

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
July 19, 2011
Meeting Minutes**

MEMBERS PRESENT: Jonathan Henry, Chairman
Stephen Cushing, Clerk
Roger Blanchette

ALSO PRESENT: Paul Dawson, Town Administrator
Norman Hills
Ted North
Kathy Reed
Carol Sanz
James Clemmey
G. Ronald Winters
Eunice Manduca
John Sweeney
Rick Barnes
Janet Barnes
Margie Baldwin
W.S. Bradford
Steve Gonsalves
Sherman Briggs
Christina Bascom
Ted North
Patricia McArdle
Steve Gonsalves
Anne Kakley (Wanderer)
Chris Reagle (Sentinel)
Debra Paiva, secretary

The meeting was called to order at 7:00 p.m. Mr. Henry 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. Blanchette and seconded by Mr. Cushing to approve the meeting minutes of June 1, 2011, June 7, 2011, June 21, 2011, and June 30, 2011. VOTE: 3-0-0

APPOINTMENTS

G. Ronald Winters - Discussion regarding Washburn Park Trust

Mr. Winters was present with former Trust member James Clemmey.

Mr. Henry said Mr. Winters was invited to meet with the Board to begin discussion about a partnership between the Washburn Park Trust and the Town. Town Counsel has advised that the Town of Marion is unable to do anything to further its aims with

relationship to the Trust because the Trust will have to be reconstituted. Mr. Winters is the only person who can reconstitute the Trust as he is the sole eligible member of the Trust. Once new members have been appointed and the Trust is a viable organization the Town can discuss the issues relative to land use, access, insurance, permitting, and finances. Dissolving the Trust requires a vote of the Board of Trustees for three successive years.

Mr. Winters said he has been contacted by three individuals who expressed interest in joining the Trust. One of them, James Arne, does not meet the residency requirement. The others are Sherman Briggs and Cheryl (Arne) Duncan; Mr. Henry told him the Selectmen had some names as well.

Mr. Henry is the Board's representative to work with the Trust. Members of the Parks and Recreation committees wish to be involved, and the Recreation Director has plans to upgrade the facilities at Washburn Park. Mr. Dawson would be present at the meetings as well.

Mr. Dawson said it seems clear that in order for anything to happen the Trust has to be reconstituted back to full strength; he encouraged the Trust to reconstitute itself and work with the Town. He said numerous people have expressed concerns about how things will be handled going forward.

Chrissie Bascom of the Tree and Parks Committee said her committee began investigating this because they had been approached by people who indicated there was maintenance that needed to be done. The committee began looking at the roles of the Town and Trust. Ms. Bascom noted that fees were charged for use of the park and asked where the money went. She asked who has oversight of the Trust. Mr. Winters said he had no idea where the funds have been going. Mr. Henry said Anne Washburn maintained the records until fairly recently. Mr. Winters said he asked Bobby Washburn, who lives out of town, to be at the meeting tonight. Mr. Dawson said approximately one year ago Mrs. Washburn gave to him an accordion file filled with papers and banking records. He placed the file in the Town Clerk's office for safekeeping. Subsequent to that time the mailing address for the bank records and bills was changed to be sent to the Town House. The Town does not have the ability to pay the bills or write checks on that account. After that Mr. Dawson met with Mrs. Washburn and her sister; in any event, all of the records were returned to Bob Washburn and he has been paying the bills. Mr. Dawson said the records do exist and they appear to continue to be well-organized and well-maintained. Mr. Henry said the Washburn family should be represented in the discussions because access from one side is over their land.

Mr. Clemmey said he was involved with the Trust for approximately 40 years and offered to participate in any discussions.

Mrs. Bascom said it was her understanding that Bob Washburn had resigned from the Trust. Mr. Dawson said there was a letter in the accordion file that was a resignation letter from Mr. Washburn but to the best of his knowledge it was never filed with or forwarded to anybody. Mr. Winters said he had not heard anything about the resignation. Mr. Cushing said those are things that can be addressed moving forward but for right now it seems that Mr. Washburn is the only person maintaining the records and paying the bills. Mr. Henry said the first thing to be done is establish a repository for the records for somebody to maintain.

