

FINAL

**MARION CONSERVATION COMMISSION**

MINUTES OF THE REGULAR MEETING HELD ON JUNE 24, 2015

Members Present: Norman A. Hills, Chairman  
Joel D. Hartley, Vice Chairman  
Jeffrey J. Doubrava, Clerk  
Stephen C. Gonsalves, Member  
Lawrence B. Dorman, Member  
Cynthia C. Trinidad, Associate

Admin. Assistant: Donna M. Hemphill

Others Present: Judith Johnson, U.S. Army Corps of Engineers; E. Byron and Jo Ann Hensley, 95 Holly Road; Adam Burnett, U.S. Army Corps of Engineers; Carolyn Mostello, MA Division of Fisheries and Wildlife; Jean Perry, The Wanderer; Warren Ferguson, 12 Jenney Lane; Richard Meyer, 20 Jenney Lane, Marion; Kate Mahoney, 40 Dexter Road

Meeting convened at 7:00 PM on Wednesday, June 24, 2015 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were held on Saturday, June 20, 2015 by L. Dorman, J. Doubrava and N. Hills. This meeting was televised and video recorded by Old Rochester Community Television (ORCTV), and audio recorded by Town of Marion staff.

**7:00 PM Department of Fisheries & Wildlife on behalf of the Town of Marion,**

Notice of Intent for an Ecological Restoration Project (File No. SE 041-1231), to restore nesting habitat for state and federally listed terns (Roseate Tern and Common Tern) at Bird Island, south of Butler Point. Carolyn Mostello of the MA Division of Fisheries and Wildlife described the project. In order to restore the habitats they would like to rebuild the revetment that has deteriorated over time. They would also raise the elevation of the island. The elevation would vary along the length of the revetment. Fill will be placed behind the revetment. The revetment is designed with a sloping face to have fairly loose stones so there is lots of surface area to dissipate the wave energy. Chicks could become entrapped in the crevasses so they will put a physical barrier between the nesting habitat and the revetment itself. The barrier will be a series of blocks that would be continuous inside the revetment that would prevent the chicks from crossing into the

43 revetment. They will replant the new habitat fill with natural vegetation. C. Mostello said  
44 they anticipate the project to take two years to complete. The contractor will not able to  
45 work on the island between April 7 and September 7. Some of the resource impacts that  
46 will occur due to the project include the loss of saltmarsh interior and seaward of the  
47 current revetment. Mitigation for the saltmarsh that will be filled will occur in  
48 Apponogansett Bay in Dartmouth. They will be enhancing about 9 acres of saltmarsh in  
49 exchange for filling about 0.64 acres of saltmarsh on Bird Island. C. Mostello also  
50 mentioned the impact to the rocky intertidal area around the island. She said there will be  
51 impacts in the northeastern part of the island having do with the temporary platform where  
52 the barges will offload. There will probably be two whaling piers put up to stabilize the  
53 barge. All of that will be removed after the second year of construction is completed. C.  
54 Marcello noted that there may be eel grass in the area of offloading. If there is they will  
55 have the barge use the same location each time. There will be before and after  
56 photographs taken. J. Hartley asked if they are allowed to fill in saltmarsh areas under the  
57 Wetlands Protection Act. C. Mostello said it is allowed. She said that they will mitigate the  
58 loss in Dartmouth. Judith Johnson of the U.S. Army Corps of Engineers said that new  
59 regulations having to do with Ecological Restoration projects do allow impacts to  
60 saltmarshes. J. Doubrava asked if the Town of Dartmouth approved their part of the project  
61 yet. C. Mostello said Dartmouth seemed happy with the design and they will be filing for  
62 the permits in the next week or so. She gave a brief description of the process in  
63 Dartmouth. N. Hills asked if the Order of Conditions from Dartmouth will note the work there  
64 is for the project here. C. Mostello said yes. L. Dorman said the board would like a copy of  
65 the approved Order of Conditions that will be issued from Dartmouth. J. Hartley asked if  
66 there were any restrictions on where the mitigation can take place. C. Mostello said  
67 technically it can be done anywhere. She described some of the areas they had looked  
68 at. J. Johnson also noted that some of the areas they were looking at were had the  
69 potential for flooding so they decided against those spots and decided on Apponogansett  
70 Bay in Dartmouth. Adam Burnett of the U.S. Army Corps of Engineers presented the  
71 proposed Dartmouth plan to the board from review. J. Johnson described the saltmarsh  
72 on Bird Island, noting that the majority of it was determined to be low functioning. The  
73 reason they need to fill the saltmarsh is because the Roseate Terns always nest with the  
74 Common Tern. She mentioned as the habitat gets smaller the Common Tern is moving into  
75 the Roseate Tern habitat area. She said there can be up to 300 terns per a quarter acres.  
76 By restoring the elevation of the island they have the potential to almost double the  
77 Roseate Tern population. J. Johnson also mentioned that 80% of the tern population in the  
78 Northeast is on three islands, Bird Island is one. S. Gonsalves asked how long the area will  
79 take to establish, especially the vegetation. C. Mostello said they have done similar

