

**MARION BOARD OF SELECTMEN  
WATER/SEWER COMMISSIONERS  
August 7, 2012**

**MEMBERS PRESENT:** Stephen Cushing, Chairman  
Jonathan Henry  
Jonathan Dickerson, Clerk

**ALSO PRESENT:** Paul Dawson, Town Administrator  
Sherman Briggs  
Norman Hills  
Rob Zora  
Vin Malkoski  
Wendy Carreau  
John Cederholm  
Steve Gonsalves  
Mike Cronin  
Mike DeCicco (Standard Times)  
Jennifer Heshion (Sippican Week)  
Katy Fitzpatrick (The Wanderer)  
Debra Paiva, secretary

The meeting was held at the Police Station and called to order at 7:00 p.m. Mr. Cushing announced that the meeting would be video recorded by ORCTV and audio recorded by Town of Marion staff. A list of the materials reviewed at the meeting shall be attached to these minutes.

**Approval of Meeting Minutes**

Moved by Mr. Dickerson and seconded by Mr. Henry to approve the minutes of the July 10, 2012 and July 24, 2012 meetings. VOTE: 3-0-0

**APPOINTMENTS**

**Conservation Commission – Discussion regarding Sprague’s Cove**

Sherman Briggs and Norman Hills of the Conservation Commission were present for this discussion. Mr. Briggs said the commission members were appointed stewards of the lagoon and it has not been maintained as required. The Commission hired a service to remove the trees and phragmites prior to evaluating whether the dikes have been damaged or compromised by the trees. The evaluation was done by Coastline Engineering and once the report is received the Commission will inform the Selectmen of the findings. The project has cost \$12,000 up to this point and has been funded with private donations. Mr. Cushing agreed that the project has not been maintained; Mr. Briggs said the Commission will be requesting an annual budget line item to be used for maintenance.

The following concerns were discussed:

**Responsibility for maintenance of the project**

Mr. Dawson explained that the original Order of Conditions (OOC) issued by the Conservation Commission did not contain a management plan. In 2000 a Certificate of Compliance (COC) was issued and it did not indicate that there were any continuing conditions. Because there was no named manager or condition listed the Conservation Commission is not responsible for maintaining the project.

### **Permitting**

A number of permits that appear to be required were not obtained.

### **Procurement**

Mr. Dawson stated that no procurement was done, no contracts were signed, no prevailing wage sheets were requested but as far as he can tell prevailing wages were paid. If the project was paid for with private funds it would have required a vote of the Selectmen to accept the funds as a gift for a restricted purpose, the Town would have received the funds and then done the proper procurement and paid the contractor ultimately hired; none of this was done. If the contractor was paid with the private funds it would be an additional violation of the procurement law. Mr. Dawson asked if the contractor has been paid and was told no.

### **Function of the system**

An email from John Rockwell dated July 31, 2012 was reviewed and discussed. Mr. Rockwell inspected the site with Bernie Tabor, one of the project designers, and more than a year ago they determined after a site inspection that the lagoon was functioning as intended and no work was needed. They stated that as of today none of the work that has been done will enhance or hurt the operation because it was working anyway. Mr. Hills said a maintenance plan was updated in 2007 and questioned why the Conservation Commission was never informed of the inspection done last year. Mr. Briggs said the original agreement for the project states that no invasive species would be allowed to grow and also that it would be maintained.

### **Project status/Resolving outstanding issues**

Mr. Zora asked what the status was of the project at this point and said it needs to be smoothed out, re-grassed, and the fence needs to be put back up. Mr. Dawson explained that in addition to the procurement process there are two issues to be resolved – determining which, if any, permits are required and determining who is responsible for the land. He said in 2008 Town Meeting transferred control of the parcel to the Recreation Department. Mr. Zora described the confusion he has experienced when getting direction needed to maintain the area. Mr. Briggs told the Selectmen he will provide them with the original design and maintenance program for the lagoon; he said it clearly states that the Conservation Commissioners are the stewards and it also clearly states that no invasive species are to grow in the lagoon. Mr. Cushing said the fence is a liability and asked if the DPW could replace the fence; he was told Marion Fence will be doing that work. Mr. Dawson stated that any project done on public land requires the procurement process even if private funds are used for the project. Mr. Cushing asked Mr. Briggs and Mr. Hills to work with Mr. Dawson to resolve the issues. Mr. Dawson

requested that the contractor not be paid at this point until an agreement has been developed.

