

1 **MARION CONSERVATION COMMISSION**
2 MINUTES OF THE REGULAR MEETING HELD ON MAY 24, 2017
3

4 Members Present: Cynthia Callow, Chairman
5 Jeffrey J. Doubrava, Vice Chairman
6 Joel D. Hartley, Member
7 Kristen St. Don-Campbell, Member
8 Shaun P. Walsh, Associate
9 Lawrence B. Dorman, Associate

10 Members Absent:

11
12 Admin. Assistant:

13
14 Others Present: Brendan Faneuf, ESI; Barrett Levenson, Virginia Levenson, David
15 Gulley, Bill Lockwood, Susannah Davis, Davis Land Design
16

17 Meeting convened at 7:00 PM on Wednesday, May 24, 2017 in the conference room
18 of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were held
19 on Saturday, May 20, 2017 by C. Callow, J. Hartley, J. Doubrava and S. Walsh. This
20 meeting was televised and video recorded by Old Rochester Community Television (ORCTV),
21 and audio recorded by Town of Marion staff.
22

23 7:00pm **Marion Open Space Acquisition Commission**, Notice of Intent
24 (SE 041-1269) for invasive species management at Grassi Bog. No one from MOSAC was
25 present at 7:00pm, so a motion was made by L. Dorman seconded by J. Hartley and passed
26 unanimously to continue the hearing at a later time during the meeting.
27

28 Discussion: C. Callow said that Norm Hills had moved up to Selectman and had
29 resigned from the ConCom and that a restructuring would be necessary. She sent a letter
30 to the BOS asking them to move S. Walsh from associate member to full member. L.
31 Dorman will remain an associate member. There is a person interested in becoming a 2nd
32 associate member who was going to come tonight but he was not feeling well. He seems like
33 a good candidate because he has been on commissions in Mashpee and Falmouth. Cindy
34 also reminded the committee that they will need vote for new officers in June – a chairman,
35 vice-chairman and a clerk. She also said that she put in a request to hold the summer
36 meetings in the Music Hall, hopefully starting with the June 14 meeting and ending with
37 the first meeting in September. L. Dorman suggested that we should put this information
38 on the website. S. Walsh said that since there were 2 associate members there tonight that
39 either of them could vote, not both. L. Dorman said that they could both vote, but S. Walsh
40 said that since there were 4 full members there and 1 missing (Norm Hills) that only 1 could

41 vote. L. Dorman said that just the 4 full members could vote and they (S. Walsh and L.
42 Dorman) could be tie breakers if needed. S. Walsh said that that was fine with him.

43
44 Correspondence: C. Callow read N. Hills' letter of resignation. She thanked him for
45 his 14 years of service on the Commission and wished him well.

46
47 Approval for Payment: C. Callow asked for approval to pay Wanderer invoices #7154
48 and #7142 for \$20.00 and \$40.00 respectively. J. Hartley made motions to approve the
49 invoice payments, seconded by K. St. Don and they both passed unanimously.

50
51 Approval of Minutes: There were no minutes to approve on the agenda; however,
52 there were 3 sets of minutes – 2/8, 3/8 and 4/8 that were in a folder in the meeting box.
53 C. Callow decided NOT to ask for a motion to approve them until she spoke with Donna
54 Hemphill (the prior administrative assistant who had prepared them) to make sure that
55 they were all ready for approval.

56
57 Discussion: 11 Zora Rd. At a prior ConCom meeting there was discussion regarding
58 a neighbor's report that fill might have been used when the deck was built, so on Saturday
59 May 20, S Walsh, C. Callow, J. Hartley, and J. Doubrava did a site inspection. S. Walsh
60 said he saw nothing of concern and that everything was well vegetated, the grass was
61 growing nicely
62 and there were no signs of erosion. J. Hartley said that it looked like they had taken out a
63 tree and done some grading. He also said that the ConCom had issued a negative
64 determination on the Request for Determination. J. Doubrava said that they should have
65 included this work in the request, but nothing that they had done was troublesome. C.
66 Callow agreed.

