

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
MEETING MINUTES
January 17, 2017**

MEMBERS PRESENT: Jonathan Dickerson, Chairman
Stephen Cushing
Stephen Gonsalves

ALSO PRESENT: Paul Dawson, Town Administrator
Isaac Perry, Harbormaster
Adam Murphy, Shellfish Officer
Norman Hills
Rob Zora
Diane Cosman
Tricia Scarpato
Steve Kokkins
Elizabeth Luther
Janet Marshall
John Halnen
Leslie Halnen
Jeff Doubrava
Beth Doubrava
Jeff Holmes
Diane Holmes
Kevin Cuzzi
Barbara Cuzzi
Chris Bryant
Nat Bryant
Claire King
Tanner Harding, Sippican Week
Jean Perry, Wanderer
Debra Paiva, secretary
Others who did not sign in

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

Approval of meeting minutes – December 7, 2016, September 17, 2013 Executive Session, October 15, 2013 Executive Session, November 5, 2013 Executive Session, November 22, 2013 Executive Session, December 17, 2013 Executive Session, January 28, 2014 Executive Session, February 4, 2014 Executive Session, February 11, 2014 Executive Session, February 18, 2014 Executive Session, March 4, 2014 Executive Session
Moved by Mr. Cushing and seconded by Mr. Gonsalves to approve the minutes. VOTE: 3-0-0

ACTION ITEMS

Water/Sewer commitment – new service, \$375 (1/18/17)

Moved by Mr. Cushing and seconded by Mr. Gonsalves to move the commitment. VOTE: 3-0-0

Water/Sewer commitment – final readings & misc. run - \$1816.91 (1/11/17)

Moved by Mr. Cushing and seconded by Mr. Gonsalves to move the commitment. VOTE: 3-0-0

Engineering Services Agreement – Mary’s Pond Well Field Rehabilitation Phase II

Mr. Dawson explained that the funds for the agreement were approved by 2016 Annual Town Meeting under Article 13; the total appropriation was \$630,000 and the value of the contract is \$128,400.

Moved by Mr. Cushing and seconded by Mr. Gonsalves to approve the contract for Mary’s Pond Well Field Rehabilitation Phase II. VOTE: 3-0-0

APPOINTMENTS

7:05 p.m. – Continued Public Hearing – Aquaculture permit application – Chris Bryant

The public hearing notice was read into the record. The hearing was opened on December 20, 2016 and continued to tonight. Chris Bryant and Nat Bryant were present for the public hearing; the request is for a half acre grant south of Meadow Island.

During his presentation Mr. Bryant distributed maps of the proposed site. The issues he addressed included:

- Percentage of the cove the project would use (.7%)
- Ability of boats to pass by the site
- Approval of the site by the Harbormaster and the Shellfish Officer
- Coastal Zone Management regulation of aquaculture
- Concerns expressed by residents
- Benefit of aquaculture
- Communication sent to and response received from residents

Public Input

Diane Cosman, 19 West Avenue, clarified that she had a conversation with Mr. Bryant and explained that she was not able to speak on behalf of residents. The issues she commented on included language contained within Chapter 91, Town of Marion regulations, opposition to the project, lack of support for the project, moorings and docks in the area, and obstructions in navigable waters.

Jeff Holmes, 73 West Avenue, provided a large photo of area. The issues he questioned and commented on included the history of the area, rights to use the waterways, navigability, moorings in the area, “oyster gardens” allowed in Rhode Island, a similar project in the area that was previously denied by the selectmen, and a master plan for aquaculture. Mr. Bryant responded to his comments and concerns.

William Berry, 48 East Avenue, addressed the board. The issues he commented on included navigability, obstruction, and impedance.

Habormaster Perry explained the standard used by the licensing agencies when determining whether a project would materially obstruct navigation.

Norman Hills, 680 Front Street, voiced support for the project. The issues he commented on included percentage (.06%) of surface water the project would use, definition of hazard to

navigation, definition of obstruction, permitted obstructions, Public Trust Doctrine, and state and federal agencies and laws that allow and regulate aquaculture.

Claire King, 5 Island Court, asked if the Army Corps of Engineers (ACE) would take into consideration the seasonal changes of the sandbars; Mr. Perry stated that he could not speak for different agencies and they all had public comment periods.

Hud Plumb, 27 West Avenue, made comments regarding obstruction of navigation, location of anchor chains, fish and fowl statute, and the half acre site currently granted to Mr. Bryant.

