

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON AUGUST 4, 2004

Members Present: Jeffrey W. Oakes, Chairman
Norman A. Hills, Vice Chairman
Janice M. Mendes, Treasurer
Sherman E. Briggs, Jr., Recording Secretary

Members Absent: Robert J. Merlino, Member
Horace S. Kenney, Jr., Associate Member
Joel D. Hartley, Associate Member

Secretary: Diane R. Drake

Others Present: Richard Rheaume, Jeffrey & Paula Tosca, Katherine & John Howard, Michael Thompson, Winifred & Robert Sylvia, John Allard, John Corrigan, Steven Cushing, James & Kathy Tripp, John Rockwell.

Meeting convened at 7:05 PM Wednesday, August 4, 2004 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, July 31, 2004 by J. Oakes, N. Hills and R. Merlino.

7:05 PM **WILLIAM B. HOLMES** - NOI (SE41-1010) to replace the foundation of the house and construct an in-ground swimming pool at 75 Water Street (continued). J. Oakes left the table. The cost of the foundation work has not been received. N. Hills moved to continue the hearing to 7:00 PM August 18, 2004; S. Briggs seconded; voted unanimously with J. Mendes voting due to the Rule of Necessity. J. Oakes returned to the table.

The Commission discussed the Enforcement Order issued to Tina Welch Clark and Stephen Clark for fill in wetlands at 711/713 Mill Street (SE41-868). The Certified Mail, Return Receipt Requested (original) Enforcement Order was refused and returned to the Commission, but the Clarks did receive the copy of the Enforcement Order that was sent by First Class Mail the same day as the Certified letter. It was hoped that the piles of dirt had been used for Linda Schuessler's berm, but the dirt was still there during the Commission's site inspection on July 31, 2004. Another Enforcement Order was written. J. Oakes moved to issue the second Enforcement Order to the Clarks in hand by the Marion Police Department; J. Mendes seconded; voted unanimously.

7:10 PM **DAVID CROLL** - NOI (SE41-1012) to construct a new dwelling at Lot 98A Lewis Street. Richard Rheaume of Prime Engineering represented Mr. Croll and said this is only a flood plain project and the house will be built in accordance with F.E.M.A. Regulations. J. Mendes said there used to be a house there, but the Crolls had it moved to

68 Front Street, which is now owned by Debra and Roger Blanchette. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously.

7:18 PM **GORDON A. SHERLOCK, JR.** – Wetlands violations at Beach Park (SE41-832). Mr. Sherlock has asked the Commission to FORCE Nancy (DeCosta) Bibeau to stop mowing the 18'-wide swath of Beach Park, as requested in the Commission's September 10, 2001 letter to her. It appears that the renters of Maude Eshbach's 12 Hartley Lane home thought it was OK to mow Beach Park as far as N. Bibeau did. Another letter will be sent to N. Bibeau, and one to Connie Eshbach, reminding them that they are not to mow beyond their property lines.

7:20 PM **DR. JOHN B. HOWARD** – RFD (41D-1195) to construct a 20' x 24' single-story addition and a 12' x 16' deck at 62 Water Street. J. Mendes left the table. Dr. and Mrs. Howard were present and described the project. They said the addition is well under 50% of the house's assessed value. N. Hills moved to close the hearing; S. Briggs seconded; voted unanimously. J. Oakes moved to issue a Negative Determination for Box #2; N. Hills seconded; voted unanimously. J. Mendes returned to the table.

7:30 PM **PAULA TOSCA** – RFD (41D-1196) to pour a 14' x 14' cement pad for a hot tub at 167 Cross Neck Road. Mr. and Mrs. Tosca were present. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously. J. Oakes moved to issue a Negative Determination for Box #3; J. Mendes seconded; voted unanimously.

Whimsey Realty Trust's request for a Certificate of Compliance for rebuilding a deck and constructing an addition at 59 East Avenue, Planting Island was discussed (SE41-975). Horace S. Kenney, Jr. inspected the site today and reported (by telephone) that the drip strips are complete and everything looks fine. J. Mendes moved to issue a Full Certificate of Compliance for Box #1; S. Briggs seconded; voted unanimously.

J. Mendes moved to issue a three-year Extension Permit to the Town of Marion for constructing a bike path from Mill Street (Route 6) along Point Road to Creek Road (SE41-943) (the other half of this project – constructing a bike path from Mill Street (Route 6) along Creek Road to Point Road is complete); N. Hills seconded; voted unanimously.

