

FINAL

**MARION CONSERVATION COMMISSION**

MINUTES OF THE REGULAR MEETING HELD ON APRIL 22, 2015

Members Present: Norman A. Hills, Chairman  
Joel D. Hartley, Vice Chairman  
Cynthia C. Trinidad, Associate  
Jeffrey J. Doubrava, Clerk

Members Absent: Stephen C. Gonsalves, Member  
Lawrence B. Dorman, Member

Admin. Assistant: Donna M. Hemphill

Others Present: Angela Watson, 16 Vine Street; Sidney Bowen, 16 Vine Street;  
Richard Patten 840 Point Road; Shaun Patten 840 Point Road;  
Richard Patten, Jr., 840 Point Road; Don Lewis, 7 Vine Street; Dave  
Jenney, 818 Point Road; Nick Dufresne, TFI; Mike Pierre, 30 Jenney  
Lane; Warren Ferguson, 12 Jenney Lane; Kevin Mariner, 644 Point  
Road; Thomas Figueiredo, 631 Point Road; Dan & Tapper Crete, 69  
Holmes Street; Ron & Virginia Sundberg; Michael Jardin, Michael  
C. Jardin Fine Gardens; Carolyn Duff, 13 Jenney Lane; Dan Cosby,  
Dartmouth Pool & Spas; Dave Davignon, Schneider & Associates;  
Heidi Kostin, 167 Cross Neck Road.

Meeting convened at 7:00 PM on Wednesday, April 22, 2015 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were held on Saturday, April 18, 2015 by J. Doubrava and N. Hills. This meeting was televised and video recorded by Old Rochester Community Television (ORCTV), and audio recorded by Town of Marion staff.

**7:00 PM**      **The Cove in Marion Trust**- Notice of Intent (File No. SE 041-1228), to create habitat areas for Diamondback Terrapin and Eastern Box Turtles. Dave Davignon of Schneider & Associates was present to represent The Cove. D. Davignon described the project. He mentioned that this project was presented to the board in the preliminary stage a few months back. Since then they have had the Wetland Resource Areas delineated by LEC Environmental. It is Town of Marion land and a portion of the land that is owned by The Cove. The Eastern Box Turtle habitat will consist of the field that will be mowed periodically,

45 noting on the plan where the mowing would take place. He noted there are some cedar  
46 trees in the northeasterly corner to be removed where the 2,000 sq. ft. "sandbox" habitat  
47 would be located. The project would be performed within the Buffer Zones of the saltmarsh  
48 area and the Wetland Resource Area. There will be silt fences installed around the sandbox  
49 area prior to any construction. D. Davignon said the access for excavating the 2,000 sq. ft.  
50 habitat would be through the wooded road just north of the gravel path. They had  
51 updated the plan to show the new access point which is off of Jenney Lane. He said that  
52 all excavated material would be loaded into dump trucks and removed off site. They  
53 would then bring in clean, coarse sand and put in an 8 inch sand bedding material at a  
54 more level slope. There will be a post and rope fence around the sandbox as well as two  
55 signs. D. Davignon noted that the signs were an addition to the original plan. He  
56 mentioned the memo received from Natural Heritage that suggested the post and rope  
57 fence go around the perimeter of the sandbox habitat area. Initially the plan showed the  
58 fence along the easterly and northerly sides. D. Davignon said that the project should be  
59 finished fairly quickly, possibly within a few days. He mentioned the "mowing language"  
60 was given to them by Don Lewis. D. Lewis has worked with them on the proposed mowing  
61 pattern; would start in the center of the area and would be done in a circular pattern so  
62 any of the turtles can move away toward the outer edges. D. Davignon noted that Natural  
63 Heritage approved the mowing of the meadow and that it was in compliance with typical  
64 vegetation management. He also noted that they have received a file number from the  
65 DEP and that there were positive comments listed. N. Hills asked if the sandbox is for the  
66 Diamondback Terrapins or the Eastern Box Turtles. D. Davignon clarified that the sandbox is  
67 for the Diamondback Terrapins and the Eastern Box Turtle will use the field. He said that  
68 there is evidence that the Terrapins lay their eggs right in the area where the sandbox will  
69 be located. Don Lewis is the Turtle Expert for this project and described his background  
70 and certifications. All of the work D. Lewis has done on this project has been pro bono. D.  
71 Lewis explained that The Cove was created before the Massachusetts Endangered  
72 Species Act. The Terrapin nesting area was taken over for other use. Nesting continued but  
73 has been nonviable. D. Lewis said he has been working with The Cove studying the area  
74 since 2003. They have noticed that none of the hatchlings or nests are surviving. They are  
75 trying to "right a wrong" and create a nesting habitat that was destroyed when The Cove  
76 was placed there. D. Lewis noted that the sun and sand is what the turtles need; placing it  
77 closer to the water they will not have to travel further to nest. He estimated that there are  
78 approximately 50 adult Diamondback Terrapins in Hammet's Cove and they are in danger  
79 of extinction. He said that by taking this small step the Terrapins will survive into the future  
80 without intervention by humans. N. Hills asked how many they see a year. D. Lewis said they  
81 have seen 10-15 ladies that come ashore, which he said is most likely a sampling of the