Tricia Scarpato, 11 Richardson Road, addressed the selectmen on behalf of herself and for the residents of 65 West Avenue and 71 West Avenue. Ms. Scarpato made comments regarding abutter input and asked if there is a master plan for the harbor.

Harbormaster Perry made the following statements:

There is no master plan for the harbor.

The local aquaculture regulations were written more than 20 years ago.

Aquaculture has been licensed in Marion since 2003.

Aquaculture in Marion is self-limiting as there is not a lot of space.

Moorings and docks are lands taken away from the public trust used for the benefit of private individuals.

What the Bryants are asking for is no different than a homeowner requesting a permit to construct a private dock or being placed on a waiting list for a mooring.

Docks are not denied, requests to be placed on a mooring waiting list are not denied, and requests for aquaculture grants should not be denied.

There is no channel between Planting Island and Meadow Island.

The regulations take into consideration all points of view.

The "not in my backyard" argument is not a reason to deny this or any proposal.

Diane Cosman noted that a mooring field would not be placed in a navigable waterway; she was told that would be determined by the Army Corps of Engineers.

William Berry stated that because of its frequent and constant use it is a navigational channel.

Norman Hills made comments regarding the need for small businesses in Town and whether it is a navigational channel.

John Halnen, 62 East Avenue, commented on statements made by Mr. Bryant during a recent public hearing for an aquaculture project off of Meadow Island; Mr. Bryant responded to the comment.

Diane Holmes, 73 West Avenue, voiced concern that the site would be expanded; Mr. Bryant told her that he did not plan to expand that particular site.

Claire King noted that an expansion could be requested under a different business name. Harbormaster Perry explained that requesting a license under a different business name in order to get additional acreage would not be allowed.

Mrs. Scarpato asked a question about the process and Harbormaster Perry explained the following to her: the selectmen were considering tonight whether to allow the request to move forward. Should the request be approved the Division of Marine Fisheries would conduct a dive survey in April and if the results were favorable the application would be reviewed by local, state, and federal agencies. At some point in time the request will come back to the selectmen for final approval. If the project fails the dive survey the project will be denied at that point in time.

Diane Holmes asked why this request is being considered when the previous request in was denied.

There were no further questions or comments.

Moved by Mr. Cushing and seconded by Mr. Gonsalves to close the public hearing. VOTE: 3-0-0

Mr. Cushing commented regarding the area, said he is familiar with the area, and noted that he did not have a problem with the Doonan request.

Mr. Gonsalves said he felt the same way he did with the Doonan request and voiced concern for navigability.

Moved by Mr. Cushing and seconded by Mr. Dickerson to approve the application to move to the next step. VOTE: 2-1-0 (Mr. Cushing and Mr. Dickerson in favor, Mr. Gonsalves opposed)

7:30 p.m. Sherman Briggs – Discussion regarding sewer and Sprague’s Cove

CDM Smith representative Mike Guidice, DPW Superintendent Rob Zora, and audience members Ray Cullum, Norm Hill, and Rob Lane were present and participated in the discussion. Mr. Briggs stated that his concern is regarding I&I (inflow and infiltration), the lining of pipes, and new technology he has discovered through his role as a member of the Master Plan Infrastructure Subcommittee. He stated that Mr. Gonsalves and Mr. Dickerson met with representatives of Warren Environmental on separate occasions; Mr. Dickerson said he attended the presentation last Wednesday and agreed that the Town of Marion should look into the technology. The following issues were addressed and discussed:

- Pipe lining technology
- Methods used to line sewer pipes in the village loop project.
- Ongoing I&I repair work that is included within the DPW budget annually
- Ranking and prioritizing of repairs over a ten year period of time
- Road conditions on areas of Point Road and Creek Road
- Camera work done at a section of pipe on Point Road and Route 6 with a significant measured flow; Mr. Guidice explained that it was the result of the Point Road pumping station being turned on. Mr. Briggs requested a copy of the video results of the camera and was told if the Town does not have a copy one could be provided.
- Efforts and findings of the Master Plan infrastructure subcommittee

Sprague’s Cove

A memo from Mr. Dawson providing a history of Sprague’s Cove was reviewed and discussed; a copy of the memo, dated January 17, 2017, is attached to these minutes.

ACTION ITEM

Aquaculture license – Doug Thackeray

Mr. Dawson explained that this is the final approval needed for Mr. Thackeray to receive his aquaculture license; the application was submitted to the selectmen on September 10, 2015. Harbormaster Perry voiced support for the application.

