

Monday, March 23, 2015

Minutes

The meeting was called to order at 7:00pm.

Attendance: Ron O'Reilly, Dan Pearson, Jan Franchescelli, Julian Kadish and David Henry, Conservation Agent Jennifer Carlino

Absent: Scott Ollerhead, Lisa Carrozza,

7:00 pm Review **minutes** of:
July 28, 2014 and August 11, 2014 were postponed to next meeting for lack of a quorum.

Bills Payable

WB Mason - motion by Ron O'Reilly to pay the bill, seconded by Julian Kadish.
Approved.

Pare Corp. - motion by Ron O'Reilly to pay the bill, seconded by Julian Kadish.
Approved.

7:05 pm Discussion: **#250-38 – 162 West Main Street** – Robert Pesa

Robert Pesa and his wife attended with Luke Grant.

Mr. Grant commented that the banks have stabilized over the last 30 years on their own. He suggested leaving the property as is. David Henry noted that the property could have been cleaned up before it was sold.

Mr. Pesa commented that he intends on stabilizing the edges of the bank, not disturbing any existing wetlands, installing a silt fence and installing a dry well.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 2.

Mr. Grant commented that the property has been this way for 30 years and, in his opinion, why disturb anything at this time. David Henry replied that, after he had a chance to inspect the property, noticed massive amounts of debris and fill on the property. Jennifer Carlino commented that the maximum amount of filling allowed by the Commission, per the Wetlands Protection Act, is 5,000 sq.ft. She said that 11,000 sq. ft. of wetlands had been filled. Jennifer Carlino stated they have the option of removing 6,000 sq. ft. of fill with a permit for 5,000 sq.ft. from the Conservation office or removing everything up to what was permitted in the previous permit.

Mr. Pesa presented a letter dated 1984 stating that there was excessive filling on the property. He said another letter was issued after that noting a comment from the Army Corp. of Engineers stating that, since the project was started before 1981, there was no violation, provided no more fill was added to the property. Ron O'Reilly replied that the Army Corp. of Engineers had no jurisdiction over this site and the letter was in error.

Mr. Pesa stated that in November, the Commission had allowed him 90 days to get together options for restoring the property. Jennifer Carlino noted that he was supposed to present options on removing the fill. Mr. Grant commented a lot of the concrete could be removed leaving the remainder of the property as is and asked the Commission why any other work was necessary. Jennifer Carlino commented that it is in the interest of protecting the wetlands and enforcing the Wetlands Protection Act that restoring the area is required.

David Henry asked Mr. Pesa if he had considered any options for restoring the property and he replied that, since the last meeting, he did not think it necessary to remove any materials from the property, leaving it as is. Mr. Pesa commented that he intended on improving and stabilizing what was present on the property at this time and completing some of the original conditions. He said that, in his opinion, more damage would be done to the area by trying to restore it.

Jan Franceschelli commented the property should be cleaned and Mr. Pesa replied he intends on removing any visible concrete and stabilizing the river bank without removing any trees.

David Henry reminded Mr. Pesa of the Commission's letter dated November 25, 2014 requesting that he come up with options to remove 11,000 sq. ft. of fill. Mr. Pesa replied he was not in agreement that 11,000 sq.ft. of fill should be removed at this time.

Julian Kadish commented that the previous owner ignored the Wetlands Protection Act as well as any violation letters he received.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 3.

He said that the Commission is now faced with a long-standing violation. Mr. Kadish stated that, in his opinion, he does not agree with leaving the property as is and feels that the existing violation should be corrected. Ron O'Reilly agreed and stated that not enforcing the correction of the violation would set a precedent for future violations.

Ms. Pesa commented that the previous owner of the property stated no fill was brought onto the property and she said the present tenant on the property stated that in the 20 years he has been there, he has not seen any fill being brought onto the property. The Commission agreed that a fair compromise would be to have Mr. Pesa remove 6,000 sq.ft. of fill from the filled in wetlands and revise the permit for the rest.

Dan Pearson requested to look at the latest plans of the property.

Mr. Grant commented that a strip 60'x100' of property can be stripped from an area that has been filled and replaced with peat. He said he could present a plan for this project. Mr. Pesa noted that he did not think removing trees would be beneficial to the restoration of the property. Jennifer Carlino requested to Mr. Pesa that he submit two options for restoring the wetlands to be reviewed at the next regular meeting

Mr. Grant noted that the preferred option may be too expensive at this time and suggested that the work be done at a later date.