80 projects and she was surprised at how quickly the plants grew. S. Gonsalves asked for the  
81 plan in case of a hurricane. A. Burnett said they designed this so it would not require  
82 maintenance when there is a big storm. It's designed to sustain force and energy of the  
83 waves so it won't crash on the island. The size gravel is the maximum that can used and  
84 they balanced it out with what the terns need as well. The will be 8" boulders mixed in. Very  
85 sturdy and hardy for when there are washovers. The revetment will be higher than it is now.  
86 N. Hills noted that when they were out on Bird Island they did notice a lot of phragmites. C.  
87 Mostello said the strategy is rather than treat it now they will wait to see what needs to be  
88 treated after the project is done. They will bury the phragmites and hope that this will  
89 minimize any need for further treatment. J. Doubrava asked that if in the future phragmite  
90 removal is needed, who is responsible. C. Mostello said the state is responsible. J. Hartley  
91 asked if they are expecting any negative impacts to the terns from the construction. C.  
92 Mostello said no since the contractor will be restricted from the nesting area during the first  
93 year. J. Hartley asked is the terns will nest on a disturbed area. C. Mostello said during the  
94 first year the area will not be disturbed. During the second year fill will be added. The terns  
95 are attached to the area and will return to nest even with the new fill. L. Dorman asked  
96 about the staging area within Marion. A. Burnett said they have been working closely with  
97 the Harbormaster's office in regards to the staging area and any limitations. He referred  
98 the board to page G102 on the plan that showed the staging area. The storage of items is  
99 very limited. Also the area at Benson Brook will be available for limited storage. N. Hills  
100 asked if the rocks for the revetment will pass through here. A. Burnett said they could but  
101 they may not. They may just come in through New Bedford. He said he believes this area  
102 will be used for daily operations. L. Dorman asked about the use during the summer  
103 months. A. Burnett said there will be no activity on the island during that time. They may use  
104 the one small staging, parking and storage area that is next to the band shell at Island  
105 Wharf. A. Burnett said they have a right of entry agreement with the Harbormaster in  
106 relation to the access to this location. S. Gonsalves asked if there will be a temporary fence  
107 around the space. A. Burnett said they may need to. N. Hills said when the time comes to  
108 let the board know what the plan is. L. Dorman said that the board would like it  
109 documented since some of the information is a little open ended. A. Burnett said that the  
110 contractor will have to provide plans before going ahead. L. Dorman asked that he share  
111 that information with the board to make it part of the record. J. Doubrava asked about  
112 any restrictions on storage at the staging area next to the band shell. A. Burnett said it  
113 would be extremely limited and he does not anticipate storage an any stones. If anything it  
114 may be excavators or equipment. C. Trinidad asked for clarification about the eel grass on  
115 Bird Island in reference to the barge. A. Burnett said the barge will time when they come in  
116 and out based on the drafft and the tides. They will be limited with the size of the barge

117 and they will have to use the same location each time. The barge will need to be tugged  
118 in. The plan will be put together by the contractor. L. Dorman asked who will be removing  
119 the flagpole, boardwalk and shed. A. Burnett said that the Harbormaster will be taking  
120 care of the removal. C. Trinidad asked if the new regulations cover the work over the eel  
121 grass as it covers the work to the saltmarsh. J. Johnson said she believes eel grass is  
122 regulated under the Division of Marine & Fisheries. She said they have been coordinating  
123 with the Division throughout the planning process. They did an eel grass survey. J. Johnson  
124 said that they will be taking photographs and the area will be monitored for two years. If  
125 the grass does not seem to come back they will be in touch with the Division of Marine &  
126 Fisheries if any repairs are needed. They don't anticipate any will be needed. A. Burnett  
127 mentioned that there will not be any dredging. He also mentioned that the eel grass beds  
128 are not continuous, they are patchy. J. Johnson said the eel grass line can change from  
129 year to year. A. Burnett said the platform that will be built is limited and will be 40' x 100'.  
130 He said they will leave it to the local contractors to make a plan for construction of that  
131 platform. L. Dorman asked if there will be heavy equipment on the island. A. Burnett said  
132 yes there will be during the first year of the project. If the contracts are awarded by this  
133 September they would not begin work until November. J. Hartley asked if there are certain  
134 standards about what the board should expect to see in the way of nesting and  
135 population. C. Mostello did not have an estimate but she did reiterate that the terns are  
136 very attached to Bird Island and will return. The first year they may not see an increase but  
137 they should spread out and not be so crammed into the space. Hopefully within two to  
138 three years we will see an increase but she was unable to speculate a number at  
139 this time. N. Hills asked if any audience member or the board had further questions. There  
140 were none. L. Dorman motioned to close the hearing; J. Doubrava seconded; voted  
141 unanimously.

