

**TOWN OF MARION
PLANNING BOARD
April 4, 2016
Main Conference Room
Marion Town House
Two Spring Street**

MEMBERS PRESENT: Rob Lane, Chairman
Norm Hills, Clerk
Steve Gonsalves
Jennifer Francis
Mike Popitz

MEMBERS ABSENT: Rico Ferrari Vice-Chairman
Eileen Marum

BOARD ASSISTANT: Donna Hemphill

ALSO PRESENT: David Pierce
Steve Kokkins
Nick Dufresne
Mike Campagnone

Commencement – Chairman Lane called the regular meeting to order at 7:00 p.m.

Approval of Minutes

Motion made by Clerk Hills to approve the minutes of January 19, 2016, as amended, seconded by Member Popitz.

VOTE: 4-0-1 Note Member Francis Abstain

Correspondence

Zoning Reform Legislation – Chairman Lane noted that there is a handout in the packets about State Legislation that is in front of the senate which will make substantive changes to the Zoning Enabling Act. Chairman Lane noted that more detailed information is online, and he will ask the Town Planner to attend the Planning Board meeting in May or June to explain the changes.

Clean Energy - Chairman Lane noted that Clean Energy has finalized their paperwork and building permits have been issued.

FEMA Flood Guidelines - Chairman Lane noted that a copy of FEMA flood guidelines for flood maps and coastal zones have been given to Planning Board members in a previous package. The guidelines are for informational purposes.

Grant Information - Clerk Hills noted that information on grants may be available for the Master Plan committee to review. Also, it was noted that they would not make the application deadline.

Budget/ Expenses - Chairman Lane noted that he confirmed with Judy Mooney that the line item for the Town Planner cannot be used for the Town Planner's expenses. He noted that there is only \$530 in the total budget available for expenses

Member Francis noted that there may be advertising expenses for the Master Plan Work Shop of approximately \$140. Chairman Lane commented that it was fine as far as he was concerned.

Transportation Survey - Chairman Lane noted a Transportation Survey was emailed to Planning Board members. It was also noted that Board members did not receive the email, to receive a copy of the survey contact the Planning Board Assistant.

Planning Board Training - Clerk Hills noted that a recent Planning Board training seminar discussed a Supreme Court decision affecting the message that signs in town can convey, and the decision could impact Marion's Zoning Bylaws. Clerk Hills noted that he would send the information to the Board Assistant.

Clerk Hills noted that he sent an email to the Planning Assistant regarding what should be on the agenda and received no response. Clerk Hills inferred that the current procedure of writing up the agenda does not meet the Open Meeting Law. Chairman Lane explained that he went through the Open Meeting Law quickly; he believes the comments are very appropriate. But, Chairman Lane maintains what the Planning Board does now is acceptable.

The Johnson Family Produce "The Frigate"— Chairman Lane commented that there was a preconstruction meeting, and it appears as though the Johnson Family will be getting a building permit.

NOAA Rain Fall Atlas

Chairman Lane introduced Mike Campagnone of CLE Engineering. Mr. Campagnone explained that NOAA recently introduced a revised atlas titled *MassDEP to Review Recent Studies on Precipitation Rates in Massachusetts* (it was pointed out that no date on the memo). Campagnone mentioned that he phoned MassDEP to inquire as to which version the agency requires, and no one returned his call. In the memo, MassDEP does not require the use of the new guidelines, and in the interim, Technical Paper 40 (TP-40), a key document for hydrologists and water planners, should be used unless an engineer chooses NOAA or the Northeast Regional Climate Center (NRCC) atlases. Campagnone explained that there is a maximum of a 10 percent difference in the precipitation rates and the NOAA atlas is probably more conservative.

Member Francis noted that one of clearest signals of climate change is the increase in frequency of heavy precipitation events and that signal is highest in the Northeast. The new data has more information over a longer period of time.

Mr. Campagnone suggested using the “latest NOAA atlas as provided” and not employ a specific date since it would be more restrictive than that used by the State. He noted that MassDEP updates periodically.