Julian Kadish commented that it is the duty of the Conservation Commission to enforce the Mass Wetlands Protection Act.

Mr. Pesa noted he had a letter signed by Kathy Romero dated 1988 stating the owner of the property at that time qualifies for a Nationwide Permit as long as no more fill is brought onto the property. Jennifer Carlino replied she would send each member a copy of the letter for review at the next meeting.

It was agreed to have Mr. and Mrs. Pesa submit two options for restoring the wetlands and removing fill at least two weeks before a scheduled meeting.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 4.

7:15 pm Notice of Intent – (#250-947) – **Norton Landfill Solar, LLC – Parcels 31-03-0-E, 36-0-E, 49-0-E & 50-0-E (Assessor's Map 24) 0 (rear of So. Washington St., 0 (rear) Hill Street & 0 Hill Street – (cont. from the March 9, 2015 mtg.)** - for proposed plans to install solar PV modules, construct a portion of a gravel access road & removal and clearing of vegetation within 100 feet of wetlands.

Documents:

1. WPA Form 3 – Notice of Intent
2. Plan entitled “Norton Landfill Solar Project, Norton Massachusetts, Permit Set, Not for Construction”, prepared by Tighe & Bond, signed and stamped by Brian S. Huntley and Francis J. Hoey, III and dated October, 2014, Revised March, 2015.
3. Letter dated January 7, 2015 from Jennifer Carlino to Briony Angus, Tighe & Bond, Inc.
4. Letter dated January 16, 2015 from Briony Angus, Tighe & Bond, Inc. to Jennifer Carlino.
5. Letter dated February 20, 2015 from Briony Angus, Tighe & Bond, Inc. to Jennifer Carlino with attached Sheet 3 of plan Norton Landfill Solar Project with Commission comments of 1-16-15.
6. Letter dated March 17, 2015 to Briony Angus, Tighe & Bond, Inc. from Jennifer Carlino.
7. Letter dated March 20, 2015 to Jennifer Carlino from Briony Angus, Tighe & Bond, Inc.
8. Letter dated March 23, 2015 from Michael Yunits, Town Manager, to David Henry, Chairman, Conservation Commission.

Emma Kosciak from Citizen's Energy and Manager of Solar Development, Norton Landfill Solar, LLC and Briony Angus and Brian Huntley of Tighe & Bond attended the meeting. Ms. Kosciak noted that a Special Permit has been granted by the Planning Board. She commented that a letter was sent to the Conservation Commission today from the Town Manager. Jennifer Carlino replied the members do not have a copy of the letter for review since it was submitted today. Ms. Kosciak stated the letter was urging the Commission to act on this project due to the Environmental Review time lines.

Briony Angus noted additional information had been submitted to the Commission addressing comments made in Jennifer Carlino's letters dated January 7th, January 16th and March 17th. She handed out copies of her letter dated March 20th which was received today and not reviewed by the members at this time. David Henry commented he would like to take his time and review in detail. Ms. Angus requested to present her comments to the board even though the board members have not had a chance to review the letter in detail. She made the following comments:

- the gravel access road is 6” thick because there is a 24” layer of fill on the road. The electric conduit is proposed above ground which is shown on the revised plans as totally

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 5.

within the 100-yr. buffer zone.

- a revised checklist and O & M Plan have been submitted.
- added notes to plan re: Isolated Wetlands noting that they may be potential vernal pools. One area was incorrect. Jennifer Carlino noted that an area in the BVW may be a potential vernal pool and requested it be noted on the plan.
- added a note that no snow removal shall occur within the buffer zone.
- added a note regarding the above-ground conduit to the plan.

Ms. Angus commented that discussion had taken place regarding a peer review for the Isolated Land (ILSF) Subject to Flooding. She said that the applicant agreed to the peer review and a check was provided, but given the timelines, she does not feel the review is necessary. She commented that her associate, Brian Huntley, commented that the areas do not meet the definition of ILSF. Ms. Kosciak noted that under the State's Wetlands Protection Act, ILSF does not have a 100-ft. buffer zone and under the Town's policy, the limit of work is within 25 feet. She commented all the areas in question are approximately 100 ft. and 80 ft. from the wetlands. Ms. Kosciak commented that even if the areas are deemed ILSF, the commission has no jurisdiction for a buffer zone around them.

