



Norton Conservation Commission
70 East Main Street
Norton MA 02766

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Monday, November 14, 2011

Attendance

David Henry (Chairman), Julian Kadish, Lisa Carrozza
Michele Simoneaux, Chris Baker and Jennifer Carlino, Conservation Agent

Ron O'Reilly (Vice-Chairman) was absent.

Minutes

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

The members reviewed the draft minutes of **September 26, 2011**. Michele Simoneaux noted that on page 4, last paragraph, last sentence, the word "polyetholene" should be spelled "polyethylene". She noted that on page 5, fourth line, the word "steep" should read "deep". Michele Simoneaux noted that her name was misspelled on the sixth line down. Lisa Carrozza made a motion, seconded by Michele Simoneaux to accept the minutes as amended. Approved.

The members reviewed the draft minutes of **October 17, 2011**. David Henry noted that the date of the draft minutes for July 12, 2010 should read "2011". Jennifer Carlino stated the date was correct. Julian Kadish made a motion, seconded by Michele Simoneaux, to accept the minutes as drafted. Approved. Lisa Carrozza abstained from voting.

The members agreed to table review of the draft minutes for the Executive Session, **September 26, 2011**. The members agreed to table the minutes until the next regular meeting.

The members reviewed the Bills Payable Sheet (Pare Corp.) Lisa Carrozza made a motion, seconded by Michele Simoneaux, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Registry of Deeds). Julian Kadish made a motion, seconded by Michele Simoneaux, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Nextel). Lisa Carrozza made a motion, seconded by Chris Baker, to pay the bill. Approved.

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

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The members reviewed the Bills Payable Sheet (Universal). Julian Kadish made a motion, seconded by Lisa Carrozza, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Chessia Consulting). Lisa Carrozza made a motion, seconded by Chris Baker, to pay the bill. Approved.

The members reviewed a Notice of Intent – (#250-877) – **Brian & Jacqueline Donahue – Parcel 162 (Assessor's Map 15) 2 Foster Drive – (cont. from the October 17, 2011 mtg.)** - for proposed plans for restoration of 4,127 sq.ft. of wetlands, installation of a well and construction of an addition within 100 feet of wetlands.

Document List

1. WPA Form 3 – Notice of Intent Application.
2. Plan entitled "Plan of Land in Norton, MA #2 Foster Drive Prepared for Brian & Jacqueline Donahue with a scale of 1" = 30' by Yarworth Engineering Company, Inc. and signed and stamped by Christopher D. Yarworth dated September 29, 2011.
3. FIRM map.
4. Mass. GIS Resource Area Map

David Henry read a letter received by Goddard Consulting which stated the following:

- a. 4,127 sq.ft. of bordering vegetated wetlands was filled over a period of years.
- b. Several test pits were dug in the filled area with fill soil ranging in depth from 12" to 30".
- c. The fill matter is dense silty fill with 10% small rocks.
- d. The natural wetlands soil under the fill is 0" to 18"-5Y2/1 organic muck standing water at the surface.
- e. The filled area is presently stabilized with a well established lawn.
- f. A swing set is standing in the altered area as well as brush and yard debris.
- g. The surrounding and undisturbed bordering vegetated wetlands is a forested swamp dominated by red maples, swamp white oaks, tupelo, white pine, American elm, red oaks, Witch Hazel high bush blueberry, sweet pepper bush shrubs and cinnamon fern herbs.

The proposal is to add 7 maple trees, 24 High bush blueberry bushes and 24 sweet pepper bush shrubs which are designated on the plans.

Jennifer Carlino stated that with the added fill, and the water table where it is, the plant roots would be above the water table and wouldn't survive. Mr. Donahue stated that his wetland scientist agreed to monitor the plantings for a year or two if needed. Michele Simoneaux stated that the wetland scientist would have to monitor the plantings in order to meet the Performance Standards as part of the application. She stated that she would like to see more of a diversity of plantings, plants that grow well in wetlands.