82 number. N. Hills asked if they come ashore along the whole length of the shore or just one  
83 area. D. Lewis said that they will come ashore at the one area. Since the nesting area has  
84 been disturbed they will scatter into the upland areas. The focus is to get them into a nice  
85 safe area. N. Hills asked about the type of sand noted on the plan. D. Lewis said the sand  
86 should look like the kind you would find on the beach. He said they will condition the turtles  
87 to return to this spot. If they find a nest outside of the area, they will move it into the  
88 sandbox. There are nest protectors that will be used to keep predators from the eggs. After  
89 3 or 4 years those will not be needed. J. Doubrava asked about the sandbox's location  
90 next to the walking path. D. Lewis said the reason to use this location is because that is  
91 where they have been nesting. The proximity to the walking path will not cause harm to  
92 the hatchlings, cars would, but not people. He said it is not a high traffic area. D. Lewis said  
93 they have done these turtle gardens in Wareham, Eastham, Wellfleet and Orleans, and  
94 each one has been highly successful. D. Lewis said that he has seen only a few Eastern Box  
95 Turtles. He has seen them in the lower area from the road to the water as well as strolling  
96 through the neighborhood. There are not many around anymore. He said by keeping the  
97 grass under moderate control there should be more encounters. They need to see one  
98 another. J. Doubrava asked about the importance of the "meadow" being mowed. He  
99 noted that this area has been illegally mowed a number of times over the past 15 years. D.  
100 Lewis said that keeping it low is a good thing for the Box Turtles to be able to see each  
101 other. N. Hills said the plan shows mowing to be done in the BVW area. If mowing in that  
102 area was not approved would it cause a problem for this project? D. Lewis said it would be  
103 disruptive but not the end of the world. Eastern Box Turtles nest in low grassland areas. They  
104 dig into the ground, cover up and need sunshine. That's another reason for the low grasses.  
105 D. Davignon noted that if they were unable to mow the area between the wetland band  
106 and the field to the sandbox, the sunlight to the habitat will be blocked. D. Lewis noted  
107 that the 2,000 sq. ft. size of the habitat is approximately the size of the habitat that was  
108 there before The Cove. They are essentially restoring the habitat that was there before. He  
109 said that nesting for both generally occurs between June 1 and July 15-20. The eggs take  
110 about 90 to 120 days to incubate. Terrapins lay around 13 eggs, Eastern Box Turtles around  
111 3 to 10 eggs. J. Hartley asked what is the size of the wetland area to be mowed. D.  
112 Davignon said they have proposed the entire meadow, 14, 250 sq. ft. He noted that on the  
113 plan it states that mowing is to be suspended between June 1 and July 15. The Cove will  
114 be responsible for the mowing. Mowing will occur several times a year in order to keep the  
115 grasses low. There was a question regarding a road that goes through the property to the  
116 lots beyond this area. Rich Patten of 840 Point Road (A & J Boats) was concerned how this  
117 plan could affect the future of his business, if the numbers multiply. N. Hills mentioned that  
118 this area has been designated as a turtle habitat all along and it hasn't impacted the