Ms. Kosciak noted that the project is very time sensitive for the following reason. She commented that there are two programs in Massachusetts that make solar energy valuable; S Rex and Net Metering. She said that in order to get into Net Metering all permits have to be obtained and the program is filling up fast. She said the applicant is not opposed to a third party review, but would like to obtain the permit as soon as possible and condition the peer review. She commented that no matter what the results will be for ILSF, they will not change the project in anyway.

Jennifer Carlino commented that the Peer Review, Chessia Consulting, may be able to complete their review within the next two weeks at which time she can have the draft Order of Conditions ready for the Commission's review.

Brian Huntley stated that Section 5.2 of the WPA notes how Isolated Land Subject to Flooding (ILSF) is defined. He commented that the calculations submitted with the application shows that the areas are not ILSF.

Julian Kadish stated that even though the applicant is not anticipating results that might impact the project, a condition should be added to the Order to address any unexpected findings.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 6.

Ms. Angus replied that a revised stamped plan will be submitted noting any and all changes made by the Peer Review.

Motion by Ron O'Reilly to continue the public hearing to the next regular meeting of Monday, April 13, 2015, seconded by Julian Kadish. Approved.

Jennifer Carlino commented she would have draft conditions ready for the next meeting of Monday, April 13, 2015.

7:25 pm Notice of Intent – (#250-948) – **Michael Yunits, Town Manager, Town of Norton – Parcels 28, 29 & 525 (Assessor's Map 10) Reservoir Street/Falls Road – (cont. from the March 9, 2015 mtg.)** - for proposed plans for repairs and modifications to the spillway and gate structure of the Norton Reservoir Dam.

Documents:

1. WPA Form 3 – Notice of Intent
2. Plans entitled "Prepared for The Town of Norton Conservation Commission, Norton Reservoir Dam Improvements-Phase II" prepared by Pare Corporation-Sheets 1.0-11.0 and dated February, 2015. **(Revised March 2, 2015)**
3. Letter sent to The State of Massachusetts and The Norton Conservation Commission from Ken and Ruth Perlow dated February 23, 2015.
4. Letter dated February 17, 2015 to David Matheson, Pare Corp. from Jennifer Carlino.
5. Letter dated March 2, 2015 to Jennifer Carlino from Lauren M. Hastings, Pare Corp.

Present at the meeting was Matt Bellisle and David Matheson of Pare Corporation.

A copy of the revised plans were handed to the members.

Mr. Bellisle referred to the March 2, 2015 letter sent to Jennifer Carlino in response to her letter of February 17, 2015 as follows:

Plans (Sheet 1.0):

- 1. All greasing and refueling of equipment shall be performed either within the limit of the proposed access roads or off-site and this has been noted on Sheet 1.0 of the plans.
- 2. Methods and requirements for temporary stabilization are defined in Specification Sections 02270 and 02900. A "satisfactory stand" of grass is defined I Specification 02900 Subsection 3.04.
- 3. The requirement of a screen on the upstream intake of all temporary by-pass piping has been included on the plans with the appropriate notation.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 7.

- 4. Turbidity curtain removal requirements are identified on the plans with appropriate notation.
- 5. Requirements for dewatering basin installation, maintenance, and removal were added to the plans.
- 6. The stabilized construction access detail has been added to the plans.
- 7. The additional phrase “rates indicated” has been added to the plans. The requirements of seeding, mulching, tackifying and erosion control blanket installation have been added to the plans.
- 10. Hay bales have been removed from the legend. All references to hay bales throughout the plans have been substituted with straw bales.
- 11. A legend item for BLSF has been added to the plans.

Plans (Sheet 2.0)

- 12. Noted that the BVW flags located adjacent to the proposed staging area is located around el. 103 (NGVD 29). The upstream BLSF elevation of 103.65 has been added. The floodplain is located near the C-series wetland edge. No portion of the staging area is located below the floodplain elevation.
- 13. The wetland replication area has been added.
- 14. Orange construction fencing has been added along the southern and western property boundaries (including Perlow).
- 15. A 12-foot wide permanent bar gate has been added.
- 16. The silt fence will end at the riprap and transition to a compost-filled filter sock laid on top of the riprap. The legend has been updated and details for the filter sock has been added.
- 17. The eastern access road is not being widened.
- 18. The linear footage of Bank impact (90 feet) is correct, the numbers have been broken down on the revised NOI. Page 3 of the NOI has been updated to reflect the specific measurement of the clearing impacts versus the temporary impacts to the manmade Bank.

Plans (Sheet 3.0)

- 19. Notes regarding saw cutting and control of the dust have been added.