Mr. Dawson stated that he received by fax today two letters of interest already referenced by Mr. Winters; one was from Jim Arne and the other from Cheryl Arne Duncan. Mr. Winters said he had a letter of interest from Sherman Briggs.

Douglas Church – Request to discharge sump pump at 81 Water Street into roadway drainage system

Mr. Church was present on behalf of the owners of 81 Water Street; the request is to tie an existing sump pump at the property into the storm drain located in front of the house. Mr. Henry asked if the owners had considered installing a small drainage structure; Mr. Church said the water table was very high and tying into the storm drain appears to be the best solution. Mr. Blanchette said when similar requests were approved in the past the property owners were required to sign an indemnification agreement. Mr. Church indicated that the property owners were willing to sign an indemnification agreement and a trap to prevent backflow would be installed. Mr. Cushing asked if an engineered plan or owner-designed specifications would be provided; Mr. Dawson said this request does not require the need for a civil engineer as it's strictly a connection to the storm drain. Mr. Zora has reviewed the request and subject to the Board's approval he has no problem with it.

Mr. Blanchette noted that the Board would be addressing a number of similar requests in the near future. Mr. Cushing said the Board is in the process of setting up some type of standards. Mr. Henry said the stormwater drainage regulations will be very stringent if they are not already. He recommended the request be taken under advisement to make sure it's going to be consistent with what is going to be an engineered system when the Town makes the upgrade to the stormwater runoff system.

Mr. Henry asked if an immediate remedy is needed and was told no. Mr. Church said there is flooding in the back yard but it is not causing property damage. Mr. Henry recommended that a future request conform to the anticipated stormwater remediation system. He suggested the request be taken under advisement and that all requests of this nature be approached in a standardized manner.

After discussion it was agreed that Mr. Church should submit a plan to Mr. Dawson for CDM to review and make recommendations.

ACTION ITEMS:

One day, all alcohol license – VFW #2425 – Wedding Reception July 23, 2011, 2:00 p.m. – 10:30 p.m.

Moved by Mr. Blanchette and seconded by Mr. Cushing to approve. VOTE: 3-0-0

Alisha Chandler – Reappointment to Marion Police Department as Full-Time Police Officer

Moved by Mr. Blanchette and seconded by Mr. Cushing to reappoint Alisha Chandler as a full-time police officer. VOTE: 3-0-0

2 One day wine & malt licenses – Marion Art Center – Intermission (July 28, 2011, July 29, 2011, July 30, 2011 8:00 p.m. – 10:30 p.m.) (August 5, 2011, August 6, 2011 8:00 p.m. – 10:30 p.m.)

Moved by Mr. Blanchette and seconded by Mr. Cushing to approve. VOTE: 3-0-0

Water Commitment - \$117.57 (6/29/11)

Moved by Mr. Cushing and seconded by Mr. Blanchette to approve. VOTE: 3-0-0

Water Commitment - \$110.15 (6/30/11)

Moved by Mr. Cushing and seconded by Mr. Blanchette to approve. VOTE: 3-0-0

Water Commitment - \$522.85 (6/30/11)

Moved by Mr. Cushing and seconded by Mr. Blanchette to approve. VOTE: 3-0-0

Request for abatement – 6 Register Road

This was held over from the July 2 meeting. A letter from Gibbs Plumbing & Heating, dated July 6, 2011 was read into the record. Mr. Dawson was informed by Mr. Gibbs today that two separate issues were discovered at the residence (weeping compression connection in a crawlspace, a steady stream of water coming from an outside faucet). He was also informed that in early discussions Ms. Reed told Water Department staff there had been a small leak in one toilet that was also corrected.

Mr. Dawson said he could not find any reason to recommend an abatement.

Ms. Reed was present for this discussion and said in November all of the hoses were disconnected and stored in the basement. She described the efforts made to discover the source of the water use and asked if the Board would consider an abatement equal to the amount of the plumbing bills. Mr. Henry suggested the installation of a shut off switch. He said the plumbing bill was a private issue the Board could not address.

