

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON JANUARY 26, 2011

Members Present: Joel D. Hartley, Chairman
Sherman E. Briggs, Jr., Vice Chairman (absent from 7:00-7:10 PM)
Norman A. Hills, Secretary and Treasurer
Lawrence B. Dorman
Wendy L. Carreau

Members Absent: Jeffrey W. Oakes, Associate
Bruce C. Hebbel, Associate

Secretary: Diane R. Drake

Others Present: Don Wing, Dick Muther, Will Saltonstall, Susan Nilson, Mike Campagnone, Bill Saltonstall, Jon Henry, Elizabeth Rathborne, Richard Charon, and Barbara and Robert Sanderson.

Meeting convened at 7:00 PM Wednesday, January 26, 2011 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections had been held on Saturday, January 8, 2011 by J. Hartley, N. Hills, L. Dorman and W. Carreau, and on Saturday, January 22, 2011 by J. Hartley and L. Dorman with N. Hills attending as the photographer. The January 12, 2011 meeting had been cancelled due to inclement weather. The January 12, 2011 hearings were continued at their scheduled times to this meeting.

7:00 PM **WILLIAM A. SAMPSON** - RFD (41D-1413) to raze the existing dwelling at 43 Dexter Road, Dexter Beach, and reclaim the yard by clearing brush up to 15' from the wetland line (continued from December 8, 2010). J. Hartley said Mr. Sampson's representative, Thomas Lovett, had spoken with him regarding Mr. Sampson's inability to pay an engineer to place the updated wetland line on a plan, and had asked whether the Commission would accept a sketch prepared by himself instead. J. Hartley told him the Commission would probably accept a detailed sketch in lieu of an engineer's plan in this case. Mr. Lovett had requested a continuation so that he can prepare the revised plan. L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:00 PM March 9, 2011; N. Hills seconded; voted unanimously.

7:10 PM **JOHN R. HUBBARD, JR.** - NOI (SE 041-1152) to construct a single-family dwelling, a sewage disposal system, a driveway, and associated grading/filling/excavating at Lot 5A Front Street. Mr. Hubbard's engineer, Kevin Forgue of G.A.F. Engineering, by telephone had requested a continuation, as Mr. Hubbard would like to be present at his hearing but could not attend tonight due to the snow storm. L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:10 PM on February 9, 2011; N. Hills seconded; voted unanimously.

Minutes were reviewed. L. Dorman moved to accept the **October 27, 2010** minutes as amended; W. Carreau seconded; voted unanimously. N. Hills moved to accept the **November 10, 2010** minutes as amended; W. Carreau seconded; voted unanimously. L. Dorman moved to accept the **December 8, 2010** minutes as amended; J. Hartley seconded; voted unanimously. L. Dorman moved to accept the **December 22, 2010** minutes as amended; J. Hartley seconded; voted unanimously.

S. Briggs arrived at 7:11 PM.

7:11 PM **TABOR ACADEMY** - NOI (SE 041-1154) for site improvements (lighting/grading/drainage and the installation of synthetic turf) to the athletic fields at the corner of Spring Street and Ryder Lane. N. Hills left the room. W. Carreau left the table to sit in the audience. Don Wing and Dick Muther of Tabor Academy were present with their engineers, Susan Nilson and Mike Campagnone of CLE Engineering, Inc., and architect, Will Saltonstall. S. Nilson said the culvert might be an intermittent stream, and D.E.P. told her it was up to her to prove otherwise. She said riprap will be added where the pipe empties into the pond. S. Nilson said 550 square feet of replication area is proposed. She described the composition of the turf which will be permeable. Stone will be beneath the carpet for drainage, and pipes will also be present to direct flow to the sides of the field and then to the pond which is a reservoir for watering the fields. Barbara Sanderson of Ryder Lane was present with her husband, Robert, and said there is a stream behind her house that she thought also ended in the pond; S. Nilson said that the Sandersons' drainage enters Sippican Harbor before the pond, and she thought the Buzzards Bay Project had applied for a grant to treat the Ryder Lane runoff that goes into the Harbor. M. Campagnone said the existing underground pipe appears to be 12" but he considers it to be a culvert, not a stream. D. Wing said that pipe was installed in 1939, before the Wetlands Protection Act. Elizabeth Rathborne of Ryder Lane said the water behind her home runs down Ryder Lane. M. Campagnone said the old 12" drainage pipe is likely functioning at much less capacity but will be replaced with like kind. As there were no further comments from the audience, L. Dorman moved to close the hearing; J. Hartley seconded; voted unanimously. W. Carreau and N. Hills returned to the table.

7:35 PM **SIPPICAN LANDS TRUST** - RFD (41D-1437) to remove greenbrier, bittersweet, dead and dying trees in a 30'-wide strip of the Brainard Marsh property along Delano Road. William Saltonstall represented the Sippican Lands Trust and described the project. He would like to cut the bittersweet, treat the plants with pesticide, and burn the cut slash on the site. L. Dorman moved to close the hearing; N. Hills seconded; voted unanimously.

