

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 9, 2009

Members Present: Norman A. Hills, Chairman
Jeffrey W. Oakes, Vice Chairman
Sherman E. Briggs, Jr. (left at 9:35 PM)
Lawrence B. Dorman
Joel D. Hartley
Wendy L. Carreau, Associate

Members Absent: Horace S. Kenney, Jr., Associate

Secretary: Diane R. Drake

Others Present: Meghan Dineen, Elizabeth Mainini, William Saltonstall Jr., Carolyn Correia Xifaras, Richard Schaefer, Catherine and Stephen Dahill, Chris Bryant, David Davignon, Christian Farland, William Long, David Hooke, Susan Nilson, Thomas Lovett, Michael Kondracki, Joseph and Susan Lasky, Randy DeMello, Gregory and Nancy Johnson, Marinus Vander Pol, John and Ann Harris, Thomas and Susan Dexter, Ernest Yeaw, Joseph Zora Jr., Heath Harriman, Meredith and Anthony Days, John Doran, Lucius Evans and John Midwood.

Meeting convened at 7:00 PM Wednesday, December 9, 2009 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, December 5, 2009 by N. Hills, J. Oakes, J. Hartley and W. Carreau.

7:00 PM **LUCIUS EVANS** - RFD (41D-1388) to reclaim and maintain a foot path to the shore on an easement over the Sippican Lands Trust's Brainard Marsh parcel off Delano Road, east of Bass Point Road (continued from September 23, 2009). Lucius Evans was present. Also present on behalf of the Sippican Lands Trust were its President (Chris Bryant), Head Lands Steward (William Saltonstall Jr.) and Attorney (Richard Schaefer). N. Hills told L. Evans that the Commission will likely deny the requested work under this filing and will require the filing of a notice of intent, which will have to be done in conjunction with the property owner, the Sippican Lands Trust. L. Evans said he will plan on doing that, and explained that all he wants is a path wide enough for two people to walk side by side on, and to carry his sailboat mast to the shore. N. Hills suggested L. Evans speak with the Bass Point Road residents in order to use their access to the shore. N. Hills said an accurate plan showing the proposed footpath will be required for the notice of intent. J. Oakes explained that the map should be prepared by an engineer and show the resource areas, the flood zones, the proposed pathway, etc. L. Evans said he is concerned that everyone would use his pathway if he paid to have the lot surveyed. Bill Long of Bass Point Road showed photographs of how high up on the lot the water reaches. Steve Dahill said he is absolutely against this project for safety reasons, as people would be walking along the back property lines of the Bass Point Road residents. J. Oakes moved to close the hearing; J. Hartley seconded; voted unanimously.

7:13 PM **CYNTHIA F. CASNER** - RFD (41D-1398) to upgrade the septic system at 28 Point Road. David Davignon represented C. Casner and described the project. He said based on site elevations the work is in the flood zone, although the F.I.R.M. shows otherwise. N. Hills distributed photographs that were taken during the site inspection, showing extensive cutting that was recently done, and asked what the manhole-type cover was for; D. Davignon said he did not see the cover because the vegetation had covered it. N. Hills asked D. Davignon to explain to the owner that the vegetation must be allowed to grow back, otherwise an enforcement order will be issued. D. Davignon said he will relay the Commission's wishes to the Owner. J. Oakes moved to close the hearing; J. Hartley seconded; voted unanimously.

7:22 PM **TOWN OF MARION** - NOI (SE 041-1121) to replace 9,500 linear feet of antiquated water main on Pleasant Street (from Main Street to Converse Road) and on Converse Road (from Pleasant Street southerly to the end of the public road) with a 12" ductile iron water main. Elizabeth Mainini and Meghan Dineen of Tata and Howard represented the Town and described the project. There was extensive discussion of the 600'-long stretch of road near Cove Street at the culvert. She said she will maintain the silt fence the whole time. S. Briggs recalled that when the sewer line was installed, only a siltation fence was required, not haybales, and not for the entire stretch of road. A siltation fence would not be required where the stone wall is, as that in itself will prevent siltation. She said they do not feel any of the project is within Natural Heritage's jurisdiction, but they submitted a copy of the NOI to Natural History anyway and have not received a response from them, and suggested continuing the hearing. Due to the lack of a response from the NHESP Program, J. Oakes moved to continue the hearing, with the Applicant's consent, to 7:20 PM December 23, 2009; J. Hartley seconded; voted unanimously.

7:35 PM **DAVID HOOKE** - RFD (41D-1399) to bury 15 rocks that are protruding from the ground at 290 Delano Road, and to loam and seed the disturbed areas. David Hooke was present and described the proposed work. He said his neighbor has a backhoe at this time and he would like to take this opportunity to bury them. N. Hills commented that if the rocks haven't moved in the 3.5 years Mr. Hooke has lived there, they may not be able to be moved. Mr. Hooke said the closest rock to be moved next to the seawall is 10 to 15 feet away. J. Oakes said he would like a silt fence to be installed prior to any work to prevent siltation onto the beach. Mr. Hooke said the contractor expects to do the work in one day, the slope will remain basically the same. J. Oakes moved to close the hearing; L. Dorman seconded; voted unanimously.