Moved by Mr. Cushing and seconded by Mr. Blanchette to accept the recommendation of the DPW superintendent to deny the abatement. VOTE: 3-0-0

Appointment of Alternate Building Commissioner

The Board reviewed the letter of interest, resume, and references submitted by Robert Francis. Mr. Dawson said this position has been pending for quite some time, has been advertised more than once, and Mr. Francis' response is the only one received.

Moved by Mr. Cushing and seconded by Mr. Blanchette to appoint Robert Francis as the Alternate Building Commissioner for the Town of Marion. VOTE: 3-0-0

Request to close street – First Congregational Church Summer Fair

The First Congregational Church is having its annual Summer Fair on Saturday, July 30, the request is to close off the traffic on Main Street from School Street to the intersection of Main and Front Street from 8:00 a.m. to 2:00 p.m. Mr. Cushing asked if the Police Department is aware of the request; Mr. Dawson said this is an annual event and the police do not have a problem with it.

Moved by Mr. Blanchette and seconded by Mr. Cushing to approve the request. VOTE: 3-0-0

One day, all alcohol license – Marion Social Club – Family Party July 23, 2011, 5:00 p.m. – 9:00 p.m.

Moved by Mr. Cushing and seconded by Mr. Blanchette to approve. VOTE: 3-0-0

Water Credit - \$825 (7/14/11)

Mr. Dawson explained that the property owner paid for a second service for irrigation purposes and after reconsideration chose not to install it. The credit is the result of a refund.

Moved by Mr. Cushing and seconded by Mr. Blanchette to approve. VOTE: 3-0-0

Sign appropriation transfer for debt

The request has been approved by the Finance Committee and would allow a transfer of funds already appropriated by Town Meeting from one budget (debt interest) to another (debt principal). A vote by the Finance Committee and Board of Selectmen is required for the transfer.

Moved by Mr. Blanchette and seconded by Mr. Cushing to approve the transfer. VOTE: 3-0-0

TOWN ADMINISTRATOR'S REPORT

Tabor Field project update

Mr. Dawson read into the record a press report issued last week following the decision of the Land Court.

At the request of the Board, Mr. Dawson sent a letter to the Conservation Commission requesting that they call an emergency meeting.

Today the Board of Health issued a cease & desist order because the subsurface drainage plans were not properly reviewed in accordance with the Marion Sanitary Code. Mr. Cushing asked if the order was to cease all work and was told yes. He asked if the work ceased and was told no. Mr. Henry asked if that issue was before a judge and was told no.

Ted North, Planning Board member, said the Planning Board has not yet received an application for site plan review. Mr. Blanchette asked what it would mean if an application is never submitted. Mr. Dawson said this will ultimately take an order of the court or some kind of settlement agreement.

Mr. Cushing said the work conducted over the last few days is within the bounds that the judge has set forth. Mr. Dawson said there has been some sort of grading around the perimeter, probably loam and seeding, and does not normally require a permit from the Town. He said the judge was very specific that the turf could be put down but there was to be no work done on the lighting, bleachers, back stop, and dugouts until Tabor has gone before the required Boards.

Margie Baldwin asked about the September 15 ZBA legal notice; she was told that late last week Tabor filed with the ZBA an appeal of the Building Commissioner's decision/opinion that the project was subject to site plan review. She was told the public hearing on July 28 will be limited to the lights and no other aspect of the project.

Mrs. Baldwin asked if it was appropriate to ask the chairman of the Conservation Commission why they would not hold a special meeting. Chairman Sherman Briggs was present and explained that the Commission handled the request in accordance with DEP

regulations, it was addressed over two meetings, the only audience members were Mr. Sanderson and Mr. Henry, an Order of Conditions was issued, reviewed by DEP, and no appeal was filed. The next meeting of the Conservation Commission is not that far away, and he felt it was more appropriate to have it at that time.

Mr. Blanchette said he understood that the project was not built in accordance with the Order of Conditions. Mr. Briggs said there was one change; the approved 3' curb was amended to a 2' curb. He said there was confusion in that some people believed it was a retaining wall but it actually is a curb. The change was made on the recommendation of Northeast Turf. Mr. Blanchette said the change was made without the vote of the Commission. Mr. Briggs said it was discussed between the Chairman and Vice-Chairman and it's a common practice on Conservation Commission as long as such requests are followed up with a letter and a revised plan.