67
68 Discussion: 5 Joanne Drive. C. Callow said that they didn't get to look at it when the
69 site visits were done on Saturday as the owner never claimed the letter (sent by certified
70 mail) saying that the ConCom would be coming. The ConCom saw from Point Rd that there
71 had been substantial dumping in the area but were not sure whether or not the area is in
72 their jurisdiction. J Doubrava asked if we had sent a letter C. Callow said yes. J. Doubrava
73 stated that we needed permission to go onto the property. S. Walsh asked if the letter had
74 been returned. C. Callow said that it had and that she would check for another address. J.
75 Hartley asked what the letter said and C. Callow replied that the letter stated that there
76 was a possible wetlands violation and that the ConCom would be coming for a site visit on
77 Saturday May 20. J. Doubrava asked what the next step would be if we didn't get a

78 response. Would it be an enforcement order? S. Walsh replied that it would be very difficult
79 without knowing exactly where the property lines were and whether or not the area is in
80 the ConCom's jurisdiction. J. Doubrava asked what the next step should be and S. Walsh
81 replied that if they don't reply to a 2nd letter, if a ConCom member drove by and saw a
82 vehicle in the driveway perhaps they could stop and speak with them.

83
84 7:10pm **Barrett & Virginia Levenson**, Notice of Intent (File No. SE 041-
85 1267) for the construction of a single-family house, barn and boat house at Cross Neck Rd,
86 Map 6, Lots 3 & 4 (Continued from May 10, 2017). Brian Faneuf and Nick Defresne
87 (representing Mr. Levenson) introduced themselves and handed out revised plans (that N.
88 Hills had requested) showing a pathway going from the driveway to the barn in the back.
89 The pathway is shown as a dotted line on the plan and will be over grass. The Department
90 of Fish and Wildlife responded that they had determined that the work will not result in a
91 prohibited take of state listed rare species. Those were the 2 outstanding issues and B.
92 Faneuf thought they had addressed those. J. Doubrava said that the ConCom did go out
93 and try to verify the lines but there were many things labelled with pink tape which made
94 it very confusing. He asked what the big rectangle was and B. Faneuf answered that it was
95 the septic. J. Doubrava said that the lines looked conservative to him. J. Hartley asked if
96 soil samples were used to determine where the wetlands were. B. Faneuf said both soil
97 samples and vegetation identification were used. He noted that there were hydric soils going
98 up the hill as well as lots of sweet pepper bush and greenbriar. He said that the sweet
99 pepper bush is common after a logging is done and that there was a logging done on the
100 site many years ago. J. Doubrava asked what OHW was and B. Faneuf said that it was
101 ordinary high water when talking about wetlands but N. Defresne said that in this case it
102 meant overhead wires. C. Callow asked if the perc test had been performed yet and N.
103 Defresne said that they were waiting until the first week in June. S. Walsh asked why 2 12"
104 diameter pipes were being used to connect the smaller wetland area to the larger wetland.
105 N. Defresne said that was standard for crossing a wetland. Having 2 pipes ensures that if
106 one gets blocked, the other one can still provide drainage. S. Walsh asked if there any
107 calculations done with regards to the volume of water that would flow thru them. N.
108 Defresne replied that there was minimal water flow in that area at any given time and that
109 it was dry most of the year. There were no questions or input from the public. S. Walsh
110 made a motion to close the hearing, seconded by J. Hartley. The motion passed
111 unanimously.

112
113 7:20pm **Deborah S. Giokas**, Request for Determination of Applicability,
114 (File No. 41D-1644) to construct a garage and mudroom addition at 16 Rocky Knook Lane,

115 Map 26, Lot 23. B. Lockwood introduced himself as the architect on the project. C. Callow
116 said they had been out to do the site visit on Saturday and had spoken with the owner
117 regarding some issues and C. Callow had a copy of the revised engineering plans that Dave
118 Davignon had done. The construction will take place on already disturbed land, outside of
119 the priority habitat location and 29 feet (at the closest) from the flagged wetlands line. The
120 driveway plans were revised to make it farther from the wetlands. J. Doubrava noted that
121 only one of the issues had been addressed on the revised plan (adjusting the driveway so
122 that it would be further away from the wetlands and bank). The homeowners said they were
123 not going to move the existing shed which is already in the priority habitat area. C. Callow
124 explained that the plan might change regarding the shed based upon finances. If it was too
125 expensive to build both, they might build either and put the shed in the back yard. The
126 current shed is in the buffer zone but if it is moved to the back yard, it will be in a priority
127 habitat area and will need comment by the state. The engineer stated that the backyard
128 really wasn't a priority habitat area because it had already been disturbed and J. Doubrava
129 replied that would be for the State to decide. S. Walsh stated that since this was only a
130 Request for Determination, the State wouldn't be involved; that is only for a Notice of Intent.
131 B. Lockwood asked if the ConCom could give a negative determination for the purpose of
132 the garage and mudroom and if the shed were to be moved, the homeowners come back
133 before the ConCom. J. Doubrava and C. Callow said that that would work for them. They
134 then discussed an Order of Conditions that was given about 3 years ago regarding the septic
135 system. S. Walsh said that since an NOI was done for the septic system, there was probably
136 a report from the National Heritage Species Group regarding the habitat. He believes that
137 since the area is already an established lawn, putting the shed in the back yard wouldn't
138 be a problem; however, J. Doubrava noted that where they wanted to place the shed was
139 very close to the edge of the woods/habitat. J. Hartley suggested that perhaps they could
140 issue a negative determination with the condition that the shed not be moved without
141 coming back before the ConCom. L. Dorman commented that since the shed is located
142 where the garage is going to be built, it would have to be moved somewhere – perhaps just
143 forward out of the way of the construction. J. Doubrava made a motion, seconded by K. St.
144 Don to close the hearing. The motion passed unanimously.