After discussion, Chairman Lane noted that the sentiment of the Board was to go with the more recent data and have a public hearing to consider the adoption of the new NOAA data.

Motion made by Member Gonsalves to move forward and have a public hearing, seconded by Member Francis.

VOTE: 5-0-0

ANR Application – 23 Pitcher Street/120 Front Street, Michael and Kristin Feeney

Chairman Lane spoke with Jon Witten. Mr. Witten suggested approval of the ANR application with the condition in the motion that none of the reconfigured lots are deemed buildable: parcel A/63d non buildable and lots 64 and 74 remain nonconforming.

Motion made by Member Gonsalves to endorse the ANR Plan with the above motion, seconded by Member Popitz.

VOTE: 5-0-0

Revised Planning Board Forms

Forms 2A, 2B, 2C, 2D, 2E were discussed and Clerk Hills suggested that in the future there should be some explanation attached to them.

Chairman Lane suggested Member Francis send any corrections to the Board Assistant.

Motion made by Member Gonsalves to approve the new forms with corrections, seconded by Member Francis.

VOTE: 5-0-0

Remote Attendance/Voting

Chairman Lane described the Mullin rule. He explained that the state does allow for remote attendance for the following reasons: Personal illness, disability, emergency, military service and geographical distance. The Member must be present for the whole meeting by phone or video connection, announce their remote attendance and votes must be by roll call.

After discussion, Chairman Lane suggested a compromise and requested that the Board of Selectmen allow a trial period of one year to discern if the Planning Board supports the Mullin rule.

Member Francis suggested a cap on the number of times an individual can use the Mullin Rule. Member Popitz suggested that the Board Assistant keep stats on the attendance of Board Members.

Motion made by Member Gonsalves to bring Remote Attendance before the Board of Selectmen selectman on a trial basis for one year, seconded by Member Popitz.

VOTE: 4-1-0 Note: Clerk Hills voted Nay

Peer Review Contract Approval of Bills

Chairman Lane noted that the Letter of Request for Engineering Services and Notice of Acceptance Contract had been sent to Jon Witten. Jon Witten suggested that the letters were appropriate.

Member Francis noted that she made some typo/grammatical changes that she will forward to the Board Assistant.

Motion made by Member Popitz to accept the peer review documents subject to amendments, seconded by Member Gonsalves.

VOTE: 4-0-1 Note Clerk Hills abstained

Proposed Surface Water Warrant

Chairman Lane introduced David Pierce for the Marion Water Committee and noted that the proposed bylaw would not be submitted at this upcoming Spring Town Meeting.

Mr. Pierce explained the bylaw for Surface Water Protection and possible water resource protection and distributed a hand out which included an evolution of comments: the proposed bylaw, a history of emails, comments and Town Counsel comments.

Member Hills raised concerns regarding enforcement of the proposed bylaw. Mr. Pierce said, "that has to be ironed out."

Mr. Pierce emphasized in light of what is happening elsewhere in the nation water is an essential resource to our Town. He remarked that more work was needed and the bylaw could possibly be ready for the Spring Town Meeting in 2017.

Recommendations to the ZBA – Dianne A. Kelly, 248 Converse Road
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Chairman Lane commented this was a property that had gone through the ANR process and was never recorded. The property recently came to the Board as an ANR and was withdrawn by the applicant; it went through land court and is now with the ZBA. After discussion it was decided that the Board would return with no recommendation.

Motion made by Member Popitz to adjourn, seconded by Member Gonsalves at 8:12 p.m.

VOTE: 4-0-0

List of Documents Received:

Minutes of January 19, 2016

Surface Water Protection Handout

E-Mail dated March 16, 2016 regarding Surface Water Withdrawal Warrant

Jon Witten Comments on Water Resource Protection

Mass DEP Memo Review Recent Studies on Precipitation Rates in Massachusetts

Draft of Peer Review Engineering Letter

Draft of Peer Review Engineering Contract

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Note: The documents, reports, correspondences, submittals, notices and exhibits are a part of the official record along with these minutes.

Respectfully Submitted,

Eileen Marum, Clerk