## **ACTION ITEMS**

### **Reappointments**

Moved by Mr. Henry and seconded by Mr. Dickerson to move the slate for the reappointments of: Rico Ferrari, CPIC; Joan Hartnett-Barry, Marion Pathways Committee; Jane McCarthy, Marion Scholarship Education Fund Committee; Neal Balboni, Town House Advisory Committee. VOTE: 3-0-0

### **New Appointments**

Moved by Mr. Henry and seconded by Mr. Dickerson to move the slate for the appointments of: Frank McNamee, Trudy Kingery, Joan Asker, Council on Aging; Elizabeth Brainard, Marion Scholarship Education Fund Committee; Steve Grima, Water Committee; Laurie Fearing, Steve Gonsalves, Parks/Tree Committee. VOTE: 3-0-0

### **Sign 2012 State Primary warrant**

The warrant was read into the record.

Moved by Mr. Henry and seconded by Mr. Dickerson to approve. VOTE: 3-0-0

### **Discuss policy and application for rental of Music Hall**

A policy and draft Music Hall rental application were discussed; they have been reviewed and approved by Town Counsel.

Moved by Mr. Henry and seconded by Mr. Dickerson to accept the draft copy of the policy and application. VOTE: 3-0-0

Subsequent to the vote the Board agreed that a bylaw regarding the consumption of alcohol on Silvershell Beach will be submitted to the Fall Special Town Meeting.

### **Discuss request regarding private parking lot at the General Store**

At the last meeting the Board reviewed a letter from John Ludes, owner of the Marion General Store parking lot. Mr. Dawson's research revealed that the 2001 Special Town Meeting ratified a five year lease agreement between the Board of Selectmen and the parking lot owners. For that five year period the Town maintained the parking lot and the rental fee was the value of that year's real estate tax plus one dollar. The lease expired in 2006 and was not reviewed; Mr. Ludes is now requesting that the Town contribute to the cost of repairs. However, each year the Board of Assessors has decided that the lot supports public parking and parking for Village businesses and the annual property taxes have been reduced by approximately 90%. It was agreed that Mr. Ludes will be invited to the August 21 meeting to discuss the request.

### **Discuss Notice of Intent to Sell Chapter 61A land, Map 2, Lot 19**

The Notice has been reviewed by Town Counsel and meets all of the requirements of the statute. The owners plan to sell a 1532 square foot strip of land to an abutter.

Moved by Mr. Henry and seconded by Mr. Dickerson to decline the right of first refusal. VOTE: 3-0-0

**One day all alcohol license – VFW #2425, Clam Bake, August 12, 12:00 noon – 6:00 p.m.**

Moved by Mr. Dickerson and seconded by Mr. Henry to approve. VOTE: 3-0-0

**Discuss memo from Norman Hills regarding Wendy Carreau’s resignation as full member of Conservation Commission and request that she be appointed Associate Member**

Mrs. Carreau has resigned as full member of the Conservation Commission and offered to serve as an Associate member. Mr. Hills has submitted a memo recommending her appointment as Associate member.

Moved by Mr. Henry and seconded by Mr. Dickerson to accept the resignation and also to appoint Mrs. Carreau Associate Member. VOTE: 3-0-0

**Discuss request for appointment to Conservation Commission – Steve Gonsalves**

Mr. Cushing said the Board attempts to avoid having individuals serve on one more than one regulatory board but acknowledged the difficulty in filling vacancies on the Conservation Commission.