7:43 PM **KEVIN & BARBARA CUZZI** - NOI (SE 041-1122) to replace a gangway and float system at 35 East Avenue, Planting Island, with a timber pile-supported pier (74' x 4.5'), ramp (16' x 3') and wooden float (8' x 12'). J. Oakes left the room. Susan Nilson represented the Cuzzis and described the proposed work. She said she prefers not to use poles due to rocks and winter ice. S. Nilson said the Harbormaster would rather see no float stops, as they are problematic. She said there is 2' of water so the boat won't sit on the bottom. L. Dorman would like the record to show S. Nilson is an abutter; she responded that her home is under a sales agreement and she notified the abutters. The float will be stored off site during the winter. L. Dorman moved to close the hearing; J. Hartley seconded; voted unanimously.

7:58 PM **NANCY D. & GREGORY JOHNSON** - NOI (SE 041-1120) to construct a 700'-long elevated walkway, a 55'-long pier, a 3' x 24' ramp and a 12' x 12' float at 406 Point Road

(continued from October 28, 2009). J. Oakes remained out of the room. Susan Nilson represented the Johnsons who were absent. She said the hearing was continued with respect to spacing on the walkway and clearing that has been done for 40 years. She submitted a revised sheet 1 showing the BVW line. She said the majority of the clearing is on the Johnson property, not the Shaw property. She proposes to maintain a 10'-wide walking path across the saltmarsh and no clearing within 15' of the BVW line. N. Hills asked if there are stakes marking the line; S. Nilson was not sure but can have them staked for the next meeting. She said the 3/4" deck spacing meets D.E.P.'s guidelines for docks and piers. Dr. Johnson said he would prefer 2" x 10" decking with 1" spacing if 3/4" wasn't acceptable. J. Hartley moved to continue the hearing until 7:30 PM on December 23, 2009; L. Dorman seconded; voted unanimously. J. Oakes returned to the room.

8:06 PM **THOMAS O. DEXTER** – RFD (41D-1396) to move a 34' x 28' portion of the original dwelling at 370 Delano Road to a temporary location on Lots 82 and 85 Delano Road (continued from October 28, 2009). Thomas Dexter was present. He noted that stakes had been placed to show the path of the moved building and it appears to be closer to the water than anticipated. Mr. Dexter said it will go between the trees to where the stakes are so that it can then be moved straight to his house. He said the house will be "skated" across the lawn on rollers to prevent digging up the lawn. He said he will pour sonotubes to anchor it in place temporarily. J. Hartley moved to close the hearing; L. Dorman seconded; voted unanimously.

8:11 PM **TOWN OF MARION** – NOI (SE 041-1123) to install a 50'-long, 12"-diameter drainage pipe with culverts at each end within the road layout at the southerly end of Giffords Corner Road, and replicate 332 square feet of wetlands. Christian Farland represented the Town and said a driveway constructed several years ago was creating a drainage problem because the culverts were installed too high. He explained the proposed work. C. Farland said the BVW line was flagged for this project. N. Hills asked whether the elevations on each side of the pipe would be lowered by 6"; C. Farland said yes. J. Oakes said he did not think there is a ponding problem that can be solved by the existing culverts and it is not a detriment to the Town, so he would like to see justification for the project. C. Farland said the Harris property has a lot of wetlands. Mr. & Mrs. Lasky were present. Joseph Zora Jr. submitted a map of June 2000 showing hydric soils and there was never a connection between the wetlands, just a ponding area. J. Zora Jr. said Mr. Lasky's sump pump also adds to the ponding due to the high water table. Mr. Lasky said he has a sump pump now, since the new driveway, but he didn't need it before. Mr. Lasky showed several photos of ponding at this time. He said the new ponding has caused a mosquito problem and will drown the huge pine trees making them unstable. He said he only wants to restore the natural flow of water. Randall De Millo said he moved to his home in 1990 and verified Mr. Lasky's account of the ponding. John Harris said the pipe will drain onto his property and he is in favor of the project. Anthony Days of 21 Giffords Corner Road said the project is common sense. John Midwood said he lived in the Harris house from 1987 to 2001 and there was never water on his side until the new driveway was built. J. Zora Jr. said there is a Town water pipe in the new driveway which could be damaged by this project installation. C. Farland said he can do more wetland flagging. J. Oakes said auger holes can show the groundwater elevation. J. Oakes said he would like to walk the Zora property. Another attendee pointed out there is a culvert between houses 30 and 34 that works fine. C. Farland said he can do more site elevations. J. Oakes moved to continue the hearing to 7:40 PM on December 23, 2009; J. Hartley seconded; voted unanimously.

