

Monday, November 4, 2013

### **Attendance**

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

Chris Baker was absent.

### **Minutes**

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

The members reviewed the draft minutes of May 20, 2013. Lisa Carrozza pointed out a typo on page 6 to be corrected. Lisa Carrozza made a motion, seconded by Julian Kadish, to accept the minutes as amended. Approved.

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

The members reviewed the Bills Payable Sheet (Chartley Landscape re Johnson Drive). Scott Ollerhead made a motion, seconded by Ron O'Reilly, to pay the bill. Approved.

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

The members reviewed a Notice of Intent – **(#250-888) – Turtle Crossing, LLC – Parcels 4 & 22 (Assessor's Map 2) – Newland Street – (cont. from the October 21, 2013 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')

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5. Letter dated July 24, 2013 from Jennifer Carlino to Dustin DiNunzio.
6. Letter from Level Design Group dated August 29, 2013. (Response to BSC Group)
7. Letter from Level Design Group dated August 29, 2013. (Response to BSC Group)
8. Letter from Level Design Group dated September 3, 2013 (Response to Jennifer Carlino's letter of June 28, 2012).
9. Letter from Level Design Group dated September 5, 2013 with submittal of revised plans dated February 25, 2013, revised Site Plans dated August 29, 2013, modified Notice of Intent, revised Stormwater report August 29, 2013.
10. Comment 10-5-13 site inspection letter by Jennifer Carlino.
11. Email letter received from Atty. Jamy Madeja dated October 28, 2013

Present at the public hearing was Dan Campbell of Level Design Group to represent the applicant.

David Henry read into the record the email letter received from Atty. Jamy Madeja dated October 28, 2013 as follows:

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Dear Norton Conservation Commission and Attorney Goldrosen:

This letter concerns that certain Notice of Intent known as the Turtle Crossing project, DEP File No. 250-888, originally filed March 12, 2012 and republished for comment on September 5, 2013, due to the passage of time and revisions to the project in response to prior comments from the Commission and its consultant, BSC Group, Inc. MEPA review and approval of the changes was secured on September 23, 2013 via a Notice of Project Change.

The Applicant and consulting team recognize that it has been frustrating for the Norton Conservation Commission to experience changes in site ownership and absence of lender or other owner responsiveness in the past. It is our hope that the Commission will see that the submission of the revised project on September 5, 2013 and presented to the Commission on September 23, 2013 is thorough, environmentally responsive, and that the professionals currently appearing at the Commission have treated the Commission with appropriate respect, responsiveness and timeliness.

It has also come to my attention, however, that at the most recent hearing date (October 21, 2013 following the Commission's site visit on Saturday, October 5, 2013), the third-party peer review consultant BSC Group's comments on the September 5, 2013 submission were not provided to the applicant's consultant, as had been promised, and were not even discussed at the hearing. There was also said to be mention by the Commission (on the record) of a letter from BSC Group asking for an additional \$3,200 from the Commission, but no copy of the letter was provided or discussed. Finally, the Commission is also said to have opened the hearing by limiting the discussion to one hour, and then discussed in great detail approximately 23 of over 100 comments made in Agent Jennifer Carlino's and others' letters of last year, a good number of which were no longer relevant due to the responsive project changes presented on September 23, 2013 and answered in careful, professionally supported writing in the submission dated September 5, 2013.

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At this pace, it would be an additional three months before a Commission decision was even under discussion, even assuming this matter appeared on every Commission agenda for the next three months for an hour, with sufficient members able to attend each meeting and a quorum resulting for an eventual vote, and we would not even have heard or discussed BSC Group's report.

The Applicant respectfully requests that if the BSC Group's comments on the September 5, 2013 submission exist, a copy be provided as promptly as possible, so a full reply or additional information can be prepared for the next hearing date, along with a copy of their original proposal and any new or modified one so we can understand any change in scope or potential delay. In any event, we also respectfully request an anticipated timeframe regarding which sessions of the Commission to schedule for discussion and eventual conclusion of review of the Notice of Intent, for a vote one way or another.