Moved by Mr. Dickerson and seconded by Mr. Henry to appoint Steve Gonsalves as a member of the Conservation Commission. VOTE: 3-0-0

**Discuss Chief Miller’s request to appoint Derryl Lawrence student officer**

Moved by Mr. Henry and seconded by Mr. Dickerson to appoint Derryl Lawrence student officer effective September 14, 2012. VOTE: 3-0-0

**Accept donation to Marion EMS from Gunter Suckert, Executor**

Mr. Dawson has been notified that Marion EMS has been named a beneficiary in the will of Arline Hoyle; a motion is required to accept the gift in the amount of \$69,511.13.

Moved by Mr. Henry and seconded by Mr. Dickerson that the Board of Selectmen vote to accept with gratitude and appreciation, the gift from the Estate of Arline J. Hoyle in the amount of \$69,511.13 for deposit in the Town of Marion’s EMS donation account, as requested by Ms. Hoyle and as contained in her Will, wherein Ms. Hoyle named the Town of Marion’s EMT services as a ten percent residual beneficiary of her estate and authorize the Town Administrator to take all steps necessary and execute all documents necessary, to obtain said funds and deposit the same in to the Town of Marion’s EMS donation account. VOTE: 3-0-0

## **TOWN ADMINISTRATOR REPORT**

**Buzzards Bay Coalition letter regarding NPDES permit renewal (7/27/12)**

Mr. Dawson has received a copy of a letter sent by the Buzzards Bay Coalition (BBC) to the U.S. Environmental Protection Agency (EPA) regarding the Town of Marion NPDES permit currently under review. The BBC is requesting that a condition be imposed prohibiting untreated sewage being sent to the lagoon system. Mr. Dawson said he has forwarded the information to CDM Smith for review and there will be ample opportunity for the Town to enter into discussion regarding the Horsley Witten Group report.

**Update on H4188 – “An Act Regarding the Town of Marion Open Space Acquisition Commission”**

The bill regarding the composition of the Open Space Acquisition Commission currently is under review by House Counsel; after review it will be sent to the State Senate and then to the Governor.

**Update on Natural History Museum ceiling collapse/Museum upcoming after school programs**

Mr. Dawson said the clean-up is done and he has been authorized by the insurance company to move forward with repairs. A local contractor has contacted Mr. Dawson and offered to do the repairs at a reduced rate but State law will not allow that unless there was no cost at all to the Town. An RFP will be issued and if the contractor is qualified and submits the lowest bid it can be accepted. Mr. Henry said he would not feel comfortable without having a set of engineered specifications for the job. Mr. Dawson said he will make that request but the insurance company probably will not agree to pay for engineering; payment will be for construction of a ceiling that meets current code, and Town Meeting vote would be required to pay for engineered specifications.

Vin Malkoski of the Natural History Museum Board of Directors has submitted an email request to allow the Museum use of the Atlantis Drive facility for upcoming after school programs. The dates requested are October 10, October 24, November 14, and December 12, from 3:30 p.m. to 4:30 p.m. The Board had previously granted the Museum approval to use one room of the facility during the summer in the event of inclement weather and the Museum is asking for an expansion of the use. The COA recently requested use of the room for an exercise class and agreed to cancel the class in the event of rain. Mr. Dickerson recommended the use of the Sippican School Community Room and Mr. Cushing said if the Community Room is not available the Board will do its best to accommodate the Natural History Museum. It was agreed that Mr. Dawson will submit a facility use request form to the Superintendent of Schools.

**Greater New Bedford United Way Food Drive (September 10 – September 14)**

The Greater New Bedford United Way is planning to conduct a food drive and requested approval to place a food donation box in Town Hall during the week of September 10 – September 14.

**CORRESPONDENCE**

Reading of the correspondence into the record was waived with the following exceptions:

**#19 – 5 Sparrow Lane**

Manny & Anabel DeCosta have submitted a request to allow outside watering. They recently purchased a new home and were in the process of replacing the lawn when they were made aware of the water restrictions.

Moved by Mr. Henry and seconded by Mr. Dickerson to approve the request. VOTE: 3-0-0

**#3 – Letter from FEMA validating previously issued Letters of Map Change (7/12/12)**

The Town has been notified that Letters of Map Change (LOMC) previously issued by FEMA have been revalidated and will remain in effect until superseded by a map revision. Enclosed with the correspondence from FEMA was a list of the properties that were issued LOMC.

