

# MARION CONSERVATION COMMISSION

## MINUTES OF THE REGULAR MEETING HELD ON September 28, 2016

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

Members Absent: Cynthia Callow, Chairman  
Lawrence B. Dorman, Associate

Admin. Assistant: Donna Hemphill

Others Present: Richard Langevin, 41 Parkway Lane; Brooke Monroe, 41 Parkway Lane; Jim Manganello, LEC; Shea Doonan, 78 Sarah Sherman Road, Rochester; Rick Charon, Charon Associates; John Rockwell, MOSAC; Kate Mahoney, 40 Dexter Road; Jeff Oakes, MOSAC

21 Meeting convened at 7:00 PM on Wednesday, September 28, 2016 in the  
22 conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site  
23 visits were held on Saturday, September 24, 2016 by C. Callow, J. Doubrava, J. Hartley and  
24 S. Walsh. This meeting was televised and video recorded by Old Rochester Community  
25 Television (ORCTV), and audio recorded by Town of Marion staff.

26  
27 7:00 PM **Shea Doonan**, Notice of Intent, File No. SE 041-1249, to construct  
28 an aquaculture project off Meadow Island. (Continued from July 27, 2016) S. Doonan was  
29 present and asked to continue the hearing. His hearing with the Board of Selectmen has  
30 been continued to Tuesday, October 18, 2016. J. Doubrava motioned to continue this  
31 hearing to Wednesday, October 26, 2016 at 7:05pm; N. Hills seconded; voted unanimously.

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33 Minutes from September 8, 2016 and September 14, 2016 were approved.

34  
35 The Wanderer Invoices #6985 & 6995 were approved for payment.

36  
37 Request for comments from the ZBA for Case #728, 418 Point Road Trust. They have  
38 received a Determination of Applicability for this project.

39  
40 7:05 PM **Doug Thackeray**, Notice of Intent, File No. SE 041-1239, to construct  
41 an aquaculture project east of Stewart's Island. (Continued from August 24, 2016) D.

42 Thackeray requested to continue the hearing again since he is awaiting information from  
43 the Army Corps of Engineers. N. Hills motioned to continue the hearing to Wednesday,  
44 October 26, 2016 at 7:00pm; J. Hartley seconded; voted unanimously.

45

46 Request for comments from the ZBA for Case #729, Daniel Gibbs. A Determination of  
47 Applicability has already been issued. Request for comments from the ZBA for Case #730,  
48 David Jenney - no comments, not within the Commission's jurisdiction. Request for  
49 comments from the ZBA for Case #731, Kenneth & Susan Connor - no comments, not within  
50 the Commission's jurisdiction.

51

52 7:10 PM **Richard Langevin**, Notice of Intent, File No. SE 041-1252, for the  
53 construction of a 24' x 18' garage onto the existing single family dwelling at 41 Parkway  
54 Lane. Brooke Monroe of Pinebrook Consulting was present. She explained the existing  
55 conditions. The proposed construction is within the 100' Buffer Zone of the BVW as well as  
56 within 200' from the riverfront of a perennial stream at the rear of the property. B. Monroe  
57 said that she has contacted Natural Heritage even though they appeared to be outside of  
58 the estimated habitat. She had not heard back from them as of this hearing. Also, R.  
59 Langevin is aware that he will need Zoning Board of Appeals approval. There was a brief  
60 discussion regarding the flood zone. N. Hills noted that there are two sheds on the property  
61 that appear to be within the buffer zone. If they were to be replaced they would need to  
62 be at least 30' away from the wetlands. Since they are awaiting an answer from Natural  
63 Heritage, with the applicant's consent, N. Hills motioned to continue the hearing to  
64 Wednesday, October 12, 2016 at 7:10pm; S. Walsh seconded; voted unanimously.

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66 J. Doubrava recused himself from the next hearing (Reinhart) and left the room.