Cordially,

120 Newland Street, LLC/JBM

Jamy B. Madeja, Esq. on behalf of 129 Newland Street, LLC, site owner

Cc 129 Newland Street, LLC Daniel Campbell, P.E.

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Julian Kadish commented that Ms. Madeja is wasting the commission's time by making comments as in her letter. He noted she needs to study the Open Meeting process and understand how that works or step aside.

Jennifer Carlino commented that Ms. Madeja has been contacting Town Counsel without going through the Conservation Commission and she asked Ms. Madeja to stop contacting Town Counsel.

Lisa Carrozza suggested advising the applicant that Ms. Madeja's actions are not helping the public hearing process.

Dan Campbell suggested that he continue where he left off at the previous meeting responding to Jennifer Carlino's comments dated June 28, 2012.

Mr. Campbell noted that Building #1 has been rotated as suggested at the previous meeting. He noted that he was going to try and shift the 9-car garage to remove the 1-ft. out of the 25-no touch zone. He pointed out a few designated access points on the pond as discussed at the previous meeting. He said it was his plan to make all the changes at once.

David Henry asked if anyone had heard back from the Zoning Board of Appeals. (ZBA)

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Mr. Campbell replied that he had re-submitted information and plans to the ZBA and will be discussing the project at the next meeting. Lisa Carrozza suggested sending a letter to the ZBA asking for clarification of the 25-no touch zone within their decision.

Mr. Campbell started with Comment #24 of the comment letter.

**#24 - Submit the "Resource Area Protection Plan" to be prepared by LEC as detailed on sheet C-5.0. Also, will the apartment management company allow pets? Please require that all cats remain indoor and all dogs be leashed with requirements for scooping poop if they are allowed.**

Mr. Campbell replied that LEC has given him the name of the seed mix preferred for the landscaping which he stated has been incorporated into the minor grading and landscape details and has been added within the notes on the individual plan sheets for these areas. Lisa Carrozza asked Mr. Campbell if any of the proposed planting areas would be affected by the snow removal process and he replied they would not because they would be low-growing hardy mixes.

Lisa Carrozza suggested re-visiting the site to compare with the landscaping plan and Mr. Campbell agreed.

**#25 - Please add proposed plantings along edge of bank to the pond to the landscape plan (sheet C-5.1).**

Mr. Campbell replied that plantings have been added to the revised plans. Jennifer Carlino asked Mr. Campbell where the bank of the pond is shown on the plan and he replied that he will add it to the plans.

**#26 - Confirm that throat stones are not proposed for the catch basins and all curbing is sloped granite or cape cod berms, not vertical granite or other vertical curbing.**

Mr. Campbell replied that the main site driveway was required, within the Comprehensive Permit, to be a vertical concrete curb with Cape Cod berm shown around the parking areas as allowed.

Jennifer Carlino asked Mr. Campbell how wildlife would get out of the pond area once they got in. He pointed out a couple of areas where there is a path they could follow to get out. He pointed out areas if traveled by the wildlife they could find a way out easier and pointed out a route if followed by wildlife they could not get out easy. Jennifer Carlino asked if a break in the concrete could be included for the wildlife to go through and he replied he could find a place to put a break. Jennifer Carlino suggested that LEC do that.

**#27 - Revise the construction sequence to provide actual details for a contractor to follow and add as notes to the plan set.**

Mr. Campbell replied that he will add construction sequence as required by the Commission. He stated

that he has included a typical sequence and a more detailed sequence would be developed once a contractor is selected. He noted that a note has been added to install the erosion control before work has begun and when to remove it.

**#28 - Add all construction notes to the plan set.**

Mr. Campbell noted that he has added a lot of construction notes as requested by the Commission. He said that he crossed referenced the plan sheets with detailed notes regarding drainage, erosion control, etc.

**#29 - Add all erosion and sedimentation prevention notes to the plan set.**

Mr. Campbell replied all notes have been added.