Moved by Mr. Cushing and seconded by Mr. Gonsalves to approve the aquaculture application submitted by Doug Thackeray. VOTE: 3-0-0

TOWN ADMINISTRATOR

Review and discuss proposed agreement between Town of Marion and Sippican Historical Society regarding Music Hall Endowment

In 1996 an anonymous donor gave the Sippican Historical Society \$250,000 as a restricted endowment fund for the benefit of the Music Hall; a proposed agreement between the Town of Marion and the Sippican Historical Society was reviewed and discussed.

Moved by Mr. Cushing and seconded by Mr. Dickerson to accept the agreement. VOTE: 2-0-1 (Mr. Gonsalves abstained)

Update - Bylaw codification

Mr. Dawson explained that the editorial analysis has been received and reviewed; a final manuscript will be returned prior to the Annual Town Meeting. Mr. Dawson thanked the Planning Board for their efforts in the editorial analysis.

Moved by Mr. Cushing and seconded by Mr. Gonsalves at 9:18 p.m. to enter into Executive Session for strategy related to contract negotiations with nonunion personnel and also to consider the purchase, exchange, lease or value (including easements) of real property. The Board will not be returning to regular session. A roll call vote was taken with all members voting aye.

Respectfully submitted,



Stephen C. Gonsalves, Clerk
Date approved: February 7, 2017

02-08-17A09:17 RCv:

**MARION BOARD OF SELECTMEN
DOCUMENTS REVIEWED AT MEETING – January 17, 2017**

MEETING MINUTES –December 7, 2016, September 17, 2013 Executive Session, October 15, 2013 Executive Session, November 5, 2013 Executive Session, November 22, 2013 Executive Session, December 17, 2013 Executive Session, January 28, 2014 Executive Session, February 4, 2014 Executive Session, February 11, 2014 Executive Session, February 18, 2014 Executive Session, March 4, 2014 Executive Session

Public hearing materials related to aquaculture permit application – Chris Bryant

Memo from Mr. Dawson regarding Sprague’s Cove

Materials related to final approval of aquaculture license – Doug Thackeray

Engineering Services Agreement – Mary’s Pond Well Field Rehabilitation Phase II

Water/Sewer commitment – New Service, \$375 – (1/11/17)

Water/Sewer commitment – Final Readings & Misc. Run, \$1,816.91 (1/11/17)

Proposed agreement between Town of Marion and Sippican Historical Society regarding Music Hall Endowment

Memo from Planning Board regarding bylaw codification



Town of Marion
Two Spring Street
Marion, Massachusetts 02738

Paul F. Dawson
Town Administrator

e-mail—pdawson@marionma.gov

Telephone—508-748-3550
Facsimile—508-748-6991

MEMORANDUM

Date: January 17, 2017
To: Honorable Board of Selectmen
From: Paul F. Dawson – Town Administrator
Subject: Sprague Cove Historic Memo

This memo is offered to provide some history of the site. In 1990, the Town of Marion and the Buzzard's Bay Project submitted a proposal to MassDEP 319 Nonpoint Source (NPS) program to reduce the pollution loading in Buzzards Bay. The Soil Conservation Service (SCS) provided technical assistance and formed an interdisciplinary team of (1) SCS wetlands specialist, (2) US Fish and Wildlife Service, (3) Massachusetts Fish and Wildlife, and (4) MassDEP Division of Wildlife. It was determined that stormwater runoff was the major contributor of fecal coliform bacteria. It was determined that an engineered stormwater remediation project designed to intercept the first flush of 70 acres of town would be designed. The project would be installed adjacent to the parking lot of the Town Beach. This area was originally a salt marsh that had been filled with dredge material in the 1950s.

In August 1992, a planning document was published by the SCS outlining the conceptual project. Short of the whole document, there were three important aspects:

- a. On page 6 in the *Natural Resources* section is the following wording, "In discussing this project with the Heritage staff, the resource area may contain habitat for the Diamondback Terrapin (*Malaclemmys t. terrapin*). The terrapin is known to inhabit coastal estuaries and tidal flats. The Heritage staff indicate that a stormwater remediation project in the resource area would not affect the habitat of the terrapin".
- b. On page 10 in the *Operation and Maintenance* section is the following wording, "Both long- and short-term inspection and maintenance of the

system is the primary responsibility of the Marion Conservation Commission”.

- c. Appendix F is the *Inspection and Operation and Maintenance Sprague’s Cove Stormwater Remediation Project*.