Plans (Sheet 4.0)

- 20. Sediment controls have been redrawn to end at the face of the training wall.

Plans (Sheet 6.0)

- 21. Specifications state that the Contractor shall furnish, install and maintain the turbidity barrier with anchorage to fixed structures to prevent loss of sediment.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 8.

Plans (Sheet 9.0)

- 22. Additional fencing has been called out at the auxiliary spillway.

Plans (Sheet 10.0)

- 23. & 24. Installation and removal requirements of all cofferdam systems are identified on the plan. Turbidity barriers will be installed prior to cofferdam installation and will remain in place until all work is completed.

Plans (Sheet 11.0)

- 25. The dewatering basin has been updated to a detail used on recent projects.

Jennifer Carlino asked Mr. Bellisle if he had any questions for the Commission. Mr. Matheson asked if the proposed fencing along the property line was ok and Jennifer Carlino replied it was.

Mr. Bellisle commented he would have a Professional Land Survey done for the boundary line which abuts the Perlow property. He said he could add this to the contract as an amendment.

Motion by Ron O'Reilly to close the public hearing, seconded by Julian Kadish. Approved.

7:35 pm **Notice of Intent – (#250-949) Mark & Kristy Perry - Parcel 30 (Assessor's Map 18) - 21 South Washington Street – (cont. from the March 9, 2015)** for proposed plans to raze a house and shed and to construct a single-family house to include a septic system, utilities, driveway and grading within 100 feet of wetlands.

Documents:

1. WPA Form 3 – Notice of Intent
2. Plan entitled "Sewage Disposal Plan" 21 South Washington Street, Norton, MA prepared for Mark & Kristy Perry by Earth Services Corporation, signed by Karen D. Patneade and Michael P. Patneade and dated January 30, 2015.
3. Letter dated March 31, 2015 to Paul Patneade, Earth Services Corporation from Jennifer Carlino.

Present at the public hearing were Karen and Paul Patenaude, Engineer for the applicant. He commented that he did receive a comment letter from Jennifer Carlino but has not been able to go back to the site because of the snow. David Henry noted Jennifer Carlino had done a partial site inspection and found quite a bit of debris around the shed. Mr. Patenaude replied the shed and debris are proposed to be removed.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 9.

Jennifer Carlino asked about the green return receipt cards and Ms. Patenaude replied that she did not receive any back from the post office. She noted that she may have forgotten to put her return address on them.

Jennifer Carlino stated she would prepare a draft Order of Conditions for the next meeting of Monday, April 13th and will try to do a site inspection before the meeting. She noted if she does the inspection, the Commission can close the public hearing and the Order of Conditions can be approved that evening.

Motion by Ron O'Reilly, to continue the public hearing to the next regular meeting of Monday, April 13, 2015, seconded by Julian Kadish. Approved.

7:40 pm **Notice of Intent - (#250-950) Bernard Marshall, Norton Water/Sewer Department - Parcel 93 (Assessor's Map 17) Fillmore Drive – (cont. from the March 9, 2015 mtg.)** for proposed plans for a Town Center Sewer Project consisting of 1,700 linear feet of 15-inch PVC gravity sewers and appurtenances, 5,300 linear feet of 6-inch and 8-inch PVC force mains and one suction-lift pumping station within 100 feet of wetlands.

Documents:

1. WPA Form 3 – Notice of Intent
2. Draft Stormwater Pollution Prevention Plan (SWPPP)
3. Expanded Environmental Notification Form
4. Letter dated February 2, 2015 from Brona Simon addressed to John Felix, Deputy Associate Commissioner, Mass DEP
5. Letter dated March 5, 2015 from Jennifer Carlino to Steven Pedersen, Weston & Sampson Engineering, Inc.
6. Plan entitled "Town Center Pumping Station Site Plan and Details" prepared by Weston & Sampson, signed and stamped by Steven Pedersen and dated February 23, 2015.
7. Plan entitled "Fillmore Drive STA 0+00W to 5+40W, Fillmore Drive STA 0+00E to 6+50E" prepared by Weston & Sampson, signed and stamped by Steven Pedersen and dated February 23, 2015.
8. Plan entitled Town of Norton, MA Needs Area 6 Conceptual Wastewater System Layout-Resource Area Impacts dated January, 2015.
9. Letter dated March 11, 2015 from the Division of Fisheries & Wildlife.
10. Letter dated March 11, 2015 to EOEEA from Jennifer Carlino
11. Letter dated February 25, 2015 from the Mass Historical Society

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 10.