**#30 - Seasonal high groundwater is listed as between 1-foot and 4-feet. Please confirm that all proposed drainage basins and building foundations have a minimum of 2-foot separation to groundwater.**

Mr. Campbell replied that test pits have been done at every location of the proposed drainage basins. The drainage basins have all been confirmed to have the required min. 2' offset to groundwater. There is no requirement for foundation offset to groundwater, once the buildings have been designed the plans will maximize the offset to groundwater.

Jennifer Carlino asked about buildings 6 & 7 and Mr. Campbell replied that the finished floor is approximately 6 feet higher than existing grade. She asked Mr. Campbell if he could add the high water mark to the pond and he replied he would.

**#31 - Submit soil test pit results for location of the swale with gabion baffles.**

Mr. Campbell replied that the revised Storm Water report contains two new soil test pit logs for system 8 and the former swale area. He noted that the details for the gabion baffles are on the revised plans.

**#32 - Confirm that all post-development contribution to the identified potential vernal pools is the same as the pre-development contributions.**

Mr. Campbell replied that the post development and pre-development contributions to Potential vernal Pool areas is substantially equivalent.

**#33 - Identify the wetlands on the pre- and post-development drainage plans to be consistent with the Summary of Peak Stormwater Runoff (CFS) described in the stormwater report.**

Mr. Campbell noted that the revised storm water report contains maps detailing areas as requested.

**#34 - There appears to be an increase in flow for the 100-year storm to wetlands 2 in addition to wetland 3. The report only acknowledges an increase in wetland 3.**

Mr. Campbell stated that the wetland area number 2 has been identified in the report as requested, the increase is minimal and will not affect the receiving wetlands area. He said he will confirm wetlands #2 for the 100-year storm before the next meeting.

**#35 - Provide the TSS worksheet for all treatment trains. All other projects within the ACEC have provided greater than 93% TSS removal rates. Please increase the amount of TSS removal and demonstrate that greater than 44% will be removed prior to reaching infiltration bmps.**

Mr. Campbell stated that since there are 9 separate storm water systems on the site, a TSS removal worksheet has been submitted for each one.

**#36 - Storm water checklist claims the project minimizes impacts to exiting trees and shrubs; however, it appears that very little attempts have been made to maintain or improve the minimum 25-foot no disturbance zone. Please remove this checked box and submit the revised page or provide other documentation demonstrating how this was done.**

Mr. Campbell noted that the majority of the 25' buffer zone has been disturbed in the areas where we are detailing disturbance and said there is little to no existing mature vegetation on the property. He commented that with the project as proposed over the former project which was commented on by the Commission to MEPA, this project minimizes and protects a significant portion of the site vegetation, thus the check box is appropriate.

Lisa Carrozza noted that the areas that contain most of the undisturbed vegetation are the areas around the pond and wetlands. Jennifer Carlino noted that by disturbing these few undisturbed areas, the impact is not minimal. Mr. Campbell replied that this is the reason for moving building 1.

**#37 - Provide a written description of the LID measures that were investigated and why they were not used in the project. The Regulatory revisions have distinctly discouraged the standard pipe-to-basin design. There are ample opportunities to include LID measures in this project including the use of pervious pavement.**

Mr. Campbell replied that he has designed a standard treatment train for this project because LID measures require a greater offset to ground water and require more land area. He commented that he is trying to make the project as compact as possible. He said he cannot use rain gardens for the downspouts because these are residential units.

Mr. Campbell replied that the standard pipe to basin design has not been used in this case. A standard pipe to basin design is a treatment train as follows:

1. Catch Basin to pipe;
2. Pipe to manhole

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3. Drain manhole to pipe;
4. Pipe to discharge to above ground sediment forebay;
5. Sediment forebay to detention basin.