**#4 – Memo regarding Board of Health reorganization**

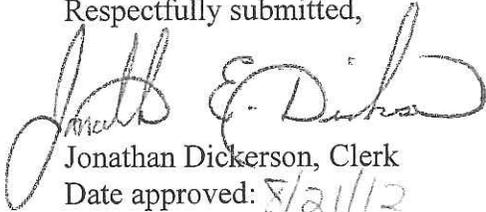
The reorganization memo was read into the record.

**Employee/Committee Appreciation Events**

Mr. Dawson said the appreciation events were well received and hopefully they will become annual events.

Moved by Mr. Dickerson and seconded by Mr. Henry at 8:45 p.m. to adjourn. VOTE: 3-0-0

Respectfully submitted,



Jonathan Dickerson, Clerk  
Date approved: 8/21/12

08-22-12 09:17 RCV

**MARION BOARD OF SELECTMEN  
WATER/SEWER COMMISSIONERS**

**DOCUMENTS REVIEWED AT MEETING – August 7, 2012**

Meeting minutes – July 10, 2012, July 24, 2012  
Email from John Rockwell regarding Sprague's Cove site inspection (7/31/12)  
List of committee reappointments  
List of new appointments to committees  
2012 State Primary warrant  
Proposed policy and application for rental of Music Hall  
Letter from John Ludes and tax information related to the General Store parking lot  
Notice of Intent to Sell Chapter 61A land, Map 2, Lot 19 (7/17/12)  
One day alcohol license – VFW #2425 (8/12/12)  
Memo from Norman Hills regarding resignation of ConCom member Wendy Carreau (7/27/12)  
Letter from Steve Gonsalves requesting appointment to ConCom (8/1/12)  
Memo from Norman Hills supporting Steve Gonsalve's request for appointment to ConCom (8/3/12)  
Memo from Chief Miller requesting that Derryl Lawrence be appointed student officer (8/3/12)  
Letter from Arthur Hassett regarding donation to EMS (7/17/12)  
Copy of letter to EPA from Buzzards Bay Coalition regarding Town of Marion NPDES permit renewal (7/27/12)  
From Rep. Straus – copy of petition regarding the Open Space Acquisition Commission  
Memo from Vin Malkoski regarding Natural History Museum upcoming after school program (8/3/12)  
Letter from Sippican Lands Trust regarding parcels known as Aucoot Woods (6/26/12)  
Memo from Alewives Anonymous, Inc. regarding 2012 herring counts (7/5/12)  
Letter from FEMA validating previously issued Letters of Map Change (7/12/12)  
Memo regarding reorganization of Board of Health (7/13/12)  
Email from David Pierce regarding Committee Appreciation event (7/12/12)  
Notice from xfinity regarding digital network enhancement (7/18/12)  
Notice from xfinity regarding channel lineup changes (7/20/12)  
Email from Tinker Saltonstall regarding Committee Appreciation event (7/23/12)  
Copy of letter from Rep. Straus regarding Council on Aging passenger van (7/20/12)  
Notice of Bay State Roads training seminar  
Memo regarding reorganization of Conservation Commission (7/27/12)  
Memo from MMA regarding Legislature's energy bill (7/30/12)  
Letter from Mass. DOT regarding FY13 Chapter 90 funds (7/31/12)  
Memo from MMA regarding Clean Energy Generation and Energy Efficiency webinars  
Notice of Availability of Draft Environmental Assessment regarding Buzzards Bay Regulated Navigation Area (undated)  
Notice from xfinity regarding program changes (7/30/12)  
Application for appointment as Constable – William J. Alphonse  
Mass. DOT South Coast Rail update/Open House invitation  
Request to allow outside watering for new lawn – 5 Sparrow Lane (8/7/12)  
Common Victualler license application – Hangman Coffee Hut, 119 Wareham Street

**RECEIVED FROM OTHER BOARDS & COMMISSIONS**

Conservation Commission meeting agenda (7/25/12)  
Conservation Commission meeting agenda (8/9/12)