8:50 PM **TABOR ACADEMY** – NOI (SE 041-1124) to construct a 4.5'-wide by 122'-long aluminum pier with a 12' x 16' platform at its end, a 30'-long ramp and a 15' x 25' float at 283 Front Street. N. Hills left the room. Marinus Vander Pol represented Tabor. Christian Farland described the project. He said the groin will be capped and repointed to prevent the need for repairs after the pier is rebuilt over it. C. Farland said the rebuilt pier will require an amended Chapter 91 License. C. Farland said the platform needs to be slightly larger so it will straddle the existing platform. J. Hartley would prefer to leave the piers as they are without capping it because the new piles will support the new pier. Mr. Vander Pol said the existing groins help to protect the Town's Old Landing pier and float, similar to the wave boards that were installed on the Town's pier. C. Farland said the float stops will be 30" off the bottom. J. Hartley moved to close the hearing; S. Briggs seconded; voted unanimously. N. Hills returned to the room.

9:10 PM **WILLIAM C. LOVETT** – NOI (SE 041-1125) to construct a single family dwelling with associated grading and landscaping at Lot 147 Doran Way, Dexter Beach, and **THOMAS P. LOVETT** – RFD (41D-1397) to construct a single-family dwelling with associated grading and landscaping at Lot 146 Dexter Road, Dexter Beach. Thomas P. Lovett was present on behalf of both adjoining properties and projects to describe the work. The wetland line was set in 2007 on an abutting lot owned by Ernest Yeaw. N. Hills said both lots are in the buffer zone. J. Oakes would like the Buzzards Bay Project to flag/verify wetlands in the area and he could do soil tests. L. Dorman moved to continue the hearing on SE 041-1125 to 7:05 PM on December 23, 2009; J. Oakes seconded; voted unanimously. L. Dorman moved to close the hearing on RFD 41D-1397; J. Oakes seconded; voted unanimously.

9:25 PM **JAMES PRIEUR** – appointment for discussion regarding an Order of Conditions (SE 041-1113) to construct a building addition, a garage, a storm water management system and a sewage disposal system at 101 Cove Circle, Piney Point. The owner requests permission to expand the scope of work to include installing a hot tub, a 3'-landscape retaining wall, and landscaping and grading, without the need for a formal amendment to the order. Mr. Prieur was represented by Christian Farland, his engineer, and Mike Kondracki of Michael Williams Associates, his landscaper. N. Hills said he would like to visit the site again on December 19, 2009 and then discuss this item on December 23, 2009.

9:35 PM S. Briggs left the meeting.

9:35 PM **JOHN LUDES** – appointment for discussion regarding an enforcement order that had been issued on December 4, 2009 for unauthorized clearing at 135 Converse Road (SE 041-1105). J. Oakes left the room. Mr. Ludes was represented by Christian Farland, his engineer. C. Farland said that existing footpaths were being cleared. N. Hills said the work is being done in a resource area and he feels that it requires more than a RDA filing. Another site visit will be scheduled for January 9, 2010 with Mr. Ludes and his engineer. N. Hills moved to ratify the enforcement order; L. Dorman seconded; voted unanimously. J. Oakes returned to the room.

2009 ANNUAL REPORT – N. Hills will draft the annual report.

TABOR ACADEMY (SE 041-1124) - N. Hills left the room. J.Oakes drafted the order of conditions. L. Dorman moved to issue as written; J. Hartley seconded; voted unanimously. N. Hills returned to the room.

CASNER (41D-1398) - J. Oakes moved to issue a conditional negative determination for box 2 with a condition that the cut area shall be allowed to revegetate; L. Dorman seconded; voted unanimously.

HOOKE (41D-1399) - J. Oakes moved to issue a conditional negative determination for box 2 with a condition requiring a silt fence and no change in elevation; L. Dorman seconded; voted unanimously.

T. LOVETT (41D-1397) - J. Hartley drafted a conditional negative determination for box 3 (the Buffer Zone) based on the abutting property's B.V.W. line. J. Oakes moved to issue the determination as drafted; L. Dorman seconded; voted unanimously.

EVANS (41D-1388) - J. Oakes drafted a positive determination for boxes 1, 3 and 4 and moved to issue it as written; L. Dorman seconded; voted unanimously.

DEXTER (41D-1396) - N. Hills moved to issue a negative determination for box 2 with conditions that the trees on the river side shall not be cut and the house shall be anchored; L. Dorman seconded; voted unanimously.

CUZZI (SE 041-1122) - N. Hills drafted the order and moved to issue it as written; L. Dorman seconded; voted by majority with J. Oakes abstaining.

COOLMAR (SE 041-1057) - N. Hills moved to issue a three-year extension, L. Dorman seconded; voted unanimously.

KITTANSETT CLUB (SE 041-791) - L. Dorman moved to issue a fourth three-year extension; J. Hartley seconded; voted by majority with J. Oakes abstaining.

Meeting adjourned at 10:15 PM.

Diane R. Drake, Secretary

Approved August 11, 2010