A Notice of Intent was filed for the Sprague’s Cove Stormwater Remediation Project in 1993 by the Town of Marion in order to pretreat stormwater runoff prior to its discharge into Sprague’s Cove. This work included the construction of a settling basin and wetland treatment system bordered by the existing seawall to the south and the existing parking lot to the east. The project was issued an Order of Conditions (OOC) under DEP File Number SE41-556 on July 9, 1993. After which time, an amended OOC was issued on April 10, 1995 to expand the scope of work to include cleaning sediment from a ditch from Front Street southwesterly to the first wooden bridge crossing the ditch. The Sprague’s Cove Project was constructed during the spring and summer of 1995. Half of the Project funding was provided by an EPA 319 grant and the US Fish and Wildlife Service. A Certificate of Compliance was issued for the project by the Marion Conservation Commission on August 18, 1995.

A Final Report of the Sprague’s Cove Stormwater Remediation Project was issued in September 1995, prepared by the Buzzard’s Bay Project and The Natural Resources Conservation Service. Cooperation was provided by (1) the Town of Marion, (2) Department of Environmental Protection Office of Watershed Management, (3) Environmental Protection Agency, and (4) Plymouth County Conservation District. Two important aspects:

- a. On page 20 in *Operations and Maintenance* section is the following wording, “The operation and maintenance component of the wetland system is the responsibility of the Town of Marion. The Operation and Maintenance Plan included the inspection and, if needed, the repair or replacement of any structural components of the wetland system. The design and the operation and management plan was submitted as part of the permit application to the Marion Conservation Commission as part of the wetlands permit application. Any maintenance to the wetland system, therefore, should not require an additional wetland permit”.
- b. In that same section is also the following wording, “One of the maintenance concerns the Buzzards Bay Project expressed to the town was the establishment of Phragmites on the perimeter and low flow dikes. Phragmites is an aggressive and invasive plant species, which, if left uncontrolled, will outcompete the existing wetland species”.

By 2012, routine maintenance had failed to prevent the infestation of invasive species (Phragmites, Japanese Knotweed, Asiatic Bittersweet, Morrow’s Honeysuckle, Purple Loosestrife, Common Privet, Spotted Knapweed, Autumn Olive, Sycamore Maple, Black Swallowwort, willow) and the Marion Conservation Commission contracted to have the invasive species removed from the perimeter and low flow dikes. In 2013, the Marion Conservation Commission contracted for the treatment of remaining and re-emergent invasive species. These actions are in consonance with the original documentation and supported by the Wetlands Protection Act (310 CMR 10.02) which expects engineered stormwater remediation projects to be maintained to perform their designed functions. No

action to date has altered the Project design or in any way changed the function of the Sprague's Cove Stormwater Remediation Project.

Subsequent to the 2013 effort, the Department of Public Works repaired the perimeter of the Project and reseeded with a wetlands mix. Under the premise that any maintenance to the wetland system should not require an additional wetland permit in March/April 2014, the Town of Marion DPW conducted the work of removing Phragmites along the fringe of the existing parking lot and adding more boulders to an existing scattered and dilapidated rock seawall along the southern side of the stormwater system. The DPW removed a 5 ft. strip of Phragmites along the southern fringe of the existing parking (approximately 120 linear feet) and replaced it with crushed seashell to match the existing surface of the lot. It is not clear that this was an alteration or merely the reclamation of an area overwhelmed by the Phragmites. The upgrading of the existing rock wall was conducted during the same time to protect the dike along the southern side of the Wetland System from any potential erosion and ensure the functionality of the dike for access purposes. The rock wall is approximately 330 linear feet long and 3 feet (max) high.

When the Marion Conservation Commission became aware of the rock wall work, an Enforcement Order was issued to the Town. Two options were provided (1) remove the rock wall or (2) have it properly engineered.

As of February, 2016, after much discussion between the Town's engineers and the Army Corps. of Engineers and the Conservation Commission, the Town has elected to keep the existing wall intact and to simply reinforce it in place. The Conservation Commission approved that plan in May of 2016 after considering a number of factors:

- a. The rock wall is shown on an approved engineering plan (CENED-OD-R 199101012 dated 29 May 1991)
- b. The original plan with OOC (SE41-556 dated 9 July, 1993) showed that southern section of the perimeter to have been armored. There is no documented design change in the Conservation Commission records
- c. Damage, if any, will occur with either option. Chinking the rock wall will provide the intended protection to the Sprague's Cove Stormwater Remediation Project especially in view of the anticipated sea level rise.

Copies of all documents can be provided.

The Marion Board of Selectmen has determined that the Sprague's Cove Stormwater Remediation Project needs to be operated and managed to achieve its design function now and in the future.