145
146 7:30pm **N. George & Laurie Host**, Request for Determination of
147 Applicability (File No. 41D-1645) to plant bayberry bushes and place boulders along the
148 wetland line at 456 Point Rd, Map 2, Lot 13B. Susana Davis introduced herself and was
149 representing the client. She said that she was relatively new to the project and that the
150 engineer is Dave Davignon. J. Doubrava stated that 4 ConCom members went on the site
151 visit and they weren't sure where the bayberry bushes were going to be planted. S. Davis

152 showed them on the plans where they would go. S. Davis said that there would be boulders
153 placed (approximately 2' x 2' in size) spaced 10' on center. C. Callow said that she had
154 noticed some phragmites coming into the salt marsh and she asked S. Davis if she thought
155 the owner had plans for their removal. S. Davis replied that she agreed that they should be
156 removed. C. Callow said to let the homeowner know that if they decided to do any phragmite
157 eradication, they would need to come before the ConCom with a separate Request for
158 Determination and that the ConCom would be very much in support of the project. S. Walsh
159 asked if the bayberry bushes were native plants and if they would "take" in the area in
160 which they were going to be planted. She replied that they were not and that whether or
161 not they would "take" was iffy. She didn't do the planting plan and said that bayberry
162 bushes typically don't like wet feet. J. Hartley asked if they were actually IN the wetland or
163 below the line. S. Davis said that she understood that they were below the line as she
164 understood it to be. She said that it wasn't the best pick because bayberries like to be
165 higher and drier. She said that she would be happy to go back to D. Davignon and the
166 owners and discuss another option. S. Walsh asked whether it was a requirement on the
167 original order of conditions that planting be done. J. Doubrava said that the O of C was
168 done before his time. S. Davis said that she had read it over once and seemed to recall that
169 it was required. J. Doubrava said that the reason this RDA has been filed was that the
170 original O of C had expired and this RDA is to cover work that still needs to be done. He
171 believes that the original O of C had required that the area where phragmites had been
172 removed be replanted with something native. There were cattails where the phragmites had
173 been but some were growing back. S. Davis asked if they should resubmit a revised planting
174 plan. S. Walsh replied that he doesn't want to re-do anything the ConCom had done in the
175 original O of C. L. Dorman stated that since the original O of C had expired, it was an
176 opportunity to address these conditions. He said that if the bayberry is what the owners
177 really want, they can come back to the board, and we can see if that plant will "take". J.
178 Hartley interjected that we shouldn't be allowing any planting in a wetland anyway so it
179 seemed a little odd. S. Walsh said that was why he was asking about the original order
180 thinking that maybe there had been some wetlands removal and they were required to
181 replant the area; however, it seemed odd to him that they would pick a non-native plant.
182 S. Davis stated that bayberry is really an upland plant. K. St. Don said that according to
183 the wetlands website it doesn't look like bayberry would be suitable. L. Dorman asked S.
184 Davis to describe where the boulders were going. She said that they were going along the
185 edge of the wetlands where they had been staked out (she had walked the land last week).
186 L. Dorman asked if they were going to use the boulders that were already on the land. S.
187 Davis explained that the boulders were from when the last contractor had started (and left).
188 She said that the idea was to use the existing ones and a few more would be brought in to

