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2 **MARION CONSERVATION COMMISSION**
3 MINUTES OF THE REGULAR MEETING HELD ON MAY 11, 2016
4
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6 Members Present: Norman A. Hills, Chairman
7 Joel D. Hartley, Vice Chairman
8 Jeffrey J. Doubrava, Clerk
9 Stephen C. Gonsalves, Member
10 Cynthia Callow, Member
11 Kristen Saint Don, Associate
12

13 Members Absent: Lawrence B. Dorman, Associate
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15 Admin. Assistant: Donna M. Hemphill
16

17 Others Present: Mark Arnold, Goddard Consulting, LLC; Carmelo Nicolosi, Charon
18 Associates, Inc.; Daniel McCarthy; Peter Fickeisen, MW Group -
19 Gehrlicher
20

21 Meeting convened at 7:00 PM on Wednesday, May 11, 2016 in the conference
22 room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were
23 held on Saturday, May 7, 2016 by C. Callow, J. Doubrava, J. Hartley and N. Hills. This
24 meeting was televised and video recorded by Old Rochester Community Television
25 (ORCTV), and audio recorded by Town of Marion staff.
26

27 7:00 PM **Doug Thackeray**, Notice of Intent (File No. SE 041-1239), to construct
28 and maintain an aquaculture project east of Stewart's Island at Sippican Harbor. The
29 Division of Marine Fisheries recently determined that eel grass is at the proposed location.
30 D. Thackeray is working on an alternate nearby location. He requested to continue the
31 hearing until Wednesday, June 22, 2016 at 7:00pm. N. Hills motioned to continue the
32 hearing as requested; J. Doubrava seconded; voted unanimously.
33

34 Invoices from The Wanderer were approved for payment as follows: Invoice #6875
35 for \$60.00, Invoice # 6880 for \$40.00 and Invoice #6881 for \$40.00.
36

37 Minutes from April 27, 2016 were approved.
38

39 7:05 PM **Christopher Bryant**, Notice of Intent (File No. SE 041-1243), for a
40 proposed aquaculture project in Sippican Harbor. The Division of Marine Fisheries recently
41 determined that there is eel grass at the proposed site. Since C. Bryant will need to find a

42 new site for his project, he submitted a letter to withdraw the application without prejudice.
43 N. Hills motioned to accept the letter of withdrawal without prejudice; J. Doubrava
44 seconded; voted unanimously.

45

46 **CORRESPONDENCE:**

47 A. Letter from Eversource regarding the routine maintenance activities that will
48 take place in June 2016.

49 B. Notice of Waterways License Application for repairs adjacent to 305 Front
50 Street is in reference to the emergency work that had been done in
51 December 2015.

52 C. Email from Buzzards Bay National Estuary Program regarding mini-grants.
53 There was a brief discussion. C. Callow will look into the mini-grant process.

54

55 7:10 PM **Alexis Popik**, Request for Determination of Applicability, (File No. 41D-
56 1608), for the erection of an Osprey platform at 1 Shore Drive. Alexis Popik was present and
57 described the location of the platform. N. Hills said that members did a site visit on May 7,
58 2016. He said that they were not able to determine where the platform would be erected.
59 It was high tide at the time. He asked if A. Popik could have a painted stake installed at the
60 location so it could be easily seen for the next site visit. There was a brief discussion
61 regarding the location. There was also a brief discussion about the application process and
62 that A. Popik felt that a project this small would be exempt from filing a Notice of Intent. N.
63 Hills said that the Commission did not disagree but they need to be notified of any work
64 within resource areas and that can be done with a Request for a Determination of
65 Applicability as has been done in this case. The Commission asked that A. Popik have a
66 marker placed at the location before the next site visit. With the applicant's permission N.
67 Hills motioned to continue the hearing until Wednesday, May 25, 2016 at 7:15pm; J.
68 Doubrava seconded; voted unanimously.

69

70 7:15 PM **Blankenship Trust LLC, c/o Prospectus LLC**, Notice of Intent (File No. SE
71 041-1245), to perform repairs on existing stone/concrete abutments and to upgrade the
72 existing gangway and float anchor system, for a Licensed Residential Pier at 468 Point
73 Road. (Continued from April 27, 2016). The applicant requested to continue the hearing
74 until Wednesday, June 8, 2016 to 7:00pm. Abutters present expressed their interest in being
75 present when the project is discussed. N. Hills motioned to continue the hearing as
76 requested; J. Doubrava seconded; voted unanimously.

77

78 7:20 PM (7:25PM) **Daniel McCarthy**, Request for Determination of Applicability (File
79 No. 41D-1611), for the construction of a 12' wide driveway to the proposed house,
80 including construction of septic system, well, retaining walls and associated site work on
81 Cross Neck Road (Map 5, L 40). Carmelo Nicolosi of Charon Associates was present as
82 was owner Daniel McCarthy. C. Nicolosi said that this parcel is 11.73 acres and is located
83 off of Cross Neck Road. Bob Gray of Sabatia, Inc. delineated the Bordering Vegetated
84 Wetlands on March 9, 2016. He showed on the plan where the wetland line was located.
85 There are two potential vernal pools that were mapped out. He said they have filed with
86 and have had correspondence with Natural Heritage and Endangered Species (NHES).
87 They will require fencing around the cleared perimeter during construction as well as a
88 turtle sweep prior to clearing. The fence will be embedded 4 inches below grade. When
89 they receive a letter with details from NHES, C. Nicolosi will submit a copy to the
90 Commission. He also showed the 100' Buffer Zone on the plan. He noted an isolated
91 wetland that was located mostly off of the property; just a small part is on this parcel. N.
92 Hills asked what will be done with the cleared area. D. McCarthy said he is not planning on
93 having a manicured lawn. The back will be field and the some apple trees will be planted
94 in the front. He may mow four to five times per summer. N. Hills mentioned that he may be
95 limited to where and how high he could mow due to the potential turtles in the area. There
96 was a brief discussion regarding the area that will be cleared. J. Hartley said that the work
97 that is being done is not within the Commission's jurisdiction. C. Nicolosi mentioned that
98 they have also submitted a plan with the Board of Health for a well. Electricity will be run
99 underground from a pole that is at the end of the driveway. There were no further
100 questions from members or the audience. J. Doubrava motioned to close the hearing; C.
101 Callow seconded; voted unanimously.

