

FINAL

**MARION CONSERVATION COMMISSION**  
MINUTES OF THE REGULAR MEETING HELD ON APRIL 21, 2004

Members Present: Robert J. Merlino, Chairman  
Sherman E. Briggs, Jr., Recording Secretary (absent  
from 7:00-7:12 PM)  
Janice M. Mendes, Treasurer  
Horace S. Kenney, Jr., Associate Member  
Norman A. Hills, Associate Member

Members Absent: Jeffrey W. Oakes, Vice Chairman  
Joel D. Hartley, Member

Secretary: Diane R. Drake

Others Present: Christine LeBlanc, David Davignon, Mr. & Mrs. Marinus VanderPol  
Jr., Steven Sloan, Scott Cowell, Michael Moore and Scott Riggi.

Meeting convened at 7:05 PM Wednesday, April 21, 2004 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, April 17, 2004 by R. Merlino, J. Oakes, J. Mendes, J. Hartley and N. Hills.

7:05 PM **TOWN OF MARION** – NOI (D.E.P. has not assigned the file number yet) to close ("cap") the Marion landfill facility at Benson Brook Road. The closure involves the relocation of the existing transfer station facility; removal of debris from the base of the landfill slope; regrading of the slopes; capping and stabilization of the landfill; and construction of a stormwater control system. Christine LeBlanc of East Coast Engineering, Inc. represented the Town and said Dorothy Blickens of D.E.P. has several issues with this project before she will issue the file number. Some of the issues are: (1) another site plan is needed showing more wetland flags; (2) the Notice of Intent may need to be amended because it is a limited project; and (3) due to the proximity of Benson's Brook to this project, the Rivers Protection Act needs to be addressed. R. Merlino explained the "15' no touch zone to a wetland" policy to Ms. LeBlanc; she said the entire landfill must be capped, which will not be possible if a 10-15' buffer to wetlands is required. Ms. LeBlanc requested a continuation of this hearing so that she can address D.E.P.'s issues. J. Mendes moved to continue the hearing, with the Applicant's consent, to 7:00 PM May 5, 2004; S. Briggs seconded; voted unanimously.

J. Mendes moved to approve \$200.00 for the purchase of updated Assessors' maps (one full-sized set, one half-sized set, and a set on disk); S. Briggs seconded; voted unanimously.

J. Mendes moved to approve \$85.00 for N. Hills to attend a M.A.C.C. wetlands delineation workshop on May 22, 2004 in the Marion Town House; S. Briggs seconded; voted unanimously.

Discussion followed regarding Arthur and Cheryl Walker of 587 Front Street. They have ignored the Board of Health's requests and the Commission's requests for them to file a Notice of Intent to upgrade their septic system and address the clearing that has been done in/near wetlands while installing a chain link fence along their property lines. The Board of Health has retained Town Counsel to encourage the Walkers to cooperate. R. Merlino moved to send the Board of Health a memorandum asking them to inform Town Counsel that we have an interest in this project as well, and to please copy the Conservation Commission on all correspondence concerning that property; J. Mendes seconded; voted unanimously.

The Commission discussed reported wetlands violations at 471 Point Road. The owner of the property, Russell Lee Gunschel, said a horse corral has been expanded into wetlands there. R. Merlino moved to send a letter to the occupant, Hilary Alton Gunschel, asking her to meet with the Commission at the site on Saturday, May 1, 2004; J. Mendes seconded; voted unanimously.

7:31 PM **LEONARDO J. CARUSO** – RFD (41D-1182) to repair a septic system at 278 Delano Road. David Davignon of N. Douglas Schneider & Associates, Inc. represented Mr. Caruso and said this filing is due to a small portion of the project being in the flood zone. D. Davignon said the grade will remain as it presently is around the house. D. Davignon said the renovations to the house are all interior, so another filing will not be needed. J. Mendes moved to close the hearing; S. Briggs seconded; voted unanimously. R. Merlino moved to issue a Negative Determination for Box #2; J. Mendes seconded; voted unanimously.