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143 **7:05 PM** (7:50PM) Appointment with Kate Mahoney, 40 Dexter Road,  
144 Kathleen Mahoney was present. She had previously been approved for construction of a  
145 new dwelling under File No. 41D-1509. K. Mahoney said an outdoor shower was part of the  
146 original design but did not make it onto the final plan for construction. She would like to  
147 construct the outdoor shower. K. Mahoney showed the revised plan to the board. The  
148 shower will be at the same level as the rear porch under an overhang that currently exists.  
149 They will be extending the deck 9' to construct the shower. N. Hills asked if it would be put  
150 on three posts. K. Mahoney said yes and that everything would be constructed in the same  
151 way as the house. N. Hills asked if it would be attached to the house. K. Mahoney said yes  
152 and the shower head, etc. will be attached to the house. C. Trinidad asked if the entire  
153 property is in the flood zone. K. Mahoney said yes. J. Doubrava said that the wetland lines

154 were delineated when the work was done on the other property. The wetlands are well  
155 away from the house. There was a discussion regarding the number of posts. The board will  
156 send a letter to K. Mahoney stating that they have accepted the new

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158 **Extension Permit Request**, from JoAnn Hensley, 95 Holly Road for Order of Conditions  
159 File No. SE 041-1178. Bentley and Joann Hensley, owners of the property were present. They  
160 purchased the property in 2012 just after the previous owners had the project approved.  
161 The project is for work on an elevated boardwalk. The Extension Permit was approved  
162 contingent upon an upcoming site visit.

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164 **DISCUSSION**: The Cove in Marion. Warren Ferguson and Richard Meyer of The Cove  
165 w present. N. Hills asked W. Ferguson if the posts that were put in at the location of the BVW  
166 flags can be marked permanently so they can be easily identifiable in years to come. He  
167 agreed. The board will draft a letter to send to The Cove to confirm the request.

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169 **MINUTES**: Minutes from June 10, 2015 were approved as written.

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171 **Request for comments from the Zoning Board of Appeals regarding Case #704,**  
172 **Buzzards Bay Habitat for Humanity**: The organization has filed an application to install a  
173 sign at the Habitat site on Wareham Street. The board had no comments on this project.

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175 **Saltworks Marine, LLC**: A letter was received From engineer David Davignon on  
176 June 19, 2015 regarding the removal of the Quonset Hut located at 291 Wareham Street.  
177 The deadline for removal of the hut is noted in the letter as July 10, 2015.

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179 **Roger Tenglin, 88 Indian Cove Road**: The board did a site inspection on June 20,  
180 2015 and met with R. Tenglin. He will be filing a Request for Determination of Applicability  
181 within the next few weeks.

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183 **Judith Cope, 16 West Avenue**: J. Cope had requested permission to repair the stone  
184 groin on her property with cement. The board did a site visit on June 20, 2015. The original  
185 Order of Condition File No. SE 041-689 was issued a full Certificate of Compliance. Any work  
186 that will be done will need to have a new application. A letter will be sent with the  
187 information Mrs. Cope will need to submit a new application.

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189 Dues renewal for the Massachusetts Association of Conservation Commissions for  
190 Fiscal Year 2016 was approved.


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**Division of Fisheries and Wildlife on behalf of the Town of Marion:** Restoration Order of Conditions File No. SE 041-1231. N. Hills drafted the Order with the following conditions: 1. Harbormaster will remove flagpole, boardwalk, shed; 2. Provide NOI submitted to Dartmouth for 9 acres restoration and approved Order of Conditions; 3. Provide contractor production plan; 4. Install security fencing at staging area near the Bandstand; and 5. Photos of before and after of the eel grass in the way of the barge access. L. Dorman motioned to approve the Order as written; J. Doubrava seconded; voted unanimously.

**Kathleen Mahoney:** J. Doubrava drafted a letter regarding the acceptance of new plans AE 100 and AE 101 as the new plan of record for the outdoor shower.

Due to July 4, 2015 falling on a Saturday the next site inspection is tentatively scheduled for Monday, July 6, 2015.

Meeting adjourned at 8:35pm

  
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Donna M. Hemphill, Administrative Assistant

Approved: July 8, 2015

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TOWN CLERK OF MARION, MA  
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