7:40 PM **PINEY POINT ROADS TRUST** – RFD (41D-1197) to reset/replace piles, cross members and horizontal members of the Piney Point pier at Landing Road. John Allard and John Corrigan represented the Trust and explained the project. J. Oakes suggested the Contractor, Barden's Boat Yard, be told to drive the piles into place rather than jetting them into place, and to prevent the barge from sitting on the bottom at all times. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously. J. Oakes moved to issue a Conditional Negative Determination with Conditions that the piles are not to be jetted into place, and that the barge will not rest on the bottom at any time; J. Mendes seconded; voted unanimously.

7:50 PM **ROBERT J. & WINIFRED E. SYLVIA** – NOI (D.E.P. file number not issued yet) to pipe and fill an existing drainage ditch at 165 Spring Street (continued). Mr. and Mrs. Sylvia were present with their Engineer, Glenn Amaral of G.A.F. Engineering. G. Amaral said he believes the ditch is not, by definition, an intermittent stream, and he would like the Commission to determine this issue one way or the other so that D.E.P. will issue a file number for this filing. G. Amaral said he spoke with Dorothy Blickens at D.E.P., and she told him that the Conservation Commission can do that under this filing, or under a Request for a Determination of Applicability filing. It was agreed that a Request for a Determination of Applicability will be filed to decide what to call the ditch, and continue this hearing in the meantime. At the Engineer's request, and with the Applicants' permission, N. Hills moved to continue this hearing to 7:45 PM August 18, 2004; J. Mendes seconded; voted unanimously.

8:05 PM **BARBARA DeCOSTA** – RFD (41D-1194) to verify the Bordering Vegetated Wetland lines as flagged at 2 Washburn Park Road (continued). Michael Thompson represented Ms. DeCosta and submitted a revised plan showing the corrected wetland flags. M. Thompson submitted a sheet calculating the Isolated Land Subject to Flooding at 388 cubic yards. J. Oakes said a Project Engineer's stamp is needed on the calculation sheet; M. Thompson said he will have N. Douglas Schneider's office stamp it. J. Mendes moved to continue the hearing, with the Applicant's consent, to 7:50 PM July 18, 2004; N. Hills seconded; voted unanimously.

8:20 PM **ISLAND WHARF PARKING LOT PAVING PROJECT UPDATE.** John Rockwell and Steven Cushing were present to explain their progress with this project. S. Cushing said the original intent was to pave only the present dirt areas of the lot and the Harbormaster's pavilion lot. S. Cushing said the holdup to this project is waiting for the \$20,000 Buzzards Bay Project grant and \$15,000 Coastal Zone Management grant to be approved. J. Rockwell said he is involved through the Buzzards Bay Project to design a stormwater drainage system, and showed a plan of the proposed storm drainage structures and plans of the Island Wharf watershed, sub-watershed and impervious surfaces, biofilter locations and plans of other related matters. J. Rockwell described the biofilter system and landscaping plans. The Commission Members thanked Mr. Rockwell and Mr. Cushing for their presentation and their success with the project so far, and agreed that the Commission's concerns no longer apply.

The Commission discussed Tabor Academy's new driveway being constructed from the Headmaster's house on Front Street to the house and studio at 21 Cottage Lane (41D-1007). The Commission had received a complaint from Mrs. Cullen, an abutter to the Headmaster's house circular driveway, that Sherman Briggs was constructing a new driveway close to wetlands. Mrs. Cullen asked Mr. Briggs to stop the work, which he did, and advised her to consult with the Headmaster or Tabor's public relations personnel. A site visit by the Commission on Saturday, July 31, 2004 showed the work is being done in the buffer zone to wetlands abutting Holmes Brook, and a Request for a Determination of Applicability is required before continuing the work. J. Oakes said the plan accompanying the R.F.D. must show the wetland lines. J. Mendes moved to send a letter to Donald Wing

of Tabor, asking him to immediately file a R.F.D.; N. Hills seconded; voted by majority with S. Briggs abstaining. (Note: Prior to sending this letter, the Commission received a letter from Marinus VanDer Pol, Jr. informing the Commission that the driveway under construction was going to be abandoned and restored to a stabilized vegetated condition, and a new driveway would be constructed further upland, at least 150' away from any known vegetated wetlands.)

J. Mendes drafted David Croll's Order of Conditions (SE41-1012) and moved to issue it as written; N. Hills seconded; voted unanimously.

Meeting adjourned at 9:45 PM.

Diane R. Drake, Secretary

Approved September 1, 2004