David Henry asked if the costs of the different trees varied in price and Michele Simoneaux stated they did, but not very much. Lisa Carrozza stated that it was unusual that the replication area has grass

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growing in it. Jennifer Carlino stated she had spoken with Scott Goddard, Wetland Scientist, and said that he has to meet the Performance Standards as well as the Inland Wetland Replication Guidelines. She stated that the hydrology has to be correct in order for the wetland plants to survive. Jennifer Carlino stated that Mr. Goddard has to prove that the fill that was left will meet the Performance Standards of a wetland. Michele Simoneaux stated that the fill will probably have to be removed. Jennifer Carlino stated that if the elevations and depths of the various areas of fill were noted on the submitted plans, it could be determined how much fill would have to be removed.

Mr. Donahue stated that Mr. Goddard assured him that the plants would grow successfully and if they did not, they could be replaced. Jennifer Carlino stated that the area has to be restored to a wetland. Michele Simoneaux stated that Mr. Goddard is familiar with the replication process and knows how to meet the Performance Standards of a project. Lisa Carrozza stated that the normal basic first step to restoring a wetland that has been filled is to remove the fill, not leave it there and hope wetland plants will survive. Michele Simoneaux stated that this is a good start, but more information is needed to ensure the successful replication of a wetland. Lisa Carrozza suggested removing the fill at least to the 12" areas and then plant wetland plant species and ground cover, not to include grass.

Julian Kadish asked Mr. Donahue if he was the owner and he replied he was. Lisa Carrozza asked Mr. Donahue if he purchased the property like this and he replied that the fill was placed after he purchased the house. He stated that he expanded his back yard approximately 20' to 25' at the same time his two neighbors did at the suggestion of the excavator. He said he did not realize he was so close to the wetlands. Lisa Carrozza asked Mr. Donahue about how much fill was brought in and he replied approximately 4 large truck loads. Mr. Donahue stated that Mr. Goddard said that replication is usually done for a filled in wetland, but, in this case, it is not an option because there is no room to replicate.

David Henry suggested that only a portion of the filled in area may have to be removed. Lisa Carrozza suggested that Mr. Goddard use an auger to check the depth of the filled areas. Mr. Donahue stated that Mr. Goddard had already dug 4 or 5 holes checking the depth. David Henry suggested a couple of the members going to the site to look at the area. Michele Simoneaux said she would like to go. Lisa Carrozza requested that a sediment barrier be installed between the edge of the filled area and the wetlands. Mr. Donahue asked the commission if it were possible to add an in-ground pool to the filing so that the contractor can remove the fill in the wetland area at the same time the pool hole is dug. Michele Simoneaux stated that this modification would require re-notifying the abutters and re-advertising the project with the amendment.

Lisa Carrozza stated that information would have to be obtained from the pool company regarding the elevation of the proposed pool and then noted on the amended plans. David Henry suggested continuing the project for a revised replication plan which does meet the Performance Standards. Michele Simoneaux made a motion, seconded by Julian Kadish, to continue the public hearing until the next regular meeting of Monday, November 28, 2011. Approved.

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Notice of Intent – **Bay Road Heights/Shawn Kelly – (#250-871) - Parcels 27, 29, 30 & 131 (Assessor's Map 12) & portions of Bay Road, off Bay Road (Phase 2 of Bay Road Heights 40B) – (cont. from the June 13, 2011, June 27, 2011, July 11, 2011, August 8, 2011, September 26, 2011 & October 17, 2011 mtgs.)** - for proposed plans to extend a water main, construct a roadway, 11-lot subdivision and storm water management within 100 feet of wetlands.

Notice of Intent – **Bay Road Heights/Shawn Kelly – (#250-872) - Parcels 29, 30 & 131 (Assessor's Map 12) off Bay Road (Phase 3 of Bay Road Heights 40B) – (cont. from the June 13, 2011, June 27, 2011, July 11, 2011, August 8, 2011, September 26, 2011 & October 17, 2011 mtgs.)** - for proposed plans to install a 23-unit condo complex, road, storm water management and utilities within 100 feet of wetlands.

David Henry stated an email was received requesting a continuance of the public hearings for File #250-871 and #250-872 until the regular meeting of Monday, December 19, 2011. Michele Simoneaux suggested requiring the applicant to re-notify all abutters and Jennifer Carlino stated she had already requested this of the applicant. Julian Kadish made a motion, seconded by Michele Simoneaux, to continue the public hearings until December 19, 2011. Approved.

