



# TOWN OF WINTHROP CONSERVATION COMMISSION

Town Hall 1 Metcalf Square Winthrop Massachusetts 02152 Telephone: (617) 539-5821 Fax: (617) 846-5458  
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## MINUTES OF MEETING 7:30 P. M. – October 26, 2011 Joseph Harvey Hearing Room Winthrop Town Hall

**Members in Attendance:** Mary Kelley, Chairperson, Stephen Machcinski, Norman Hyett, Kristine Dow.

**MINUTES OF MEETING** – VOTE to approve October 12, 2011 Minutes of Meeting; Norman Hyett, Motion to approve; Stephen Machcinski, 2<sup>nd</sup> the Motion, **UNANIMOUS VOTE.**

**CERTIFICATE OF COMPLIANCE SITE VISIT** – Karen & Maureen Fidler, 516 Pleasant Street – Site visit has been re-scheduled.

**VIOLATION NOTICE – John Crosby, Jr., JC's Landscaping** – Discussion was held regarding notification to John Crosby, Sr. several weeks ago. A site visit will be conducted at the Belle Isle Marsh violation site. The Commission further discussed and voted on the issuance of a fine effective October 28, 2011 if area had not been cleaned up before a site visit has been conducted as Mr. Crosby had been given enough notification. **VOTE:** Motion by Norman Hyett - Contingent upon conditions that exist now, if violation still occurs, then a fine of \$100.00/day will be imposed effective October 28, 2011; Stephen Machcinski, 2<sup>nd</sup> the Motion. **UNANIMOUS VOTE.**

**Moscato, 69 Pebble Ave.** – Discussion regarding deck/dock constructed by former owner without prior issuance of any Wetland permits – A Notice of Intent will need to be filed by current owner in order for all proper permits from Massachusetts Division of Wetlands & Waterways and the Winthrop Conservation Commission to be issued. No further work can be conducted on the deck/dock.

**Federico, 59 Pebble Ave.** – Discussion regarding violation letter from the Commission mailed to Mr. & Mrs. Federico. No response as of this date. The Commission will hold any further discussion until Mr. & Mrs. Federico has responded to their letter.

**Baldi, 33 Nahant Ave.** – Construction update – postponed until next scheduled meeting.

**Winthrop Boat Yard** – Discussion regarding request made by applicant's attorney, James Cipoletta, requesting an Order of Conditions be issued for his client. The Commission stated that a letter be mailed to Mr. Cipoletta stating that an Order of Conditions cannot be issued until further information regarding the issuance of an MWRA 8M permit has been submitted in writing to the Commission as requested at the Public Hearing held September 8, 2010.

**Winthrop Golf Club** – Discussion regarding letter to the Club. Club has not responded as of this date.

**Nautilus Condominium Association** – Discussion regarding response received from Chairperson of the Nautilus Condominium Association. No further action taken. A copy of applicant's letter is on file with Town Clerk and applicant's folder.

**DEBRIS STORED ON TOWN PROPERTY** - Discussion was held regarding debris stored on Town Property that is within the resource area of Winthrop. During a site visit for an applicant, the Commissioners at that site had also observed several other properties where owner is storing various types of debris including hazardous materials on Town property, within the wetland areas, adjacent to their own property. A letter is to be mailed to homeowners requesting removal. A site visit will be conducted and further discussion will be made regarding the issuance of fines.

**FT. BANKS ACCESS ROAD SITE VISIT** - Discussion was held regarding a site visit to the proposed project site. In attendance was Mary Kelley, Chairperson, Commissioners Norman Hyett & David Girard. Also in attendance were Steven Calla, Acting Public Works Director, James Lyons, GEOD Consulting Senior Project Engineer and a Wetland Scientist from GEOD Consulting.

**NEXT SCHEDULE MEETINGS DISCUSSED** - The November 9, 2011 meeting will still be held if the Town of Winthrop representatives for the Ft. Banks Access Road have not submitted any further information. The Commission will schedule and discuss all current General Business.

**OLD ORDER OF CONDITIONS** - Discussion regarding the Order of Conditions issued for the construction of the current Dept. of Public Works Building, Ft. Banks School and additional parking spaces for the school. The Commission finds that they do not have a record of these conditions being filed at the Registry of Deeds as required by the Commonwealth of Massachusetts, Dept. of Environmental Protection Wetland Protection Act. Also including in the research, the Commission did find that the Order of Conditions for the Cummings School had been filed at the Registry of Deeds but a Request for a Certificate of Compliance has not been submitted.

A letter to be mailed to the Town Manager, Supt. Of Schools and Town Council requesting that they investigate with the Registry of Deeds any recordings of the original Order of Conditions. If none found, they must proceed to have this process completed.