67

68 7:15 PM **Laurence Reinhart, Trustee - East Avenue Realty Trust**, Notice of  
69 Intent, File No. SE 041-1251, to add stone to existing revetment with DEP Waterways License  
70 No. 11040. Rick Charon of Charon Associates was present and described the background  
71 of this project. A Waterways License (#11040) had been issued in 2006 but it had not been  
72 registered within the required 60 days. That was not known until recently. The homeowner  
73 believed that this license was valid for the lots at 13 East Avenue and 17 East Avenue. There  
74 is an Order of Conditions for the pier at 13 East Avenue and there is a separate Order of  
75 Conditions for the house was built at 17 East Avenue. The revetment was recently  
76 constructed across the property lines from 13 East Avenue to 17 East Avenue. Since the  
77 work was not permitted on 17 East Avenue this is an after-the-fact filing for that work. R.  
78 Charon mentioned the comments that had been received from Division Marine Fisheries

79 and the DEP. He submitted a revised plan based on those comments. He reviewed the  
80 changes with the members. He said they showed the original profile of the revetment  
81 before the stones were placed and the final profile based upon topographic information  
82 gathered on site. There was a discussion about the area of the revetment below the mean  
83 high water mark. He said that once this Order of Conditions is approved they will then  
84 apply for a Waterways License for the revetment at 17 East Avenue. One of the items that  
85 are considered for a Chapter 91 License approval is the displacement of materials put into  
86 the public waters. He described the amounts of existing and proposed stone as it is listed  
87 on the plan. This information is necessary for the Chapter 91 License approval process. R.  
88 Charon clarified what had happened with the original license. In 2006 plans had been  
89 drawn and a Chapter 91 License was approved for both 13 East Avenue and 17 East  
90 Avenue but that license was not recorded and therefore is void. They do have a current  
91 Chapter 91 License for the pier at 13 East Avenue but this license does not include the  
92 revetment at 17 East Avenue so that is why they have filed this after-the-fact Notice of  
93 Intent and will be filing the Chapter 91 license. S. Walsh asked if there was a plan that  
94 showed what it looked like before this activity took place. R. Charon said he submitted  
95 such a plan in 2005 or 2006. He also submitted that plan August 2016 which was in the file  
96 and members reviewed it with R. Charon. J. Hartley said that members had a concern  
97 regarding the salt marsh or eel grass and potential damage. R. Charon said no equipment  
98 was used in the water. S. Walsh had a printout of Bing maps to see what the area looked  
99 like prior to this work. He said that the old overhead view shows the revetment as a straight  
100 line compared to what it looks like on the revised plan. S. Walsh pointed out that the wall  
101 appears to extend further out and R. Charon agreed. S. Walsh said there appears to be  
102 alteration of the bank and land under the water. J. Hartley asked that salt marsh be  
103 marked on a plan. R. Charon said he will speak to the contractor and revise the plan. N.  
104 Hills said to revise the plan so it shows what will be pulled out but do not perform that work  
105 until the Commission has reviewed and approved the newly revised plan. S. Walsh noted  
106 that a restoration plan should be submitted also. There was a brief discussion regarding the  
107 letter that had been sent in June 2015 that advised the Reinharts to file a Notice of Intent  
108 for this work; N. Hills committed to review the correspondence. There were no further  
109 questions from the audience or the Commission. R. Charon said he will have a revised plan  
110 for the next meeting date. N. Hills motioned to continue this hearing to Wednesday,  
111 October 12, 2016 at 7:15pm; S. Walsh seconded; voted unanimously.

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113 J. Doubrava returned to the conference room.

114

115 7:20 PM (7:43PM) Discussion with Jim Manganello of LEC – follow up to Enforcement  
116 Order to File No. SE 041-1201 regarding brush piles and permanent markers at 121 Converse  
117 Road. J. Manganello was present. He had sent a letter requesting the Commission consider  
118 allowing the homeowner to spread some of the brush piles and to review the locations of  
119 the permanent markers. Although the site was on the site visit list for September 24, 2016,  
120 the Commission did not make it to that location. There was a brief discussion regarding the  
121 markers and brush piles. The location will be added to the October 8, 2016 site list and the  
122 October 12, 2016 agenda.

123  
124 7:25 PM (7:57pm) **Gale Runnells**, Request for Certificate of Compliance for Order of  
125 Conditions SE 041-1208, pool installation and associated work at 17 Reservation Way.  
126 (Continued from August 24, 2016). Rick Charon of Charon Associates was present to  
127 represent G. Runnells. At the last meeting a planting plan was requested to replant the 15'  
128 no touch zone into a more natural state. Susanna Davis was consulted and supplied  
129 photos of native plants to be used. R. Charon submitted the planting plan to the  
130 Commission. He described where these plantings will be and the process that will be used.  
131 J. Doubrava asked that the stone markers be replaced with something else that will clearly  
132 identify the line so that no other work could be performed in the future in the no touch  
133 zone. There was a discussion regarding the different items that could be used and it was  
134 decided that a split rail fence would be the best choice for a boundary marker. S. Walsh  
135 suggested that the homeowner contact the neighbor and possibly continue the  
136 restoration over the property line since if the clearing and landscaping had been done  
137 there as well. R. Charon will include the split rail fence on the plan and return with that  
138 revised plan on Wednesday, October 12, 2016 at 7:25pm.