119 business at this point. D. Lewis said that in his opinion and experience, there is no concern.  
120 There will be a concentration of turtles focused on this one area. The populations do not  
121 increase like humans, they increase gradually. D. Lewis assured the board and R. Patten  
122 that this project will not affect his business. Kevin Mariner of 644 Point Road voiced his  
123 concerns over the potential impact on the waterways of Hammet's Cove. J. Doubrava  
124 asked about the location of the sandbox and if it could be situated further from the  
125 walkway and closer to the water. D. Lewis said that this location is within feet of where the  
126 nesting is. He has never transplanted turtles from beyond their local area. A few feet here  
127 or there will not hurt them. If it were to be moved, for example, 300+ yards away he would  
128 not be comfortable with that. D. Davignon noted that Natural Heritage has mapped all of  
129 the waterways in Marion in regards to endangered species. D. Lewis said that there has  
130 never been a case of navigation being shut down due to the Diamondback Terrapin.  
131 There was a discussion regarding the natural predators. D. Lewis noted that 1 out of 250  
132 hatchlings survive. N. Hills asked if there were any further questions, there were none. J.  
133 Hartley motioned to close the hearing; J. Doubrava seconded; voted unanimously.

134

135 **7:05 PM** LEC Environmental (hearing opened at 7:55pm), c/o Robert Korff,  
136 Request for Determination of Applicability (File No. 41D-1548), for 345 & 390 Wareham  
137 Street, to confirm boundaries of Wetland Resource Areas protected under the  
138 Massachusetts Protection Act and its implementing Regulations. (Continued from March  
139 25, 2015) The applicant has requested to continue the hearing to Wednesday, May 27,  
140 2015 at 7:05pm. J. Doubrava motioned to continue; J. Hartley seconded; voted  
141 unanimously.

142

143 **7:10 PM** Sid Bowen & Angela Watson (hearing opened at 7:57pm), Request  
144 for Determination of Applicability (File No. 41D01566), for 16 Vine Street, to replace an  
145 existing garage with a larger multi-space (3) garage and workshop/storage area. Sid  
146 Bowen was present. The property is within the flood zone. S. Bowen noted that they do  
147 have a map amendment (LOMA). The area that will be worked on is above the 15.5 ft. N.  
148 Hills asked if the foundation would be a perimeter foundation, slab on grade and one story.  
149 S. Bowen said yes. J. Doubrava noted that Bell Guzzle runs through the edge of the  
150 property and is not noted on the plan. It is not near where the garage work will be done.  
151 He said that they will not accept the plan as a wetland delineation. However, it has no  
152 impact on the garage project. N. Hills asked if there were any questions, there were none.  
153 J. Doubrava motioned to close the hearing; J. Hartley seconded; voted unanimously.

154

155           **7:15 PM**           Allison Donelan, (hearing opened at 8:02pm) Request for  
156 Determination of Applicability (File No. 41D-1567), for 22 Kabeyun Road to construct a 12' x  
157 20' deck on the rear of an existing dwelling. Nick Dufresne of Thompson Farland, Inc.  
158 represented Allison Donelan. N. Dufresne described the project. The property is within the  
159 Velocity Zone. The deck will be supported with sonotubes and posts. There will not be walls  
160 between the supports. N. Dufresne said the holes for the sonotubes will be hand dug. N.  
161 Hills asked if there were any questions, there were none. J. Doubrava motioned to close the  
162 hearing; J. Hartley seconded; voted unanimously.

163  
164           **7:20 PM**           Doris Ludes, (hearing opened at 8:06pm) Request for  
165 Determination of Applicability (File No. 41D-1568), for 57 Water Street, to remove gardens,  
166 tree, brick walkways and build new bluestone/granite path set on cement pad to door  
167 entrance; place bluestone stepping stones to brick terrace and build new entrance  
168 garden with new plant material. Michael Jardin represented Doris Ludes. He described the  
169 project. The project is located in the flood zone and is primarily revising the current  
170 garden/vegetation with newer materials. C. Trinidad asked about the type of hemlock and  
171 the type of fertilizer that will be used. M. Jardin said it is a Chinese Hemlock and it repels  
172 any scale. They organically grow all of their own material so they use organic fertilizer, no  
173 chemicals. J. Doubrava motioned to close the hearing; J. Hartley seconded; voted  
174 unanimously.

