

MARION CONSERVATION COMMISSION

MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 26, 2016

Members Present: Cynthia Callow, Chairman
Jeffrey J. Doubrava, Vice Chairman
Norman A. Hills, Clerk
Kristen Saint Don, Member
Shaun Walsh, Associate

Members Absent: Joel D. Hartley, Member
Lawrence B. Dorman, Associate

Admin. Assistant: Donna Hemphill

Others Present: Thomas O'Shaughnessy, 353 & 354 Point Road; Richard Langevin; Yelena Sheynin, Sippican Lands Trust; Jay Myrto, CEC, Worcester; Dave Davignon, Schneider & Associates; Robin Shields, Sippican Lands Trust; Peter Jensen, Peter Jensen & Associates, LLC; Scott Hobson, Caputo & Wick Ltd.; R. Charon; C.A.I. Rochester

Meeting convened at 7:00 PM on Wednesday, October 26, 2016 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were held on Saturday, October 22, 2016 by J. Doubrava, N. Hills and S. Walsh. This meeting was televised and video recorded by Old Rochester Community Television (ORCTV), and audio recorded by Town of Marion staff.

7:00 PM **Doug Thackeray**, Notice of Intent, (File No. SE 041-1239), to construct and maintain an aquaculture project east of Stewart's Island in Sippican Harbor. (Continued from September 28, 2016) D. Thackeray is still waiting for information and requested to continue the hearing to Wednesday, November 9, 2016 at 7:10pm. N. Hills motioned to continue as requested; S. Walsh seconded; voted unanimously.

Request for comments from the Board of Selectmen for an Aquaculture License for Shea Doonan at Mitton's Flats: A memo will be sent to the Board of Selectmen advising that S. Doonan will need to file a Notice of Intent.

Minutes from October 12, 2016 were approved.

40 7:05 PM **Shea Doonan**, Notice of Intent, (File No. SE 041-1249), to construct
41 and maintain an aquaculture project off Meadow Island (Continued from September 28,
42 2016). S. Doonan sent an email and has withdrawn this Notice of Intent without prejudice.

43
44 Invoices #6959 & #7010 were approved for payment.

45
46 Request for comments from the ZBA for Case #733, DeMiranda, 10 Pumping Station
47 Road – not in our jurisdiction. A memo will be sent to the ZBA.

48
49 7:10 PM **Marion Open Space Acquisition Commission**, Request for Second
50 Amendment Order of Conditions, (File No. SE 041-1197), to replace the permitted 7'3" x
51 5'11" arch culvert with a larger 8'5 x 5'11" arch culvert and to substitute naturally found
52 bedding material for the synthetic geotextile fabric at Grassi Bog. John Rockwell, Chairman
53 of the MOSAC was present and gave a brief description of the repairs. N. Hills questioned
54 that the change to the natural bedding material did not change the cost estimate. J.
55 Rockwell said it did not. At the last meeting it was asked that the turtle habitat be identified
56 on the plan. J. Rockwell stated that an email had been sent today that included
57 information on the turtle habitat and it addressed a condition from the first Amended
58 Order concerning the auxiliary spillway. N. Hills noted that remnants of the concrete
59 structure were still in place. J. Rockwell said that it had been slated for removal but was
60 not, the invert was the correct height and it was decided to leave it there. N. Hills said that
61 the plan has been updated three times and still does not show the revised configuration. J.
62 Rockwell said that the original plan said that it was going to be removed; on the current
63 plan, that note is removed. N. Hills commented that it is frustrating with all the discussion on
64 this project we can't get the plans correct. There were no further questions from members
65 or the audience. J. Doubrava motioned to close the hearing; S. Walsh seconded; voted
66 unanimously.

67
68 7:15 PM **418 Point Road Trust**, Notice of Intent, (File No. SE 041-1253), to
69 install a well to provide water for an irrigation system for the existing manicured lawn areas
70 and to provide water to the seaward end of the pile supported timber pile at 418 Point
71 Road. Dave Davignon of Schneider & Associates was present. He said the well will be
72 installed within the buffer zone of a wetland and in a flood zone. An irrigation system for the
73 lawn is proposed and the well will provide water to the end of the pier. There will be a 350'
74 long water line from the well to the pier, the water line will then be run under the decking
75 to the end of the pier. The waterline will be installed 18" below grade and will be drained
76 at the end of every season. There is some additional utility work proposed. An underground

