

**MARION BOARD OF SELECTMEN  
WATER/SEWER COMMISSIONERS  
March 15, 2011  
Meeting Minutes**

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

**MEMBERS ABSENT:** Roger Blanchette, Chairman

**ALSO PRESENT:** Paul Dawson, Town Administrator  
Marc Rasmussen, Coalition for Buzzards Bay  
Kerry Driscoll, Coalition for Buzzards Bay  
Mark Nelson, Horseley & Witten  
Carol Sanz  
Eunice Manduca  
Jonathan Dickerson, Recreation Director  
Alexander Kenney (House of Thai)  
Anne Kakley (Wanderer)  
Chris Reagle (Sentinel)  
Debra Paiva, secretary

The meeting was called to order at 7:00 p.m. Mr. Cushing announced that the meeting would be televised, video recorded by ORCTV, and audio recorded by Town of Marion staff.

NOTE: A list of the materials reviewed at the meeting shall be attached to these minutes.

**Approval of Meeting Minutes**

Moved by Mr. Henry and seconded by Mr. Cushing to approve the minutes of the March 1, 2011 meeting. VOTE: 2-0-0

**APPOINTMENT**

**Coalition for Buzzards Bay**

Marc Rasmussen of Coalition for Buzzards Bay and Mark Nelson of Horseley & Witten were present to submit the results of testing to determine whether there has been nitrogen leakage from the wastewater treatment plant.

When the Coalition met with the Board in September they received permission to have an additional monitoring well in the middle of where the lagoons lie to test for nitrogen directly below the bottom of the lagoon. Additional wells were also installed on the eastern side of Route 6. The information submitted tonight included all of Marion's embayments, with testing results beginning in 2008, and was a preliminary estimate of what all of the testing results mean. During the PowerPoint presentation Mr. Nelson made the following statements:

The groundwater table map shows the directions of the groundwater flow are in a radial pattern from the lagoons out and 360 degrees around that.

There is a high point in the groundwater system with groundwater flowing outward from where the lagoons lie.

This is most likely a natural pattern and this is a high point within an otherwise low area. It is likely that leakage from the lagoons is accentuating the height of the water table mound in that area and adding to the radial flow moving outward.

The groundwater in one arc is heading toward Sippican Harbor, another area is flowing through the Benson Brook/Sippican/Weweantic River complex, and another is eventually discharging out through Aucoot Cove. Groundwater is entering the brook and mixing with the treated effluent from the Waste Water Treatment Plant.

There is a pattern of groundwater moving vertically and horizontally; under the lagoon complex the groundwater is moving almost directly downward before migrating to the east or west.

If there is leakage through the bottom of the lagoons it is traveling straight down, which is very common when there is a high point in a water table.

Nitrogen levels of 2.5 mg/liter or higher are most likely not directly related to land use patterns such as lawn fertilizer or storm water runoff. Areas with dense septic systems would result in 2.5 mg/liter or higher; however, the majority of this area is sewerred. Mr. Nelson believes that the nitrogen impact to the groundwater is associated with the lagoon. There is some variability over time reflected in the test results due to dry weather conditions, inflow and infiltration entering the system, geology, etc.

The reason for the monitoring was the declining water quality of Sippican Harbor (increase in nitrogen levels, decrease in overall health of system).

The distance from the lagoons to the harbor is approximately one mile; it would take groundwater between 13 and 52 years to travel to the harbor. The lagoons went online in 1971, falling within that time range.

It is probably cheaper to try to solve the issue than figure out the magnitude of the problem.

The basic conclusion is that there is nitrogen getting into the ground from the lagoons and it probably is a reasonably significant factor to what is seen in terms of nitrogen in the areas down gradient.

An option is to line the lagoons; it would cost approximately \$3.2 million to line the entire 20 acres. Mr. Nelson suggested considering whether 20 acres are necessary.

Mr. Henry asked if it would take 50 years to reverse the levels if the nitrogen were stopped today and was told no. Dr. Rasmussen explained that there is a certain level of nitrogen stored in the sediments and it would take years to work through that.

Mr. Henry said the lagoons were not intended to be watertight structures and have always been somewhat permeable. Mr. Cushing said nitrogen could have been leaching out of the clay pipes for 100 years.

Dr. Rasmussen acknowledged that some of the nitrogen could be from large lawns but nowhere near in scale to the waste water sources.

Mr. Nelson said the investment is better in managing the collection system than in maintaining 20 acres of lagoon.

Mr. Dawson requested copies of the data collected for review by Camp, Dresser, McKee, engineers in their work on how to address the Town's I&I issue.