175  
176           **7:25 PM**           Jon Seibold, (hearing opened at 8:11pm) Notice of Intent (File No.  
177 SE 041-xxxx), for 73 Cove Circle, to remove fallen/dead trees and underbrush within the  
178 100' wetlands buffer and outside the limit of clearing. The applicant has requested to  
179 continue the hearing to Wednesday, May 27, 2015 at 7:00pm. N. Hills motioned to continue  
180 the hearing; J. Doubrava seconded; voted unanimously.

181  
182           **7:30 PM**           Saltworks Marine, LLC, (hearing opened at 8:12pm) Notice of  
183 Intent (SE 041-1226), for 291 Wareham Street, to redevelop and existing contractor's yard  
184 into a permanent home for Boat Storage and Maintenance. (Continued from April 8, 2015).  
185 Dave Davignon represented Saltworks Marine, LLC. Dan Crete of Saltworks Marine, LLC was  
186 also present. New plans were submitted on April 21, 2015. D. Davignon said that the project  
187 was reviewed by an independent engineer on behalf of the Planning Board and there  
188 were numerous changes. Sheet 1 showed various additions such as location of houses and  
189 zoning lines. Sheet 2 showed the concrete pad now located outside of the Velocity Zone,  
190 reduction of gravel areas, grass surfaces were added as well as added vegetation. The  
191 recharge trench was changed to a rain garden. They relocated a Handicap parking spot.

192 Sheet 3 shows the buildings the same. He noted that the Quonset building would be reset  
193 only if the flood zone change occurred. There would be a new filing for that. The sheet  
194 shows phase 2, the "master plan". D. Davignon described the prep work that will be done  
195 in phase one to prepare for phase two. Grading would occur under phase one. Dirt will be  
196 removed offsite. This year's construction would include the 4,000 sq. ft. building and the  
197 concrete pad and grading as well as connecting the utilities in preparation for phase two.  
198 Sheet 4 shows all of the storm water management and underground utilities for the project.  
199 There have been just a few changes such as changes to the catch basin under the  
200 concrete wash down pad. He described how the Stormceptor units work that have been  
201 incorporated into the plan. D. Davignon described the roof run off system. Storage  
202 containers are still on the plan. J. Hartley asked if there was a note on the plan stating that  
203 the tent will not be there if the area remains a Velocity Zone. D. Davignon read aloud the  
204 note on the plan that states the Quonset structure will become permanent upon FEMA  
205 flood zone change and that a LOMA application will be submitted. D. Davignon said that it  
206 is on the plan for "master plan" Planning Board purposes. J. Doubrava expressed his  
207 concern that the wording on the plan does not state that the Quonset hut is temporary. He  
208 would like to have it listed on the plan as temporary so precedent is not set. D. Davignon  
209 suggested that it can be listed as a condition on the Order of Conditions and it is then  
210 recorded on the deed. J. Doubrava also mentioned that at a recent site inspection the  
211 board noticed fill had been added where the tent is. D. Davignon said that fill was shown  
212 on the plan for the Quonset hut. C. Trinidad asked about the driveway size and length. D.  
213 Davignon explained that they will use the curb cut as it is now, it is very useful. There was  
214 further discussion regarding the listing on the plan of the Quonset hut as a temporary  
215 building. D. Crete reiterated that the Quonset hut will be moved from the current spot at  
216 the end of May as per the current permit that is scheduled to expire at the end of May. D.  
217 Davignon stated that if the Velocity Zone does change they will come back with a new  
218 filing to ask for permission for the Quonset hut to be replaced into that location. Further  
219 discussion was had regarding the wording used on the plan; the fact that it does not state  
220 that it is a temporary structure. J. Doubrava and C. Trinidad both said that the board had  
221 previously requested that the wording on the plan state that it is temporary. C. Trinidad said  
222 that there has been a miscommunication along the line somewhere. N. Hills agreed. He  
223 said that the board can be extremely precise in the Order of Conditions regarding this  
224 building or anything within the Velocity Zone. C. Trinidad agreed. N. Hills also mentioned  
225 GAF Engineering's comments to the Planning Board and that all have been addressed. D.  
226 Davignon noted that they have filed with the EPA and have received Board of Health  
227 approval as well. N. Hills asked for a copy of the LOMA submittal for the file. N. Hills asked if

228 there were any further questions, there were none. J. Doubrava motioned to close the  
229 hearing; J. Hartley seconded; voted unanimously.