He made note that this method is discouraged for multiple reasons. First it generally creates one central detention area for the site, not mimicking existing flow patterns. Second it provides very little opportunity for infiltration throughout the site and discharges the flow to a single area. Lastly these basins can hold the stormwater flow above ground long enough that it does create a condition where the water temperature of discharge is changed and it can attract water fowl creating a change in the type of environment on the site.

He commented that the treatment train as designed provides for smaller individual systems around the developed area, providing for close to existing hydrology. A CB-Pipe-DMH system remains the same but then instead of a sediment forebay it goes through a treatment device and is discharge to a subsurface infiltration structure with overflow. This allows for a treatment train which mimics existing flow more closely, limits exposure of the stormwater to other environmental factors such as water fowl, and cleans the water to a degree greater than a traditional system.

Lisa Carrozza asked Mr. Campbell what would happen if he decided to adopt functioning LID and he replied that if he did this, 2 of the center buildings would have to be moved further back at their current size.

Lisa Carrozza asked Mr. Campbell to go through, step by step, all the LID Practices that are in the Storm Water Handbook and he replied he would do that at the next meeting.

**#38 - Nothing is checked for Standard 6. It has been stated at public hearings for the ORAD that the potential vernal pools are identified and acknowledged and that the proposed project treats them as certifiable vernal pools. Provide documentation that the proposed drainage system meets Standard 6.**

Mr. Campbell noted that the proposed project mainly limits exposure from the project to the vernal pools. He said that the project considered the areas for disturbance and for potential effects on the complexes, this does not however mean they are critical areas and as such should not be checked within the report.

Mr. Campbell stated that by moving building 1 there would be very little exposure to the vernal pool. Jennifer Carlino asked Mr. Campbell if he has reviewed the Table for **Critical Areas** and he replied he has. She asked him to go through the table as follows;

1. Mr. Campbell stated he has put together a Storm Water Pollution Protection Plan (SWPPP) but it will be updated as soon as the public hearing process is over.

2. Mr. Campbell stated he is using infiltration methods for overflow and there is no direct discharge.
3. Mr. Campbell stated that he does not have any overflows within 100 feet of the one Certified Vernal Pool on the site. He noted that he will check the overflow for the vernal pool that has not been certified. Jennifer Carlino commented that she had received a letter from DEP stating that any direct discharge and portion of the BMP cannot be within 100 feet of a vernal pool, not only overflows.
4. Mr. Campbell noted there is no Zone A on the property.
5. Mr. Campbell stated that the BMPs are designed according to the specifications and sizing methodologies in Volumes 2 and 3 of the Massachusetts Stormwater Handbook.
6. Mr. Campbell stated that the Water Quality Volume did equal 1.0 inch times the impervious area.
7. Mr. Campbell stated that at least 44% TSS was removed prior to discharge to the infiltration system.
8. Mr. Campbell stated that the pretreatment has been approved by TARP an STEP.

**# 39 - Include the statement regarding available funds to maintain the drainage system and how the homeowners will be able to continue maintenance.**

The proposed project is a rental project and not a homeownership project. As such it is the responsibility of the management company to provide for maintenance as detailed. Jennifer Carlino replied that it will be the Homeowner's Association's responsibility as each home is sold. Mr. Campbell replied that these are apartments and not houses or condos and there will never be a Homeowner's Association.

**#40 - Submit the signed illicit discharge statement.**

Mr. Campbell replied that he has submitted it as requested.

**#41 - The project does not meet Standard 8. The submitted Construction Period Pollution Prevention Plan and Erosion and Sediment Control Plan does not contain the itemized elements listed as included in the Storm Water Checklist. Revise and resubmit the CPPPP and E & S Control Plan.**

Mr. Campbell stated that in Section 8 the check box has been modified to show that the CPPPP is not included with the application but once approval is granted and a contractor selected the methodology will be placed into a comprehensive SWPPP/CPPPP with any E&S Control Plan modification necessary. Lisa Carrozza asked for a draft.