77 propane tank will be installed as will a generator on concrete pad. Both of these items are
78 outside of the flood zone but are within the buffer zone. A letter from NHESP stated that this
79 project will not be a prohibited take of any endangered species. This letter was attached
80 to the Notice of Intent packet. N. Hills asked about the rocks that are in the path of the
81 waterline. D. Davignon said that if the rocks were small enough they will be removed
82 otherwise they will have to install the waterline around them. He said that straw wattles will
83 be installed in either side of the path. There was a question about the existing spigots. D.
84 Davignon said that there was no plan to remove them. J. Doubrava asked about the
85 crossing of the stream. D. Davignon said the intent is to do the project in the dry season.
86 Otherwise, he explained how they will pump the water to a filter bag. N. Hills asked about a
87 pile of rocks in the wetlands near where the well is proposed. D. Davignon said that when
88 the pier was constructed these rocks were removed and stored at this location. D.
89 Davignon offered that the removal of these rocks could be included in the permit if the
90 Board wished. The intent was to clean and use these rocks for masonry work around the
91 property. There was a discussion about the rebuilding of the pier that had taken place. J.
92 Doubrava expressed his concerns about the large amounts of water that could potentially
93 enter into the wetland from the drilling of the well. D. Davignon said erosion control
94 proposed. He said they could install a double row of hay bales as well as a silt fence for
95 extra protection. They will have a licensed well driller and will need to obtain a permit from
96 the Board of Health for the well. There were no further questions for members or the
97 audience. N. Hills motioned to close the hearing; K. Saint Don seconded; voted
98 unanimously.

99

100 7:20 PM (7:33PM) **Richard Langevin**, Notice of Intent, (File No. SE 041-1252), for the
101 construction of a 24' x 18' garage onto the existing single family dwelling at 41 Parkway
102 Lane. (Continued from October 12, 2016). Richard Langevin was present. Since the last
103 meeting NHESP had responded and stated that the project will not adversely affect the
104 resource area. There were no further questions. N. Hills motioned to close the hearing; K.
105 Saint Don seconded; voted unanimously.

106

107 7:25 PM (7:34PM) **Sippican Lands Trust**, Notice of Intent, (File No. SE 041-1254, for
108 proposed construction of an accessible trail through Osprey Marsh. Scott Hobson of
109 Caputo & Wick, Ltd, Robin Shields and Yelena Sheynin of Sippican Lands Trust and Peter
110 Jenson of Peter S. Jensen & Associates, Inc. were present. S. Hobson reviewed the packet
111 that was submitted with the Notice of Intent. Peter Jensen is the designer and trail builder.
112 He reviewed in detail each page of the plan along with the construction process. The
113 boardwalk is a total of 1,145' and 4' wide. There will be a platform at the end of the trail.

114 Only pruning overhead will be done at that platform. The existing footpath can be
115 accessed by stairs by the end of the trail. Y. Sheynin stated that she maintains this path as
116 permitted. There was a discussion about the type of construction materials. There will be
117 hand excavating as everything will be carted in by hand. Large generators on wheels will
118 be used for the hammer drills. There will be some storage of materials on site at the parking
119 lot but much of it will be off site. All of the details that P. Jensen reviewed are in the packet
120 that was submitted with the Notice of Intent. The goal is to start construction next
121 September. A maintenance plan is also part of the packet. Volunteers with hand tools will
122 trim as needed and the use of herbicide is prohibited. J. Doubrava asked about erosion
123 control. P. Jensen said that there will be erosion control when hand excavating. There will
124 also be organic debris that will serve as erosion control as well. There is very limited
125 exposure time since they build and finish sections on a daily basis. The soil that it removed
126 will be scattered on the lower side. S. Hobson noted that on sheet three the erosion
127 controls are listed. K. Saint Don asked about the storage of materials. P. Jansen said that
128 the stone dust material will be covered in case of a rain event to keep as much moisture
129 out as possible and a silt fence will placed around that as well. J. Doubrava asked if the
130 Building Commissioner needs to be involved and Y. Sheynin said that she has spoken to him
131 and a building permit is not needed. J. Doubrava asked if a hand rail has been
132 considered. P. Jensen said that the boardwalk is elevated and that they are using federal
133 trail standards for designing the trail. It does not come under ADA and there are no
134 provisions for handrails in those trail standards because it is a trail. There was a brief
135 discussion regarding the construction of the boardwalk. P. Jensen said that it is 4' wide and
136 is a foot wider than minimum. There is toe rail/curbing on the sides. Robin Shields addressed
137 the issue also. She said much thought and consideration has gone into the planning of this
138 trail. Y. Sheynin mentioned that there are benches several spots along the trail. P. Jensen
139 said that when the trail crosses the intermittent stream there will be a rail in that area. Tom
140 O'Shaughnessy, 354 Point Road, an abutter, said he is very excited about this project. He
141 asked for clarification about the curbing and P. Jensen pointed out where the curbs are
142 shown on the plan. He also asked about signage. R. Shields said that they are putting signs
143 with regulations in the area. T. O'Shaughnessy reiterated his support of the project. S. Walsh
144 asked about the stairs to the existing trail. P. Jensen said that there will be stairs just before
145 the platform at the end of the trail. Since Natural Heritage has not responded to SLT's
146 request prior to this hearing, S. Hobson requested to continue the hearing. C. Callow
147 motioned to continue the hearing to Wednesday, November 9, 2016 at 7:15pm; S. Walsh
148 seconded; voted unanimously.
149