Janet Barnes said she was confused about the dates of the letters regarding the curb changes and asked where the engineering study was stating that this is a safe change based upon that curb being installed in a velocity zone. Mrs. Barnes asked Mr. Briggs if there was an engineering study done showing that this was an appropriate change. Mr. Briggs said the change was submitted by Coastline Engineering and it should be in the file. Mrs. Barnes noted that Coastline Engineering is the proponent, not independent, engineer.

Mrs. Barnes said Tabor Academy has indicated that the Conservation Commission is the only board they were required to appear before; she noted that the Order of Conditions contains language regarding other Boards and Commissions. Norman Hills said the Conservation Commission limits enforcement to the Wetlands Protection Act.

Rick Barnes said he was told that Front Street would be closed for two days in the middle of the summer; Mr. Dawson said a request was received to close the street and it was very quickly withdrawn when concerns were raised.

Stan Bradford, 25 Spring Street, expressed concern for the approval and permitting process. Mr. Blanchette said volunteers are needed to serve; Mr. Bradford said he hesitates to serve. He said this should have been caught earlier and was told the Selectmen do not micromanage other Boards and Commissions.

Mrs. Barnes said she and other residents have been meeting with representatives of Tabor Academy. She spoke with Susan Nilson of Coastline Engineering about using alternative materials for the field after the July 12 meeting, when Mr. Stroud said the school would do anything but just needed the field. She said Mrs. Baldwin asked Mr. Stroud if they could meet and discuss materials other than crumb rubber and was told absolutely not.

An audience member who declined to state her name asked about the conflict of interest law; Mr. Dawson explained the law to her.

Perchlorate Issue Update

A report from Tata & Howard, dated July 18, 2011, was reviewed. The report shows elevated levels of perchlorate at three locations in Rochester. It appears to be that there is a source heading in a southwesterly direction. Some private wells (located in Rochester) are sited in the locations; the Rochester Board of Health has been notified and will be contacting those property owners and recommending that the wells be tested. There currently is no law in the town of Rochester mandating testing of the wells. The consulting engineers will be meeting with DEP officials to bring them up to date and

develop an action plan to bring the two Town wells back online. The DEP will be asked if an emergency can be declared and an order to test can be issued.

Mr. Dawson emphasized that the private wells discussed tonight are located in the Town of Rochester and anyone in the area where the perchlorate seems to be, particularly those on Mary's Pond Road, really ought to have their wells tested. The Town of Marion will continue to facilitate and pay for the testing of private wells.

Town Administrator vacation

Mr. Dawson will be on vacation next week but available for emergencies.

CORRESPONDENCE:

Mr. Henry recommended waiving the reading of the correspondence into the record with two exceptions.

Email from Bill Saltonstall regarding Green Communities Act (7/4/11)

The Marion Energy Management Committee recently voted to pursue actions that would allow Marion to become a Green Community and is seeking the support of the Board. After discussion it was agreed to invite the Energy Management Committee, the Planning Board, and a representative from the State to learn more about the program.

Moved by Mr. Blanchette and seconded by Mr. Cushing to go forward and support the Marion Energy Management Committee in their quest to become a Green Community.

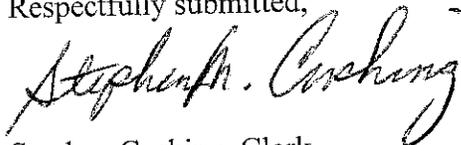
VOTE: 3-0-0

Letter from Attorney Robert Moore regarding Map 21, Lot 17, County Road (Zimmer property) (6/15/11)

Attorney Moore represents the seller; the Town has first refusal of the land because it currently is designated agricultural. It was agreed to take this under advisement and place it on the August 2 meeting agenda as an action item.

Moved by Mr. Cushing and seconded by Mr. Blanchette at 9:03 p.m. to adjourn from regular session and convene an Executive Session for the purpose of strategy related to ongoing litigation. The Board will not be returning to regular session. A roll call vote was taken with all members voting yes.