**#42 - The project does not meet Standard 9. The submitted Operation and Maintenance (O & M) plan does not include many items listed as included in the Storm Water Checklist. Revise and resubmit the O & M to meet Standard 9.**

Mr. Campbell replied that he did modify the O&M Plan accordingly and has submitted it. He said he included the Construction Schedule in the O&M Plan.

**#43 - The SWPPP must follow the EPA's template. Confirm that the SWPPP complies with the 2012 requirements and submit any revisions required to comply.**

Mr. Campbell stated that the revised SWPPP will be submitted upon the selection of a contractor, which is a requirement of the new 2012 Outline. He said he would supply the SWPPP at the pre-construction meeting, but Jennifer Carlino replied she would like it before the meeting.

Lisa Carrozza commented that he should be dictating what the contractor should be using for BMPs and the only thing the contractor should supply is contact information and areas for stockpiling, etc.

Jennifer Carlino advised Mr. Campbell that he should be doing a draft SWPPP as he goes along and just supply the revised pages at the pre-construction meeting.

**#44 - Provide a signed Certification of the Construction Period SWPPP.**

Mr. Campbell stated that once a contractor is chosen the SWPPP will be updated and signed as required.

Jennifer Carlino asked Mr. Campbell to go over Standard 5: Land Uses With Higher Potential Pollutant Loads. He replied that he forgot to put that on his Form and would submit a revised Form.

He replied to the table as follows:

Bes Management Practices for Land Uses with Higher Potential Pollutant Loads (Standard 5)

1. Mr. Campbell noted that there are no discharges from higher potential pollutant loads. Lisa Carrozza had questions regarding the vernal pool that was not certified and Mr. Campbell replied he would try and not have any work or discharges within 100 feet of this pool. He said he will try to take infiltration system 9 out of the 100-ft. buffer zone. Jennifer Carlino stated there are more than 1000 cars per day and it is a LUHPPL.
2. Mr. Campbell noted that he is as high as he can be with the source control at this time.
3. Mr. Campbell noted that all the BMPs are designed in accordance with specifications and sizing methodologies in the Mass Storm Water Handbooks Volumes 2 and 3.

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4. Mr. Campbell stated that the required water quality volume does equal 1 inch times the total impervious area of the post-development site as he noted in his report.
5. Mr. Campbell noted that he is using CDS Unit which has been tested to be one of the best units and is sized according to the CFS. He commented that even the by-pass flow has to go through a screen as well as the normal flow would.
6. Mr. Campbell replied he does have at least 44% TSS removal.
7. Mr. Campbell noted that the BMPs are not used as a terminal treatment device used only as a primary treatment device. He said that the STEP approval is about 78% or 79% and the TARP Approval goes back to 76% prior to infiltration.

Jennifer Carlino stated to Mr. Campbell that after he makes all the revisions to the plans, she will send the entire packet to BSC Group for their 2<sup>nd</sup> review.

Mr. Campbell asked how long BSC Group would need to review the revised plans and Jennifer Carlino stated she did not think they would have a report ready for the next public hearing. Mr. Campbell requested to be on the agenda for the next meeting of November 25, 2013 to go over the changes he made with the Commission. Jennifer Carlino stated she would be sending a letter requesting a check to pay for the review by BSC Group, which would be \$3,200.00. Mr. Campbell asked that the letter be emailed and then mailed to him and he would see to it that the applicant submits a check.

Julian Kadish made a motion, seconded by Scott Ollerhead, to continue the public hearing until the next meeting of Monday, November 25, 2013. Approved.

The members reviewed a request for a partial Certificate of Compliance for **File #250-897 – Emerson Martins, Best Hands Construction and Repairs, Inc. – Parcels 62 & 128 (Assessor's Map 17) 142 East Main Street** – proposed plans to construct a garage, greenhouse and landscaping yard.

David Henry listed the unfinished work as follows:

- Construction of a greenhouse
- Construction of a truck wash pit
- Construction of the portion of the fence abutting the railroad line at the rear of the site
- Miscellaneous interior fencing
- Construction of irrigation well
- Tight tank
- As-built plan

Jennifer Carlino suggested having the applicant post a bond for the items that need to be completed in this permit in order for a partial Certificate of Compliance to be issued.