150 7:30 PM (8:12PM) **Clean Energy Collective**, Request for Certificate of Compliance,
151 File No. SE 041-1232, for the completion of the solar array and associated work off Tucker
152 Lane and Perrys Lane. Bob Rogers of GAF was present. He said they had submitted a letter
153 requesting a Certificate for Compliance. There were three areas that were different from
154 the original plan of record. The chain link fence was changed to a stockade fence along
155 the access road at the request of the Rochester Planning Board, the two retention basins
156 are slightly different locations, and not all portions of the chain link fence were installed
157 with the 6" gap at the bottom. B. Rogers and N. Hills discussed the 6" gap while at the site
158 inspection; the gap was at every fifth section. After discussing it on site, B. Rogers asked
159 that the contractor cut every other section to the 6" gap. Jay Myrto of Clean Energy
160 Collective submitted photographs prior to the meeting. B. Rogers went to the site to
161 confirm that it had been completed and it had. There was a brief discussion regarding the
162 maintenance plan. There were no further questions at that time.

163
164 7:35 PM (8:16PM) **Laurence Reinhart, Trustee – East Avenue Realty Trust**, Notice of
165 Intent, File No. SE 041-1251, to add stone to existing revetment with DEP Waterways License
166 No. 11040. (Continued from October 12, 2016). J. Doubrava recused himself and left the
167 conference room. Rick Charon of Charon Associates was present. He met with Bob Gray,
168 Professional Wetlands Specialist, of Sabatia, Inc. the day before this hearing. He described
169 his meeting. B. Gray determined that the grass at the site was cord grass and because of
170 that determination R. Charon updated the plan to show the location as salt marsh. There
171 was a discussion as to how to accomplish the removal of the rocks that will need to be
172 conducted in order to determine if other resource areas have been impacted. R. Charon
173 submitted the updated plan and the notes from the onsite visit. He reviewed the notes with
174 the Commission. He said that the septic system has not been installed so he suggested that
175 they coordinate the rock removal and the septic system installation since the equipment
176 will be on site. R. Charon said the install should be done within two to three weeks. He said
177 that the Commission will be notified 48 hours prior to the removal of the rocks so members
178 can be present. There was a discussion about the revegetation. It may naturally vegetate
179 or it may not depending on the extent of the alteration. N. Hills recommended that R.
180 Charon update the page of the Notice of Intent that includes the description. There was a
181 discussion about how to handle the permitting of the removal of the rock since the project
182 does not have an Order of Conditions. A formal restoration plan will need to be submitted
183 once the rock removal has been completed. It was decided that in order to allow the work
184 to be done an Enforcement Order will be issued to clearly state the requirements of the
185 rock removal. There were no further questions S. Walsh motioned to continue the hearing

186 to Wednesday, November 9, 2016 at 7:20pm; N. Hills seconded; voted unanimously. J.
187 Doubrava returned to the conference room.

188

189 7:40 PM (8:32 PM) **Gale Runnells**, Request for Certificate of Compliance for Order of
190 Conditions SE 041-1208, pool installation and associated work at 17 Reservation Way.
191 (Continued from October 12, 2016). Rick Charon of Charon Associates was present. N. Hills
192 referenced the previous Orders of Conditions. He reviewed the Certificate of Compliance
193 that had been issued and the continuing conditions that stated that a line of boulders
194 and/or plantings were to be placed 15' upland of the BVW. There was a discussion about
195 the conditions. R. Charon had sent a certified letter to the abutting neighbor asking for
196 permission to perform restoration work on their property. He submitted the response to the
197 Commission, no objections. There was a discussion about the previous Orders of Conditions
198 that had been issued to this property as well as how to handle special conditions once the
199 property changes ownership. There was also a discussion about historical fill which is fill that
200 was in place before the Wetlands Protection Act went into effect. Since the permission has
201 been received from the abutting neighbors, work will begin on the restoration. R. Charon
202 will notify the Commission once the work is complete so a site visit can be conducted.