Mr. Nelson was asked if the information was proprietary; he said no, it is for the use of the client.

**Public Hearing – House of Thai, all alcohol license**

NOTE: Mr. Henry stated for the record that he worked for the owners of the building but he does not work for the applicant or have any business connection or relationship with him.

The public hearing notice was read into the record. Operations manager Alexander Kenney was present for the hearing on behalf of the business owner. Mr. Cushing asked if Mr. Kenney will be the manager and was told yes. He asked if Mr. Kenney is at the establishment on a daily basis and was told yes.

Mr. Kenney made the following statements in describing how he will safeguard the license:

The restaurant currently has a BYOB policy and Mr. Kenney cards anyone who appears to be below age 42.

If need be or if required by law, all alcohol will be kept in a locked storage area. If that is not necessary it will always be in an area that is out of the way and out of view of the public. The only individuals allowed access to the alcohol will be staff.

The restaurant hours will be Tuesday through Thursday 11:00 a.m. – 9:00 p.m., Friday and Saturday 11:00 a.m. to 10:00 p.m., Sunday 4:00 p.m. – 9:00 p.m., closed Monday. While it is possible that the hours of operation might be extended in the future, there is no plan at this time.

Currently there is one waitress; an increase in business will result in the hiring of additional staff.

Mr. Dawson asked if Mr. Kenney had any previous experience as manager of a liquor establishment and was told no. Mr. Kenney said he is not TIPS (Training for Intervention Procedures) certified but plans to be. Mr. Dawson asked if Mr. Kenney or any of the staff had training in how to recognize if an individual has had too much to drink; he was told one staff member has work experience in larger establishments with alcohol licenses.

Mr. Dawson asked if Mr. Kenney will be on the premises all times that liquor is served. Mr. Kenney said there is a chance he will not be on the premises at all times. Mr. Dawson asked if he understood that as the manager of record he will be responsible for the actions of the staff; Mr. Kenney said he understood. Mr. Cushing stressed the importance of the TIPS certification and Mr. Kenney said he had every intention of becoming certified. Mr. Dawson said there was a tremendous amount of liability with assuming the position of establishment manager and it was important that he learn all he could and become TIPS certified as it could provide one mechanism of defense. Mr. Henry said it was important that a resident manager be present at all times. Mr. Kenney said the executive chef would be TIPS certified as well.

Moved by Mr. Henry and seconded by Mr. Cushing to approve the all alcohol license for the House of Thai. VOTE: 2-0-0

## **ACTION ITEMS**

**1. One day, wine & malt license - Marion Art Center, production intermission (3/18, 3/19, 3/25, 3/26)**

Moved by Mr. Henry and seconded by Mr. Cushing to approve. VOTE: 2-0-0

**2. One day, wine & malt license – O’Shaughnessy family celebration at the Music Hall (6/12)**

Moved by Mr. Henry and seconded by Mr. Cushing to approve. VOTE: 2-0-0

**3. Appointment – Inspector of Animals**

This is an annual request from the State Department of Agricultural Resources that the town annually appoint an Inspector of Animals; the term is to run from May 1, 2011 through April 30, 2012. The request is for the Board to appoint Animal Control Officer Susan Connor Inspector of Animals.

Moved by Mr. Henry and seconded by Mr. Cushing to nominate Susan Connor Inspector of Animals. VOTE: 2-0-0

**4. Signing of Preservation Restriction – Marion Art Center to Marion Historical Commission**

Last year’s Annual Town Meeting approved CPA funds for the restoration of the bell tower at the Marion Art Center. There is a requirement that a permanent historical restriction be placed; the restriction has been approved by Town Counsel, Community Preservation Committee, and the Marion Historical Commission. The final step is for the Board to approve and sign the restriction prior to it being recorded at the Registry of Deeds.

Moved by Mr. Henry and seconded by Mr. Cushing to approve the Preservation Restriction Agreement between the Town of Marion acting by and through the Marion Historical Commission and Marion Art Center, Inc. for the preservation of the bell tower with funds that were paid through the Community Preservation Act, dated March 15, 2011. VOTE: 2-0-0

**5. Water Commitment – \$550 (3/14/11)**

Moved by Mr. Henry and seconded by Mr. Cushing to accept the water commitment for new service, dated 3/14/11, for \$550. VOTE: 2-0-0

## **TOWN ADMINISTRATOR REPORT**

**1. Appointment – Council on Aging**

An advertisement for the vacancy on the Council on Aging resulted in the receipt of three letters of interest. The letters are from Christina Hingston, Helen Westergard, and Joanne Mahoney. It was agreed to place this as an action item on the April 5 meeting agenda.

