be added.
- f. she pointed out that the numbers referred to in the regulations will be put in parentheses next to the word, ie., five (5).
- g. she pointed out that the number of years a permit may be extended should be "1" year at a time. Lisa Carrozza suggested extending the permit for the "3" years to avoid applicants extending year after year. Jennifer Carlino stated she would change to coincide with the Wetlands Protection Act.
- h. she added the words "as well as in the regulations promulgated under this bylaw" referring to amendments to any permit.
- i. she added the words "and all appeal periods have lapsed" at the end of the sentencework will not commence.....after the document has been recorded.....

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- j. she listed the definitions for the word **alter** with sub headings and added “or clearing herbaceous plants” at the end of “H” which describes the different plant life that might be destroyed.
- k. she added the definition of the term “isolated land subject to flooding”. Jennifer Carlino stated that any isolated area of water would be under the Conservation Commission’s jurisdiction. Julian Kadish had concerns that every time it rained, new little ponds of water would be created and regulated. Jennifer Carlino stated any decisions made by the Commission would have to **make sense** obviously. It was decided that “isolated land subject to flooding” can be of any size.
- l. She added the definition of the term “isolated wetland”. She stated this definition is the same as the other ones found elsewhere in the bylaw. She stated “isolated vegetated wetland” would be added. Lisa Carrozza suggested copying the same definition as used by Federal agents.
- m. She added the definition of the term “no disturbance zone”. Jennifer Carlino stated this is the same policy that is followed at the present time. Lisa Carrozza had questions about how it relates to the Wetland Protection Act zone (buffer zone) language of proposed regulations.
- n. She stated the term “visual barrier” as defined, is the same as what is being used at the present time.
- o. She stated the term “wetland protection zone” is the new name for **buffer zone**. (as a resource area)
- p. She stated that in regards to “Security” **three** options may have to be listed rather than the one option offered at the present time which requires the applicant to post a bond with the Town Treasurer to ensure stabilization, replication or completion of a project.
- q. She stated that it is her goal to have all **vernal pool** information in the various sections match. She said that in the **Purpose** section it refers to “Vernal Pools” and “Vernal Pool Habitat”. She said in the **Jurisdiction** section, it refers to “Vernal Pool Habitat” only. She said that in the MACC definition section, it refers to “Vernal Pools”, but the regulations refer to “Vernal Pool Habitat”. She stated the easiest way to fix this is to define “Vernal Pool” vs. “Vernal Pool Habitat”. She said that the “Vernal Pool” itself will be the depression up to the high water mark while “Vernal Pool Habitat” will include the vernal pool itself and lands adjoining the vernal pool.
- r. She stated that she had made a list of the definitions for all the **new resource areas** and all **interests** which will be added to the bylaw. The list includes the new definition for Protection of Fisheries, Protection of Wildlife Habitat, Pollutant removal capacity, Protection of Riparian Ecosystems, Protection of Wildlife Populations and Species Diversity, Vernal Pools and Vernal Pool Habitat.

Jennifer Carlino stated that Horsley and Whitten would like to organize the format of the proposed bylaw for easier reviewing by the applicant. She stated they had a question regarding Isolated Land Subject to Flooding, but she said this was resolved by the new definition. She said they wanted to change “Select Board” to “Board of Selectmen”, they had questions for the definition of Community Character, but this has already been decided by the members earlier and they were comfortable not changing it. Jennifer Carlino stated the last two issues Horsley and Whitten wanted to review was to

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eliminate any repetitive or overlapping language in the bylaw and add "The Board of Health" to one section as an entity that could help in an emergency situation.

Jennifer Carlino stated she will make the final changes to the draft bylaw and email it to Horsley and Whitten for their final revisions. She said she will review the final draft when received back from Horsley and Whitten to make sure they do not change any revisions made by the Conservation Commission. She stated she will then submit the proposed bylaw to be placed on the warrant for the October Annual Fall Town Meeting.

Jennifer Carlino noted that the Commission will have to address the Board of Selectmen, Planning Board, Finance Committee at one of their public hearings to present the proposed bylaw. She stated that she will need a couple of the members to go with her for support. She suggested two persons for each meeting and they could alternate. She said she will put together a flyer stating why a bylaw would benefit the Town of Norton.

Earl Willcott made a motion, seconded by Julian Kadish, to adjourn the meeting at 8:30 pm. Approved.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Jennifer Carlino", written in a cursive style.

Jennifer Carlino
Conservation Director
JC/pmb