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Jennifer Carlino noted that the garage has already been constructed. She suggested that if the tight tank and truck wash area can be completed in two weeks, the Commission can require the applicant to post a bond and a partial Certificate of Compliance can be issued.

Lisa Carrozza made a motion, seconded by Scott Ollerhead, to **deny** the request for a partial Certificate of Compliance and have the applicant file another request for a partial Certificate of Compliance for the next meeting of Monday, November 25, 2014. She said that the applicant will have to install the tight tank and truck wash pit and the Commission will require him to post a bond for any outstanding issues including an updated As-Built plan. She added that the Commission can waive the fee of \$125 for the re-inspection for the November 25<sup>th</sup> meeting but the applicant would have to pay the fee for a re-inspection in the spring when he applies for the full Certificate of Compliance. All in favor. Approved.

The members reviewed the draft conditions for the Notice of Intent – **(#250-911) – Birch Croft Development Group LLC – Parcel 172 (Assessor's Map 27) 10 Dean Street** – for proposed plans to repair/replace a septic system with associated grading within 100 feet of wetlands.

Lisa Carrozza suggested deleting the word “erosion” in the condition #8a. under Administrative Conditions. Lisa made a motion, seconded by Scott Ollerhead, to sign and issue the Order of Conditions, as amended. Approved.

The members reviewed the draft conditions for the Notice of Intent – **(#250-912) – Jeffrey & Nancy Bramwell – Parcel 137 (Assessor's Map 31) 35 Dean Street (post facto)** – repair/replace septic system within 100 feet of wetlands.

Lisa Carrozza suggested deleting the word “erosion” in the condition #10a. under Administrative Conditions. Lisa Carrozza made a motion, seconded by Julian Kadish, to sign and issue the Order of Conditions, as amended. Approved.

## **OLD BUSINESS**

### Violations:

**Alder Road** – David Henry noted that the Board of Selectmen will be sending out another notice requiring certain materials be removed within 14 days and demanding that the 3 residents to discontinue mowing the grass. Jennifer Carlino stated that Matt Crowe, Chartley Landscape Management, will be starting the work this week.

**#250-781 & #250-782 – 14 & 16 Johnson Drive.** – Jennifer Carlino noted that #16 has been completed and #14 should be completed soon.

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**East Hodges Street** – Fred Bottomley – Jennifer asked the members if they could drive by the site before the next meeting and they replied they would.

**Laura Lane Conservation Restriction violations** – Jennifer Carlino noted there was only one left to inspect.

**NEW BUSINESS**

**243 So. Worcester Street** – violation – Jennifer Carlino stated the owner has cleared trees, expanded and resurfaced a parking lot next to a wetland/stream without a permit. She said the owner is in the process of contacting an engineer. She commented that straw wattles were in place.

**27 Fletcher Way** – violation – Jennifer Carlino stated there was evidence of motor vehicles being driven on Conservation Restriction and Land Preservation Society property. She said one of the violators called her and advised her that he would stop driving on the property and inform his neighbors of the violation.

Reservoir Update – Jennifer Carlino noted that Town Counsel and Pare Corporation are planning to attend the Conservation meeting of Monday, November 25<sup>th</sup> to discuss the spillway.

Site Visits – Jennifer Carlino asked the members to drive by East Hodges Street (between #81 & #87) and to also check Turtle Crossing for the staked buildings 6 & 7 near the pond edges and garages.

Waterbodies Committee update – Jennifer Carlino commented that the joint meeting with the Board of Selectmen will include only one member from the Waterbodies Committee and one member from the Conservation Commission with a consultant present.

Scott Ollerhead made a motion, seconded by Ron O'Reilly, to adjourn the meeting at 8:45 pm. Approved.

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

Respectfully submitted,

*Signature:*

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

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