203

204 7:45 PM (8:49PM) **Robert C. Nissen**, Request for Certificate of Compliance for Order
205 of Conditions, File No. SE 041-959, 28 Parlowtown Road (Continued from October 12, 2016).
206 The applicant has requested to continue the hearing to Wednesday, December 14, 2016.
207 Members agreed to continue.

208

209 7:50 PM (8:49PM) **Sippican Lands Trust**, Request for Determination of Applicability,
210 File No. 41D-1633, for the manual removal of phragmites and treatment with an herbicide
211 at the beach area as well as off the trail at Brainard Marsh on Delano. Yelena Sheynin,
212 Head Stewart of Sippican Lands Trust. She explained the areas that need to be treated.
213 They would like to remove the phragmites by hand and also spray the herbicide
214 Aquaneat. In order for Y. Sheynin to apply the herbicide she needs to be a certified
215 applicator. She is in the process of getting that certification. There was a discussion about
216 the process of removing phragmites. There were no further questions from members or the
217 audience. N. Hills motioned to close the hearing; J. Doubrava seconded; voted
218 unanimously.

219

220 7:55 PM (8:55PM) **Alexander W. & Maria M. Turnbull**, Request for Certificate of
221 Compliance for Order of Conditions File No. SE 041-396, 11 Wildflower Lane. N. Hills said that

222 members did the site visit on the previous Saturday and no issues were found. The work was
223 done as on the Plan of Record.

224

225 8:00 PM (9:00PM) **Ashley L. & Mark R. Briggs**, Request for Certificate of Compliance
226 for Order of Conditions File No. SE 041-1220, 73 Cove Circle. N. Hills said that members did a
227 site visit the previous Saturday with Lars Olson, contractor. No issues were found and the
228 project was completed as on the Plan of Record. Members asked L. Olson to submit an As-
229 Built Plan the next morning.

230

231 A letter was drafted to the owners of 320 Delano Road regarding a filing that is
232 necessary for the construction on the lot.

233

234 N. Hills motioned to issue a complete Certificate of Compliance, File No. SE 041-396,
235 for **Alexander W. & Maria M. Turnbull**, 11 Wildflower Lane. K. Saint Don seconded; voted
236 unanimously.

237

238 N. Hills motioned to issue a complete Certificate of Compliance, File No. SE 041-1220,
239 for **Ashley L. & Mark R. Briggs**, 73 Cove Circle. K. Saint Don seconded; voted unanimously.

240

241 N. Hills motioned to issue the Certificate of Compliance, File No. SE 041-1232, **Clean**
242 **Energy Collective** with the following ongoing conditions: Maintenance Plan of July 30, 2015
243 is to continue; K. Saint Don seconded; voted unanimously.

244

245 C. Callow motioned to issue the Second Amended Order of Conditions, File No. SE
246 041-1197, **Marion Open Space Acquisition Commission**, Grassi Bog; S. Walsh seconded; C.
247 Callow, J. Doubrava, K. Saint Don and S. Walsh voted to approve and N. Hills voted
248 against.

249

250 J. Doubrava motioned to issue the Order of Conditions, File No. SE 041-1252, **Richard**
251 **Langevin**, 41 Parkway Lane with an ongoing condition that a spilt rail fence shall be
252 installed; K. Saint Don seconded; voted unanimously.

253

254 C. Callow motioned to issue the Enforcement Order to **Laurence Reinhart** so that
255 work may be performed on site in order to prepare the Restoration Plan that the
256 Commission is requiring. K. Saint Don seconded; C. Callow, N. Hills, K. Saint Don and S.
257 Walsh voted to approve and J. Doubrava abstained from voting.

258

259 N. Hills motioned to issue the Order of Conditions for **418 Point Road Trust**, File No. SE
260 041-1253, 418 Point Road with several conditions listed in Appendix A; S. Walsh seconded;
261 voted unanimously.

262

263 S. Walsh motioned to issued Determination of Applicability for **Sippican Lands Trust**,
264 File No. 41D-1633, Brainard Marsh, Negative Box #3 with the following condition: Any
265 application of herbicide shall be performed by a licensed or certified wetland herbicide
266 applicator, who shall submit a copy of such certification to the Conservation Commission
267 prior to herbicide application. N. Hills seconded; voted unanimously.

268

269 Meeting adjourned at 9:45pm.

270

271



272

Donna M. Hemphill, Administrative Assistant

273 Approved: November 30, 2016

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