**2. Discussion – Neighborhood Overlay District**

The Planning Board is working on a zoning bylaw amendment to include a Neighborhood Overlay District. Mr. Dawson has been asked what impact this amendment would have on sewer restrictions and other regulations; he is requesting

Board approval to request Town Counsel to review the amendment and provide the Board with an opinion and recommendations of the impact it might have on other regulations. Mr. Henry asked if the amendment is in final form and ready to be brought to Town Meeting; he was told the Planning Board met last night but the amendment is not in its final form.

Mr. Henry said he would prefer to discuss it with the Planning Board rather than requesting a written opinion from Town Counsel.

Mr. Dawson said he would like to understand how a proposed change in the bylaw and any change in the rate of development that may result from it, would impact upon the existing regulations.

Mr. Henry said he believed this has been done already and the different factors were considered when the amendment was being considered by the Planning Board. Mr. Dawson said he was seeking an understanding of how a change in the bylaw from what could potentially be developed now to what could be potentially be developed under the overlay district and how the differences in the rate of development from one to the other could impact upon what the Town has to do as far as sewer regulations and infrastructure. Mr. Dawson said the most common question he gets is regarding sewer.

It was agreed to invite the Planning Board to discuss the issue at a future meeting.

## **CORRESPONDENCE**

### **a. Capital Improvement Planning Committee Report FY2012 (3/3/11)**

The Capital Improvement Planning Committee will be at the April 5 meeting to discuss the report.

Mr. Henry said he is a non-voting member of the committee and wanted to commend the other members for their efforts. Mr. Dawson noted that this is a brand new committee, with some of the members serving on their first committee, and they have done a tremendous amount of work.

### **b. Letter from EMS Director Jeffrey Habicht, regarding resignation of Tina Denham from EMS (3/10/11)**

The letter was notification of Ms. Denham's March 10, 2011 resignation from EMS.

### **c. Copy of letter from Building Commissioner regarding 513 Mill Street (3/9/11)**

The letter was a cease and desist order for work that has taken place without required permits.

### **d. Draft letter to Plymouth County Sheriff Department requesting a work crew at Washburn Park (3/8/11)**

Recreation Director Jodi Dickerson has requested that Mr. Dawson submit a request to the Plymouth County Sheriff's Department for a work crew to assist in the cleanup at Washburn Park. Mr. Dickerson was present to explain the request; one program is through the sheriff's department and one is through the court system. A court system work crew will be at Washburn Park this weekend.

### **e. Email regarding April 15 Massachusetts Sustainable Communities Conference (3/8/11)**

The email was notification of an all-day conference.

### **f. Notification of request to amend Conservation Commission Order of Conditions regarding Tabor Academy (undated notice)**

The notification was regarding an amendment to a recently issued Order of Conditions.

Audience member Eunice Manduca asked if the work crews were allowed to carry guns and was told no. Mr. Dawson noted that the individuals on the work crews have not been convicted of violent crimes but have had run-ins with the law for minor offenses and have demonstrated that they are trustworthy.

Moved by Mr. Henry and seconded by Mr. Cushing at 8:40 p.m. to adjourn.

Respectfully submitted,

  
Jonathan F. Henry, Clerk

Date approved: 5 am 11

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March 15, 2011**

**DOCUMENTS REVIEWED AT MEETING**

Coalition for Buzzards Bay Water Quality Monitoring Program Bay Health Index  
Application – House of Thai, all-alcohol restaurant license  
One day wine and malt license – Marion Art Center (3/18, 3/19)  
One day wine and malt license – Marion Art Center (3/25, 3/26)  
One day wine and malt license – O’Shaughnessy family at the Music Hall (6/12/11)  
Inspector of Animals nomination form  
Preservation Restriction – Marion Art Center to Marion Historical Commission  
Water Commitment – (\$550, 3/14)  
Letter from Christina Hingston requesting appointment to Council on Aging (2/27/11)  
Letter from Helen Westergard requesting appointment to Council on Aging (2/25/11)  
Email from Joanne Mahoney requesting appointment to Council on Aging (3/14/11)  
Report from Capital Improvement Planning Committee (3/3/11)  
Letter from EMS Director regarding resignation of Tina Denham from EMS (3/10/11)  
Copy of letter from Building Commissioner regarding 513 Mill Street (3/9/11)  
Draft letter to Plymouth County Sheriff Department (3/8/11)  
Email regarding Massachusetts Sustainable Communities Conference (3/8/11)  
Notification of request to amend Conservation Commission Order of Conditions  
regarding Tabor Academy (undated notice)