7:40 PM **JOHN W. and SANDRA J. BECK** - NOI (SE 041-1153) to construct a 4' x 108' elevated walkway over the salt marsh at 17 River Road, and to eradicate phragmites. Richard Charon of Charon Associates, Inc. represented the Becks. He described the project and said a pier isn't allowed due to the Zoning Bylaws. He also would like to cut/eradicate a swath of phragmites near the shore. R. Charon said an additional \$110.00 fee (\$55.00 each to the Conservation Commission and the D.E.P. Lock Box) for the phragmites work will be paid when the Becks return from Florida. R. Charon said the posts will be 12' on center and will be dug by hand, possibly using hand augers. L. Dorman moved to close the hearing; N. Hills seconded; voted unanimously.

7:50 PM **GREGORY KOSS** - RFD (41D-1438) to continue maintenance mowing the back yard at 32 Beach Street. G. Koss is working in California and could not attend the meeting. N. Hills said the drain spouts on the dwelling empty onto the ground, not into drywells; S. Briggs said they were supposed to discharge into drip strips. L. Dorman suggested sending Mr. Koss a letter requiring the wetland line to be staked. L. Dorman suggested denying this Determination and having Mr. Koss's representative come talk with the Commission. D. Drake explained that Mr. Koss said his neighbor did the mowing, not him, and without his permission. Also, Mr. Koss's house is in foreclosure proceedings and it would be expensive to have an engineer update the BVW line and prepare a revised plan. Recognizing that the order of conditions for rebuilding the house does allow the applicant to file for additional site work, as does the enforcement order, Commission Members discussed the possibility of issuing a conditional negative determination allowing mowing up to the 15' no-touch buffer zone upon re-establishment of the BVW line, and inspection and acceptance of that line by the Marion Conservation Commission. A permanent line of boulders or a fence will be required to permanently mark the 15' no-touch zone. L. Dorman said the removal of phragmites within the 15' no-touch zone will require a separate request for determination filing. J. Hartley moved to close the hearing and issue a determination with conditions as discussed above; L. Dorman seconded; voted unanimously.

8:38 PM **BAY WATCH REALTY TRUST** - NOI (SE 041-1145) to construct a 168-unit affordable housing complex under Chapter 40B with associated parking areas, on-site and off-site utility connections, storm water management infrastructure and related mitigation measures on Lots 27-29 off Front Street (Route 105) (continued from December 22, 2010). Kenneth Steen of Bay Watch had requested another continuation to February 9, 2011 in order to give his engineer time to review JC Engineering's latest peer review report. J. Hartley moved to continue the hearing, at the Applicant's request, to 7:30 PM on February 9, 2011; L. Dorman seconded; voted by majority with S. Briggs abstaining. W. Carreau, L. Dorman and S. Briggs said they are unable to attend the February 9, 2011 meeting. Associate Member Bruce Hebbel is working out of state and will not be available. If Associate Member Jeffrey Oakes cannot attend, that will leave just J. Hartley and N. Hills and there will not be a quorum. D. Drake will contact J. Oakes to see if he will be able to attend on February 9, 2011.

BAY WATCH REALTY TRUST - N. Hills moved to pay JC Engineering's \$2,200.00 invoice for his first engineering peer review of the Bay Watch Realty Trust project, and Sabatia's \$810.00 invoice for his second wetlands peer review; L. Dorman seconded; voted by majority with S. Briggs abstaining (SE 041-1145).

SIPPICAN LANDS TRUST, INC. - W. Carreau moved to issue a conditional negative 3 determination for site improvements at the Brainard Marsh property, with conditions that work can only be done within 30' of Delano Road, and all major debris shall be removed from the site or burned; L. Dorman seconded; voted unanimously (41D-1437).

JOHN W. and SANDRA J. BECK - S. Briggs drafted the order of conditions for constructing a walkway over the marsh at 17 River Road, and for eradicating phragmites. L. Dorman moved to issue it as written; N. Hills seconded; voted unanimously (SE 041-1153). A copy of D.E.P.'s guide on removing invasive species will be sent to the Becks and also to their engineer.

TABOR ACADEMY - J. Hartley drafted the order of conditions for site improvements at the Spring Street/Ryder Lane athletic fields and moved to issue it as written; L. Dorman seconded; voted by majority with N. Hills and W. Carreau abstaining.

The **MACC ANNUAL CONFERENCE** will be held on Saturday, March 5, 2011 in Worcester, MA. On a motion duly made and seconded, it was unanimously voted to pay \$95.00 for N. Hills to attend the conference.

GREGORY KOSS - L. Dorman drafted a conditional negative determination for boxes 2 and 3 for maintenance mowing at 32 Beach Street, with conditions that mowing shall not be done until Mr. Koss has the wetlands line re-established by a wetlands professional and then accepted by the Conservation Commission. In addition, the 15' no-touch zone delineation upland of the wetlands shall be permanently marked with either a line of boulders or a fence, and the lawn may be mowed only up to that 15' delineation. Lastly, a separate request for determination of applicability will need to be filed for cutting phragmites within the 15' no-touch zone. L. Dorman moved to issue the determination as described above; N. Hills seconded; voted unanimously.

COOLMAR LIMITED PARTNERSHIP - because the Sippican Lands Trust has decided not to accept responsibility for Coolmar's 604 Point Road conservation restriction, Attorney Richard Schaefer is asking the Planning Board to allow the homeowners' association to be the holder of the conservation restriction (SE 041-1066).

N. Hills will write the 2010 annual report.

Meeting adjourned at 9:15 PM.

Diane R. Drake, Secretary

Approved February 23, 2011