7:40 PM Steven Sloan of The Trustees of Reservations was present regarding a conservation restriction on a portion of Hiller property in Marion abutting the Rochester town line off Route 105, which the Commission needs to sign. S. Sloan said the property under this restriction is shown as "Wildlands Trust" on the color coded map he submitted. R. Merlino said the restriction is fine, but the written description of the property bounds is lacking. S. Sloan asked if he could attach to the restriction a copy of the map that was submitted tonight. R. Merlino asked S. Sloan to send the Commission a complete document with a clearly-noted map attached, for approval at the Commission's next meeting on May 5, 2004.

The Corps of Engineers has scheduled an informational meeting on May 5, 2004 in Concord, Massachusetts regarding the Bird Island restoration project (SE41-973). No one from the Commission would be able to attend. R. Merlino said he is in favor of the project and will email the Corps with a letter of encouragement. J. Mendes said she objects morally to this project because it is being funded by fines paid by New Bedford industries for remediation in New Bedford, not Marion.

8:00 PM **TABOR ACADEMY** – RFD (41D-1181) to remove rocks and boulders alongside the road at 255 Front Street (continued). S. Briggs left the table. H. Kenney said he would remain at the table on behalf of the Sippican Lands Trust. Marinus VanderPol Jr. represented Tabor. This hearing had been continued in order for the Sippican Lands Trust, who is the holder of the conservation restriction on this property, to review the project, because they had not received a copy of the filing and were not asked for their comments. H. Kenney asked M. VanderPol for an exact description of what this project entails; M. VanderPol said the rocks will be used in the new marine laboratory's riprap. H. Kenney scolded M. VanderPol for doing excessive work on this property without notifying the holder of the conservation restriction – the Sippican Lands Trust and Michael Moore. H. Kenney asked if the path is going to continue over the marsh; M. VanderPol said that has been considered, but is not being proposed at this time. M. VanderPol said the rocks were dumped there when Front Street was being constructed several years ago, and they are in the flood zone, the buffer zone, and at the edge of the marsh. Michael Moore, the former owner of this property who had the conservation restriction drawn up before selling the property to Tabor, said those rocks and boulders have been there since 1984 when he bought that property. R. Merlino asked if the rocks serve any useful purpose; H. Kenney said probably not. R. Merlino asked if removing the rocks will cause the bank to crumble; M. VanderPol said removing the rocks could cause a small amount of erosion. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously. S Briggs returned to the table. H. Kenney resumed his role as an Associate Member of the Conservation Commission.

8:15 PM **SCOTT COWELL** – NOI (SE41-1006) to construct an aquaculture farm in Sippican Harbor, alongside Ram Island (continued). Scott Cowell was present with Michael Moore, the owner of Ram Island and abutter to this project. A revised plan was submitted. The two phases closest to the Ram Island pier have been eliminated, because they could have impaired access to the pier and because a mooring would have had to be relocated. M. Moore said the revised drawing seems to be fine with him, but he still does not know exactly where the mooring is that might be impacted. M. Moore said the original Sprague's Cove location was ideal for this project, but the Harbormaster denied that location because that spot is where the fireworks barge anchors once a year. S. Cowell said the corners of the lots will be marked with winter sticks. J. Mendes moved to close the hearing; S. Briggs seconded; voted unanimously. J. Mendes drafted the Order of Conditions and moved to issue it as written; R. Merlino seconded; voted unanimously.

8:30 PM **SCOTT RIGGI** –RFD (41D-1183) to construct an in-ground swimming pool at 4 Olde Logging Road. Mr. Riggi was present. R. Merlino said there are no concerns with this project. J. Mendes moved to close the hearing; S. Briggs seconded; voted unanimously. R. Merlino moved to issue a Negative Determination for Box #3; S. Briggs seconded; voted unanimously.

N. Hills moved to issue a Conditional Negative Determination for Box #3 for Tabor Academy's rock removal project on Front Street (41D-1181), with the following conditions: (1) only rocks that can be picked up without excavating may be removed; and (2) work shall consist only of removing rocks, not of cutting trees or removing brush or constructing a

sidewalk, which requires an additional filing; R. Merlino seconded; voted by majority with S. Briggs and H. Kenney abstaining.

Meeting adjourned at 9:00 PM.

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Diane R. Drake, Secretary

Approved May 5, 2004