Respectfully submitted,



Stephen Cushing, Clerk

Date approved: 8/2/11

2011 AUG 3 - 10:04 AM
RECEIVED
TOWN CLERK OF MARION, MA

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
July 19, 2011**

DOCUMENTS REVIEWED AT MEETING

Request to discharge sump pump at 81 Water Street into roadway drainage system (6/29/11)
One day all alcohol license – VFW #2425 (7/23, 2:00 p.m.–10:30 p.m.)
One day wine & malt license – Marion Art Center (7/28, 7/29, 7/30, 8:00 p.m. – 10:30 p.m.)
One day wine & malt license – Marion Art Center (8/5, 8/6, 8:00 p.m. – 10:30 p.m.)
Water commitment (\$117.57, 6/29/11)
Water commitment (\$110.15, 6/30/11)
Water commitment (\$522.85, 6/30/11)
Letter from Gibbs Plumbing & Heating regarding 6 Register Road (7/6/11)
Memo from P. Dawson regarding water abatement request for 6 Register Road (7/19/11)
Undated information regarding water use at 6 Register Road
Letter of interest from Robert Francis regarding position of Alternate Building Commissioner, resume and professional certificates included (5/17/11)
Letter from First Congregational Church Summer Fair Committee Chairman requesting street closure July 30 (7/8/11)
One day all alcohol license – Marion Social Club (7/23, 5:00 p.m. – 9:00 p.m.)
Credit memorandum (\$825, 7/14/11)
Memo from J. Mooney, G. Carreiro regarding FY11 appropriation transfer request (7/15/11)
Email and map regarding perchlorate monitoring wells (email dated 7/18/11, map dated July, 2011)

CORRESPONDENCE INCLUDED IN BOARD MEMBERS' BINDERS

Memo from Alewives Anonymous regarding 2011 herring counts (6/14/11)
Letter from Marion Art Center regarding Arts in the Park (6/22/11)
Legal Notice from ZBA regarding amendment to comprehensive permit for Little Neck Village (6/23/11)
Email from Kit Sawitsky regarding Marion Energy Management Committee (6/28/11)
Independent Auditor's Report from Benoit & McArdle, P.C. (5/16/11)
Letter from Margherita & Michael Baldwin (6/27/11)
Copy of letter from Building Commissioner regarding 3 Rose Cottage Lane (6/22/11)
Copy of letter from Building Commissioner regarding Tabor Academy (6/30/11)
Email from Bill Saltonstall regarding Green Communities Act (7/4/11)
Notice from Division of Marine Fisheries regarding Shellfish Propagation Permit for Catherine Brodeur (notice undated)
Notice from Comcast regarding upcoming changes to Standard Cable package (6/29/11)
Letter from Local Election Districts Review Commission regarding Town's submission of single precinct (undated)
Letter from Benjamin D. Cushing VFW #2425 regarding Memorial Day committee and Fourth of July committee members (undated, received 7/12/11)

Copy of letter from Building Commissioner regarding 3 Rose Cottage Lane (7/8/11)
Copy of Cease & Desist Order from Building Commissioner regarding Tabor Field (7/11/11)
Copy of filing by Verizon New England with Dept. of Telecommunications and Cable (7/6/11)
Email from Bob Sanderson regarding Tabor Field (7/13/11)
Letter from Attorney Robert Moore regarding Map 21, Lot 17 County Road (Zimmer property) (6/15/11)
Letter from Mr. Dawson on behalf of Board to Conservation Commission regarding Tabor Academy (7/15/11)
Letter from Richard & Janet Barnes to Mr. Dawson regarding Tabor Academy (7/18/11)
Letter from Daniel Mahoney II recommending noise ordinance (undated, received 7/18/11)
Letter from Alewives Anonymous, Inc., regarding Hathaway Pond Dam (7/16/11)
ZBA Request for Comments regarding Tabor Academy (7/18/11)
Copy of Cease & Desist Order from Health Director regarding Tabor Field (7/19/11)

AGENDAS & MEETING MINUTES RECEIVED FROM BOARDS & COMMISSIONS

Conservation Commission meeting agenda – 7/13/11
Planning Board meeting agenda – 7/11/11