**SECRETARY SALARY** – Discussion regarding the Commissions secretary, Marsha Allen, unable to submit a salary request from January 1, 2011 to current. Mrs. Allen had previously explained that there is a discrepancy in what her records indicate and what the Accounting Dept. indicates. According to the Accounting Dept. balance currently there is not enough money to pay all of her salary. The Commission would like a letter to be sent out to the Town Manager requesting an audit of their records to verify.

As a note for the record, the salary and all expenses are paid from the fees collected from the applicants. Due to the current economy, submittal of applications, have slowed down. Note – There is no fee required for an application submitted by a municipality.

**FRIENDS OF BELLE ISLE MARSH** – Barbara Bishop and Gail Miller, members of the Friends of Belle Isle Marsh were in attendance and discussed many of their activities and issues. Also discussed was the observance of an old dock that was towed into the Belle Isle Creek and abandoned. The Friends are in process of trying to locate owner of this dock.

MEETING ADJOURNED 9:15 P.M.

Town Of Winthrop  
Conservation Commission  
Town Hall,  
Winthrop, Ma. 02152

10-14-2011

Dear Conservation Commissioners,

The Nautilus Condominium Association is in receipt of your letter dated October 7, 2011 requesting an update on the maintenance painting and repair work that was included in the March 9, 2011 determination of Applicability for the Nautilus Condominium Association.

The Associations attorney, Mr. Robert Indresano, contacted the commission on April 22, 2011 and later spoke with the chairperson, Ms. Mary Kelley. Mr. Indresano indicated in his attached letter that Ms. Kelley agreed that the Association did not have to seek permission from the Winthrop Elks in order to maintain and repair its property where necessity required it.

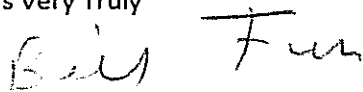
In addition, The Building inspector, Mr. James Soper informed the association that MGL Chapter 266 also allows us to enter on lands of abutters to make necessary repairs without constituting trespass.

The abutters were notified and the Nautilus Contractor expedited the work on this project. For all intents and purposes the work was completed on this small project before receiving the cease and desist letter from Con Com.

The Association does not intend to resume working on this specific project.

Should the association decide to proceed with any additional maintenance or repair work that might possibly impact the wetlands the Association will reapply to the Conservation Commission for a new determination of Applicability.

Yours Very Truly

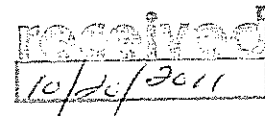


Bill Frazier, Chairman

Nautilus Condominium Association  
247 Washington Ave.  
Winthrop, Ma. 02152

Enc: Indresano Letters 4-22-2011, 4-28-2011  
Con com 10-7-2011

Cc: James Soper Winthrop Building Inspector,  
James McKenna, Town Manager



**ROBERT A. INDRESANO**  
**ATTORNEY AT LAW**

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April 28, 2011

William Frazier  
Nautilus Condominium  
247 Washington Avenue  
Winthrop, MA 02152

Dear Mr. Frazier:

Enclosed please find a copy of the letter that I sent to the Conservation Commission. I spoke to Mary Kelley and she agreed with me. I am putting the contractor on notice that the Commission will be watching for cement and paint going into the water/ocean.

I believe that an actual start date for the work should be given to the abutter and to the Elks.

You are able to proceed with the work; however, to make things amicable, I would follow my suggestion. I can notify the parties.

Very truly yours,

  
Robert A. Indresano

RAI/kg  
Encl.

50 MERIDIAN STREET  
BOSTON, MASSACHUSETTS 02128  
(617) 569-2016  
FAX (617) 567-6091

**ROBERT A. INDRESANO**  
**ATTORNEY AT LAW**

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April 22, 2011

Winthrop Conservation Commission  
Attention: Mary Kelley  
Town Hall  
1 Metcalf Square  
Winthrop, MA 02152

RE: Nautilus Condominium Association  
247 Washington Avenue

Dear Ms. Kelley:

This office represents Nautilus Condominium Association regarding painting and maintenance to their building by Specialty Painting Services, Donald Falzarano.

It my understanding that the Condominium has an easement by necessity to maintain and repair their building. Many law cases in the Massachusetts Courts have decided this issue.

For the past 40 years the Condominium has been repairing and maintaining their building on the water side without any incident or complaint. They have an easement by necessity and prescription that does not require a writing..

I dispute the need for permission from the Winthrop Elks for the Condominium to maintain and repair its property where necessity requires it.

It is my understanding the contractor will have proper insurance.

Very truly yours,

Robert A. Indresano

cc. Town Council  
Town Manager

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