The members reviewed the draft Order of Conditions for the Notice of Intent – **(#250-876) -John Sullivan/Wheaton College – Parcel 14 (Assessor's Map 17) 26 East Main Street** – for proposed plans for paving and construction of drainage facilities with associated grading at the maintenance building within 100 feet of wetlands.

Document List

1. WPA Form 3 – Notice of Intent Application.
2. Plan entitled "Site Improvement Plan, Grounds Facility Area, Wheaton College Campus Norton, MA (Sheets 1-8) prepared by Hayward-Boynton & Williams, Scale 1"=20', signed and stamped by Marc J. Tisdelle dated September 30, 2011 with final revisions on October 17, 2011.

Michele Simoneaux had a few suggestions for minor changes as follows:

She suggested adding the area as an ACEC under Findings.

She suggested that under Administrative Conditions, #6, that adding this information shall be providing before the project begins. Jennifer Carlino stated she advises the applicant of this information at the pre-construction meeting.

She suggested that under 8. d., to add the words "deviations from the approved plan.

She suggested adding the words "in perpetuity" to conditions #24, #30 and #31

Michele Simoneaux made a motion, seconded by Julian Kadish, to sign and issue the Order of Conditions, as amended. Approved. Lisa Carrozza abstained from voting.

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The members reviewed an Enforcement letter – **241 Mansfield Avenue** – for cutting trees in a wetland. Jennifer Carlino stated the manager said he knew nothing about this and she was waiting to hear back from the owner. Michele Simoneaux made a motion, seconded by Lisa Carrozza, to send the owner an Enforcement Order. Approved.

Discussion ensued regarding Chartley Pond dam repairs. Jennifer Carlino stated she did not want to spend town money to pay for repairs to a retaining wall that was not owned by the town. The members agreed that advice would be sought from Town Counsel.

Discussion ensued the Bay Road/Inspection reports owned by Fred Bottomley. Jennifer Carlino stated that inspection reports of the two dams were received from the Office of Dam Safety but explained that both dams are in Easton. Jennifer Carlino suggested letting Fred Bottomley know that he would be responsible for removing the dams if he wants the Conservation Commission to purchase the property. She then suggested asking Fred Bottomley to donate the property. David Henry Suggested this discussion should be done in Executive Session.

Discussion ensued DEP Regulatory Reform. Jennifer Carlino asked the members if they had any comments or suggestions for her draft comment letter to DEP. Michele Simoneaux had a couple of comments as follows:

She commented as to where the “mechanism for verification of information and oversight” are. She suggested that the burden is now transferred from the applicant to the Conservation agents. She suggested emphasizing more the 3rd paragraph under Item 6 on page 2 beginning with “Any project requiring storm water management should not be **eligible** in a general permit, etc.....”

She suggested that on page 3, under Item 9, last sentence, adding the words “or priority habitat” after the words ACEC.

She suggested that on the last page 4, first sentence, adding “including Riverfront Area” after the words Resource Area.

She suggested that on the last page 4, under A., #1., adding the word “surveyed” before the word plans.

Enforcement Order/Violation - **Chrystal & Allen Dart – 45 Crane Street**. Jennifer Carlino stated the applicant notified her they would be ready for the November 28, 2011 meeting.

Enforcement Order/Violation – **Timothy Russell – 4 & 6 Bay Road**. Jennifer Carlino stated she has not gotten a response from Mr. Russell as yet.

Enforcement Order/Violation – **157 Mansfield Avenue – Chris Baker**. Jennifer Carlino stated she has not gotten a response from John Sullivan yet. She asked Chris Baker if he has heard anything and he replied that he has not. Jennifer Carlino stated she had received an email from Ralph Penney of Penney Engineering today. David Henry read the email which Ralph Penney stated he had hoped to

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complete the violation project before this winter, but he knows now that he cannot. He stated that he has heard nothing back from John Sullivan and there are still questions as to who will be paying for the repairs. Chris Baker stated he has obtained an attorney on this matter.

Enforcement Order/Violation – Mansfield Avenue, old bird garden – Chris Baker. Chris Baker stated that a pile of pine will be gone by the end of the week and the boulders will be in place before the next meeting on November 28, 2011. He asked the board for permission to use large logs if he runs out of boulders to use for the visual barrier to the 100-foot buffer zone. The board agreed that this would be ok. Lisa Carrozza asked Mr. Baker when he plans on stabilizing the area and he replied that there are wood chips in place already.