102
103 **DISCUSSION ITEM:** Follow up to Enforcement Order issued to Clean Energy
104 Collective, SE 041-1232. Mark Arnold of Goddard Consulting, LLC was present and
105 submitted a restoration plan to the Commission. He said they went to the site to evaluate
106 what occurred. M. Arnold said that the note on the plan said that the trees were to be cut
107 and the brush was to remain. He said that the biggest impact was that the brush that was
108 cut from Tucker Lane to the edge of the intermittent stream. He said that during the
109 hearings it was discussed to cut the trees at 10'. However, that wording was not within the
110 Order of Conditions that it would be done at the beginning but was in the Vegetation
111 Management Plan. Approximately 19 trees that were to be trimmed were cut shorter that
112 they were supposed to be. M. Arnold described the restoration process including the
113 planting of 32 shrubs. He said they expect a certain amount of natural regrowth to occur
114 as well. M. Arnold said that they will be onsite when the shrubs are planted to assure that

115 they are in the correct locations. There will two years of monitoring. C. Callow asked if any
116 further cutting will be required. Peter Fickeisen of MW Group – Gehrlicher, explained that
117 he arrived on scene just after the cutting had occurred. He met M. Arnold on site on Friday,
118 May 6, 2016 and he said they are prepared to do what is decided. He did say that there
119 will not be any more clearing. N. Hills made note that at meetings that were held before
120 the project started it was stated that the cutting would be at the 10' level. P. Fickenisen
121 apologized for not having that information at the time that the cutting occurred. There was
122 further discussion regarding the area that was cleared as well as some of the shrubs and
123 brush that does remain on the site. Part of the restoration plan includes planting red maple
124 and gray birch trees outside of the limit of clearing so they can grow to full height. C.
125 Callow asked when they would begin the planting. M. Arnold said that the ideal time
126 would be now so he would like to have it done by the end of the month. They will monitor
127 the site in early summer and late fall for two years. Reports will be provided to the
128 Commission in November. J. Doubrava suggested that the home owners are notified when
129 the work is due to start. The Commission members agreed that the plan was acceptable.
130 When the work is completed they will contact the office to arrange a site visit. There was a
131 discussion about how to release the Enforcement Order. It was decided that the
132 Enforcement Order will remain open until the two year period has past. N. Hills motioned to
133 accept this restoration plan in response to the Enforcement Order; J. Doubrava seconded;
134 voted unanimously.

135
136 **DISCUSSION ITEM:** Email from U.S. Fish & Wildlife Service regarding Coastal Barrier
137 Resources System Mapping Project. Members discussed the email and it was decided the
138 J. Doubrava will speak to their representative to gather more information and report back
139 to the Commission at the next meeting.

140
141 **DISCUSSION ITEM:** Washburn Park Pond follow up discussion. J. Hartley and J.
142 Doubrava met Richard Gast of Beaton. R. Gast said they will do the repairs on the dike in
143 mid-summer once the pond is drawn down another foot and a half. They agreed that a
144 site visit would take place in August. While on site they discussed the area at the end of the
145 dike where there is no longer a barrier to keep ATVs or similar vehicles out of that area. N.
146 Hills will contact the DPW to see about placing boulders in the area in order to keep
147 vehicles from the area.

148
149 **DISCUSSION ITEM:** Copy of an email from Mike Pimental from JC Engineering
150 regarding the Sprague's Cove seawall. Instead of replacing the wall they may be able to
151 repair sections and stabilize the wall with smaller rocks but they would need to check with

152 the Army Corps of Engineers. The issue is close to being resolved. They are on the agenda
153 for the May 25, 2016 meeting at 7:05pm.

154

155 **DISCUSSION ITEM:** Letter received from USDA regarding the Grassi Bog repairs,
156 MOSAC, File No. SE 041-1197. There were three options for repairs listed. MOSAC chose the
157 option that said to use the plan dated December 9, 2016. N. Hills felt that the second
158 option was more plausible which suggested amending the plans and obtaining a new
159 permit. After a brief conversation the members agreed that they would like to have
160 representatives from MOSAC and USDA present at an upcoming meeting. A letter will be
161 sent as soon as possible to schedule that meeting.

162

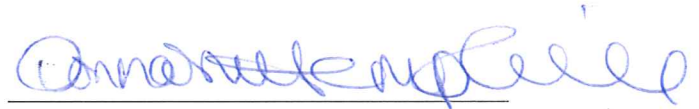
163 N. Hills motioned to issue the Determination of Applicability (File No. 41D-1611) for
164 **Daniel McCarthy**, Cross Neck Road. Negative Box #4 with a reminder that NHESP
165 compliance is required. J. Doubrava seconded; voted unanimously.

166

167 Meeting adjourned at 8:13pm.

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169



Donna M. Hemphill, Administrative Assistant

170

171 Approved: June 8, 2016

2016 JUN 13 A 10:13