13. Plan entitled “Needs Areas 2 & 3 Conceptual Wastewater System Layout-Resource Area Impacts, Weston & Sampson, Figure 5-1, January, 2015.
14. Plan entitled “Needs Area 6 Conceptual Wastewater System Layout-Resource Area Impacts, Weston & Sampson, Figure 5-2, January, 2015.
15. Plan entitled “Needs Areas 7 Conceptual Wastewater System Layout-Resource Area Impacts, Weston & Sampson, Figure 5-3, January, 2015.
16. Plan entitled “Needs Areas 4 Conceptual Wastewater System Layout-Resource Area Impacts, Weston & Sampson, Figure 5-4, January, 2015.
17. Letter dated March 10, 2015 to Page Czepiga, MEPA from Fran Yanuskiewicz, Weston & Sampson .

Present at the public hearing were Bernard Marshall, Norton Water/Sewer Superintendent, Steve Pedersen, Weston & Sampson, Gary Pavao, Wheaton College, and John Platz.

Mr. Pedersen proceeded to address the comments of Jennifer Carlino’s comment letter dated March 5, 2015 as follows;

- 1. A wetland site inspection will be performed as soon as whether permits.

NOI

- 2. There will be no work within the 100-year floodplain.
- 3. A Certified Abutters list has been submitted.

Storm water checklist

- 4. A 1-inch water quality volume was used for the BMP sizing as shown in the storm water report.
- 5. Appendix E has been revised to show how the project meets the performance standards.

Storm water report

- 6. The storwater report has been revised and includes a section on the use of LID.
- 7. Soil boring log B-4 has been added to the revised Appendix E.
- 8. Additional BMP measures were incorporated into the design of the stormwater management system for the pump station site. Pretreatment of 44% reduction in TSS will be achieved before the leaching basin.

Construction-term pollution prevention

- 9. Revisions to the construction term pollution prevention plan and operation and maintenance plans have been made.
- 10. Under the EPA Construction General Permit Process, a SWPPP is not required if less than an acre of property is disturbed.

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 11.

- 11. Section 01570 Environmental Protection specifications have been revised.

Jennifer Carlino commented that she would have a draft Order of Conditions ready for the next meeting so the public hearing can be closed and the Order of Conditions can be approved in the same evening.

Motion by Julian Kadish to continue the public hearing to the next regular meeting of Monday, April 13, 2015, seconded by Dan Pearson. Approved.

7:45 pm Discussion: DOT – deminimis decision request

Members reviewed a draft letter. Lisa Carrozza was not at the meeting but emailed to say she supported it, particularly item #2 on storm water quality at the bridge and that the town should be able to provide comments at the 75% design. Motion by Ron O'Reilly, seconded by Julian Kadish to send letter as drafted. David Henry will come in to sign it.

OLD BUSINESS

ALI proposal comments - Members reviewed a draft letter of comments from the public meeting. Motion to send letter as drafted by Ron O'Reilly, seconded by Julian Kadish. Approved.

Violations: no action with the snow

195 East Main Street
90A Freeman violation
East Hodges Street – Fred Bottomley
Alder Road
12 Forest Lane
7 Todd Drive
14 Laura Lane
243 So. Worcester Street
241 Dean Street
5 Sailors Lane

Norton Conservation Commission
Monday, March 23, 2015
Minutes, Page 12.

NEW BUSINESS

Budget Supplement: \$474.48 from WPA Fund/STM. This is for Phyllis Bernard to stay late two Mondays a month until June 30 to try to catch up on minutes. This requires town meeting vote to supplement this year's budget and will use Wetland Protection Fund to do it.

Watershed Policy
Reservoir Update
Report from Staff
Site visits

Waterbodies Committee update - public hearing is scheduled for 3-31-15 at 7pm at the cable station, 184 W Main st.

Draft Dock Guidance

Wetland Protection Fund - Town Manager requested a transfer of \$8,000.00 from Wetland Protection Fund to the General Fun. Members discussed the amount of funds transferred last year and whether this was typical. Motion by Julian Kadish, seconded by Ron O'Reily, to approve the transfer. Approved.
Grants

Open Session (topics not reasonably anticipated 48 hours in advance)

Jennifer Carlino noted that the Wheaton appeal with DEP is scheduled for 4-1-15 at 10:45am on-site.

The meeting adjourned at 9:15pm.

Minutes Approved by Committee on: _____
(Date)

Respectfully submitted,

Signature:

(Name)

Chairman, _____