230

231 **7:35pm** **Heidi & Konstantin Kostin**, (hearing opened at 8:55pm) Notice of  
232 Intent (File No. SE 041-1227), for the installation of an 18.5" x 39' in ground gunite pool at 167  
233 Cross Neck Road (Continued from April 8, 2015). Dan Cosby of Dartmouth Pools & Spas  
234 and Heidi Kostin were present. D. Cosby presented the board with a large copy of the new  
235 plan. Since the last meeting, all of the issues were addressed including the change with the  
236 DEP and that a new notice filing is not required. There was discussion regarding the  
237 recently flagged wetland line. Both the old and the new line are listed on the new plan.  
238 The revised plan also showed the position of the shed to be relocated. N. Hills asked about  
239 the work being done near the stone wall. D. Cosby said that they will use caution while  
240 excavating. N. Hills said that what they have done has addressed what the board had  
241 asked for. N. Hills asked if there were any further questions, there were none. J. Doubrava  
242 motioned to close the hearing; J. Hartley seconded; voted unanimously.

243

244 **Doris Ludes**, J. Hartley drafted the Determination for File No. 41D-1568. Negative  
245 Determination Box #2 and #3. N. Hills motioned to accept as drafted; J. Doubrava  
246 seconded; voted unanimously.

247

248 **Sid Bowen & Angela Watson**, J. Doubrava drafted the Determination for File No. 41D-  
249 1566. Negative Box #2 and Box #2B stating that the wetland lines are not confirmed with  
250 this Determination. J. Doubrava motioned to accept as drafted; J. Hartley seconded;  
251 voted unanimously.

252

253 **Allison Donelan**, C. Trinidad drafted the Determination for File No. 41D-1567.  
254 Negative Box #2, condition that no walls will be constructed between the support posts. C.  
255 Trinidad motioned to accept as drafted; J. Doubrava seconded; voted unanimously.

256

257 **Heidi & Konstantin Kostin**, J. Doubrava drafted the Order of Conditions for File No. SE  
258 041-1227. Special conditions as follows: the row of boulders shall be maintained as shown  
259 on the Plan of Record, no stockpiling of materials on site, the shed shall be relocated as  
260 shown on the Plan of Record, and the wetland line is not accepted with this Order. J.  
261 Doubrava motioned to accept as drafted; J. Hartley seconded; voted unanimously.

262

263 **Saltworks Marine, LLC**, N. Hills drafted the Order of Conditions for SE 041-1226. Special  
264 Conditions as follows: No structure (permanent or temporary) shown on these plans (Site

265 Plan, Revision #3) shall be placed in the Velocity Zone, no fill or construction shall take  
266 place in the Velocity Zone, fill has been placed in the Velocity Zone and may remain until  
267 such time as a determination is made by FEMA with respect to a change in the Velocity  
268 Flood Zone location, fill in any area that remains Velocity on the property will be removed,  
269 and amount of fill to be removed will be approved by Conservation Commission to  
270 achieve original profile. N. Hills motioned to accept as drafted; J. Hartley seconded; voted  
271 unanimously.

272

273 **The Cove in Marion Trust**, J. Hartley drafted the Order of Conditions for File No. SE  
274 041-1228. Special Conditions as follows: The post and rope fence shall extend around all  
275 sides of the turtle sand nesting area as recommended by Natural Heritage, install  
276 permanent posts at BVW #1 through 9 and SM #5, 6 & 7, the BVW north of the line from  
277 BVW #7 to SM #7 may be mowed, the "meadow-field" east of the BVW line BVW #1  
278 through BVW #9 may be mowed, any mowing shall be before 20 May and after 1 October  
279 of any year, the markers (permanent posts) required shall be installed and the  
280 Conservation Commission contacted to verify installation before any mowing. J. Hartley  
281 motioned to accept as drafted; J. Doubrava seconded; voted unanimously.

282

283 Meeting adjourned at 10:08pm

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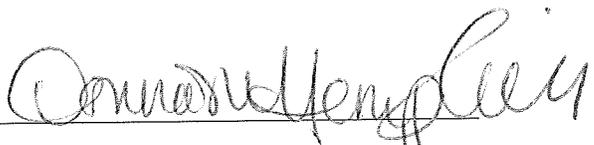
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290 Approved: May 13, 2015



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Donna M. Hemphill, Administrative Assistant

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