139  
140 7:30 PM (8:11pm) Appointment with **John Rockwell** of Marion Open Space  
141 Acquisition Commission to discuss the Grassi Bog modifications. Jock Rockwell was present  
142 and gave a brief history of the Grassi Bog property. After a substantial rain event, most of  
143 the structures were washed out. The NRCS has designed repairs MOSAC has secured a  
144 grant to replace the culvert that will be used. It is approximately 14"-16", wider than the  
145 originally approved culvert. Amanda Chase and Emanuel DaCosta suggested changing  
146 the geotextile fabric and using natural bedding material so that change has been made  
147 to the plan as well. There was a discussion as to how to accept these changes. Members  
148 could accept this plan as the new Plan of Record, they could Amend the Order of  
149 Conditions or file a new Notice of Intent. J. Hartley asked about the turtle habitat that is  
150 supposed to be listed on the plan. J. Rockwell described where it was located. It was  
151 moved due to the lack of sun at the original location. He described where is currently is

152 and said he is not sure if it is reflected on the plan. J. Rockwell said that they will be having  
153 a contractor's meeting and will notify the Commission so they may attend as well.

154

155 7:40 PM (8:20pm) Request for an Extension Permit for **Patricia Shaw**, 404 Point  
156 Road, File No. SE 041-1206. Patricia Shaw has requested a three year extension due to a  
157 delay with the contractors. N. Hills motioned to issue the three year Extension Permit as  
158 requested; J. Hartley seconded; voted unanimously.

159

160 7:45 PM (8:25pm) **Christian Loranger**, Request for Determination of Applicability,  
161 File No. 41D-1629, to construct a single family dwelling off Point Road. Christian Loranger  
162 said that the entire property is 13 acres however the dwelling will be on 3 acres and he is  
163 working with the Sippican Lands Trust to donate the remaining 10 acres. C. Loranger  
164 reviewed the plan with the Commission. The dwelling itself sits right on the 100' buffer zone  
165 of the BVW. C. Loranger said that the house will have a full basement and the septic  
166 system will be toward the front of the property. Members asked if there were soil reports. C.  
167 Loranger said he does have them and will supply the reports. Members discussed the  
168 location of the wetlands line and generally did not have an issue with it but would like to  
169 review the soil reports before making a decision. The plan also should show the location of  
170 the septic system. With the applicant's consent J. Doubrava motioned to continue the  
171 hearing to Wednesday, October 12, 2016 at 7:30pm; J. Hartley seconded; voted  
172 unanimously.

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174 7:50 PM (8:36pm) **Kathleen Mahoney**, Request for Determination of Applicability,  
175 File No. 41D-1630, to engage a Licensed Pesticide Professional to eradicate phragmites  
176 across from 40 Dexter Road. Kathleen Mahoney was present and mentioned that this had  
177 been discussed briefly at the previous meeting. This filing is to continue the eradication of  
178 phragmites that had taken place under a previous Order of Conditions that has recently  
179 expired. Approximately 70% of the phragmites have been eradicated and K. Mahoney  
180 would like to complete the job under a new Determination. There were no questions from  
181 the Commission or the audience. J. Hartley motioned to close the hearing; J. Doubrava  
182 seconded; voted unanimously.

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184 J. Doubrava motioned to issue the Determination of Applicability for **Kathleen**  
185 **Mahoney**, File No. 41D-1630, 40 Dexter Road. Negative Boxes 2 and 3 with the special  
186 condition that the treatment shall not last longer than three years. J. Hartley seconded;  
187 voted unanimously.

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189 Member discussed the MOSAC Grassi Bog, SE 041-1197, Second Amendment to the  
190 Order of Conditions. N. Hills motioned to issue the Amendment; J. Hartley seconded; voted  
191 unaniously.

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193 Meeting adjourned at 9:00pm.

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197 Approved: October 12, 2016



Donna M. Hemphill, Administrative Assistant

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