189 complete the line of boulders 10' on center. L. Dorman asked if she knew how they planned
190 on using the equipment to put the boulders down. S. Davis said that they were using Jeffrey
191 Osborne and his crew to do the work and they were hiring someone who has worked in
192 Marion for several years to do the moving of the boulders. They hired this person because
193 he had small equipment that would minimize the disturbance to the wetlands. L. Dorman
194 said that he would like to know who it was that would be doing the work. S. Davis said that
195 they could possibly use a "ball carrier" which is like a dolly to move the boulders into place
196 but she didn't know if they would be able to move the whole pile with that. They all
197 discussed approaching the job (no matter what equipment was used) from the upland side
198 and moving the boulders down to their location. L. Dorman said that that would be a
199 condition from the ConCom. J. Doubrava pointed out that it looked like there had been
200 some fill-in of the continuous wetlands in order to create a pathway down to the beach. S.
201 Davis agreed. C. Callow asked if the boulder size was going to cause any problems. S. Walsh
202 replied that 2' x 2' was appropriate to designate the wetlands border and S. Davis said that
203 they were big enough so that they wouldn't wash away. J. Doubrava was OK with the
204 boulder size and placement but thought that there should be a continuance so that the
205 plans could be redrawn to show exactly what would be planted and where, although he
206 would be fine if the bayberry bushes were planted upland of the line. J. Hartley agreed that
207 planting upland of the rocks would make more sense because it seemed to him that the
208 plants were for aesthetics. S. Davis said that the plantings were both for aesthetics and to
209 keep dogs and kids out of the wetlands. She said that the plantings were to be in groupings,
210 not spread out along a line like the boulders; but there would be no mistaking where the
211 wetlands are because of the 10' on center line of boulders. S. Davis said that if ConCom
212 was ok with it, they could just plant the bushes upland of the boulders. S. Walsh said that
213 K. St. Don had looked up bayberry bushes and that they were NOT a wetland plant and
214 that they probably wouldn't take. S. Davis agreed. K. St. Don said that the bayberry bushes
215 required fast draining soil and full sun all day. J. Doubrava said that the site did get full
216 sun all day and about 18" upland of the rocks the soil would be sandy and that he would
217 be OK with them planting them there. The rest of the ConCom agreed. S. Davis then asked
218 if they needed to come back with another filing for the phragmites and C. Callow said yes.
219 S. Davis asked about the duration of the phragmite plan and the ConCom stated that it
220 should be a 3 year plan. S. Davis confirmed that the ConCom would be looking for a revised
221 site plan showing where the bayberry bushes were going to be planted and she would tell
222 the Hosts about submitting a second plan for the phragmite management. K. St. Don made
223 a motion, seconded by L. Dorman to continue the hearing. L. Dorman asked if June 14
224 would work and S. Davis said she'd have to ask D. Davignon as he would be the one revising
225 the planting plan. She didn't think it would be a problem, so it was decided to continue the

226 hearing until June 14 at 7:20 PM. Another motion was made (since the first one wasn't
227 voted) by S. Walsh, seconded by L. Dorman to continue the hearing until June 14 at 7:20
228 PM and the motion passed unanimously.

229
230 7:50 PM **Marion Open Space Acquisition Commission** (postponed from
231 7:00 PM): The hearing was re-opened and C. Callow read the legal ad regarding the NOI. C.
232 Callow and the ConCom decided that they would have to continue the hearing because
233 maps were submitted, but no detailed plans for the treatment. K. St. Don made a motion,
234 seconded by J. Hartley to continue the hearing until June 14 at 7:30 PM. The motion passed
235 unanimously.

236
237 Issuances:

238 J. Doubrava moved to issue the Determination of Applicability for **Deborah Giokas**,
239 File No. 41D-1644, (16 Rocky Knook Lane) Negative, Box 3 with the condition that the
240 relocation of the shed within the habitat area is not included in this approval and would
241 require an independent filing. K. St. Don seconded, and the motion passed unanimously.

242
243 J. Hartley moved to issue the Order of Conditions for **Barrett and Virginia**
244 **Levenson**, File No. SE 041-1267 as proposed with a continuing condition that there would
245 be no disturbance within 15 feet of the wetlands. He stated that in lieu of requiring a rock
246 boundary delineating the 15' no disturb zone, there would be a continuing condition that
247 there would be no disturbance within 15 feet of the wetlands. J. Doubrava seconded and
248 the motion passed unanimously.

249
250 C. Callow asked if there was anything else to come before the Commission and J. Doubrava
251 said that they could talk about these items at the next meeting but he wanted to mention
252 Washburn Park (C. Callow agreed) and Sprague's Cove, which has been 3 years under the
253 care of the BOS and nothing has been done to manage it except to mow the path. J. Hartley
254 asked how MOSAC would be notified of the continued hearing and C. Callow responded
255 that it would be with either a letter or a phone call. The ConCom mentioned that MOSAC
256 should be asked for plans or at least where on the last plans (for the spillway) they were
257 going to be working.

258
259 Meeting adjourned at 8:00 pm

260
261 Submitted by: Lissa Magauran, Administrative Assistant

262 Approved on: 9/13/2017