Reservoir Repairs Update - Jennifer Carlino stated that the access agreement has not been worked out yet by the Town Manager so the contractor will have to start on the opposite side of the reservoir dam. She said that there is a pre-construction meeting scheduled for tomorrow at the site after which work shall begin.

Pond Committee Formation - Jennifer Carlino stated that the Board of Selectmen was asking questions regarding the formation of a pond committee and she stated she thought this would be a substantial amount of additional work if she had to run a third committee, especially without additional pay. She said she spoke to the Town Manager who stated the Board of Selectmen would be forming the committee and was just looking for advice. She stated she gave the Board an outline for forming the committee along with suggestions on what the members should work on and why. She suggested anyone interested in being on the Pond Committee should get in contact with the Selectmen. Lisa Carrozza suggested having the members from the Conservation Commission take turns in attending the meetings. Julian Kadish suggested involving Wheaton College students in this project.

Discussion ensued on a quorum for the next meeting of Monday, December 19, 2011. Jennifer Carlino stated she wanted to know who might not be able to attend to ensure a quorum.

Violation – 81 Freeman Street - Jennifer Carlino stated this was a previous violation from last May. She said she did a site inspection and found cutting and clearing in the wetlands, stockpiled cords of firewood, a canoe, and personal equipment stored within the wetlands. She met with the owner who agreed to remove everything from the wetlands. She said he hasn't done this to date. She said she spoke with the owner who stated he has not removed anything from the wetland yet. Michele Simoneaux asked if any of the area was dug up and Jennifer Carlino stated it was not. She stated it would be easy to fix this violation by removing everything from the wetlands and leaving it alone. Lisa Carrozza made a motion, seconded by Michele Simoneaux, to issue an Enforcement Order. Approved.

Update: James Cochrane –121 Freeman Street – Parcel 145 (Assessor's Map 16). Jennifer Carlino stated that Mr. Cochrane had submitted a Notice of Intent at the previous meeting and was asked to submit revised plans but he has not submitted any revised plans as yet and he is in violation by having the dock. Julian Kadish stated that, in his opinion, as he stated at the previous meeting, this is a minor

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project and should not require any further plans. Lisa Carrozza asked if any trees were cut and there were not. David Henry suggested requiring Mr. Cochran to put some kind of identification on the temporary dock in case it floats away, he would be responsible to retrieve it back to his property.

Jennifer Carlino stated one option for Mr. Cochran is to plant a couple of wetland plants in the area of the dock to ensure wetland vegetation growth. Julian Kadish suggested that the dock will not prohibit the growth of the wetland plants. He advised a site visit to the property to take a look at the dock. Chris Baker suggested advising Mr. Cochran on putting together a plan to show the elevation of the water and high water mark. Chris Baker asked Julian Kadish if he would like to do a site visit and Julian Kadish suggested to wait until Mr. Cochran appears at the next meeting to discuss it with him. Michele Simoneaux agreed to speak to Mr. Cochran at the next meeting of Monday, December 19, 2011 and advise him that more information is needed for the files.

David Henry noted that the signatures for the approval of the Norton Reservoir dam embankment repairs by Pare Corporation have to be ratified. Lisa Carrozza made a motion, seconded by Chris Baker, to ratify the signatures. Approved.

David Henry made note that there will be a seminar on Thursday, December 1st on State Ethics/Conflict of Interest at 6:30 pm at the Norton High School auditorium for any one interested in attending.

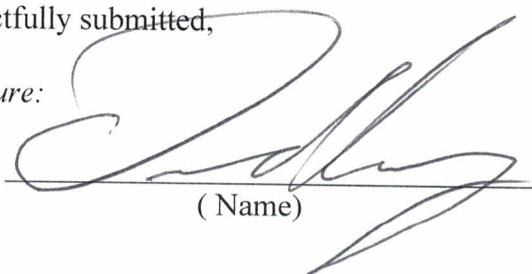
Michele Simoneaux made a motion, seconded by Chris Baker, to adjourn the meeting at 9:29 pm. Approved.

Minutes Approved by Committee on:

1/9/12
(Date)

Respectfully submitted,

Signature:


(Name)

Chairman, Conservation Commission