

FINAL

**MARION CONSERVATION COMMISSION**  
MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 2, 2005

Members Present: Jeffrey W. Oakes, Chairman  
Norman A. Hills, Vice Chairman  
Janice M. Mendes, Treasurer  
Sherman E. Briggs, Jr., Recording Secretary (absent from  
7:00PM – 7:37 PM)

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

Secretary: Diane R. Drake

Others Present: Margaret Ishihara, Susan Nilson, Robert & Linda Lane, Donna Butler, N. Douglas Schneider and Joseph Zora Jr.

Meeting convened at 7:00 PM Wednesday, February 2, 2005 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were canceled due to inclement weather.

7:00 PM Correspondence was reviewed. N. Hills moved to accept the December 15, 2004 minutes as amended; J. Mendes seconded; voted unanimously.

7:10 PM **WILLIAM & RUAH PURTELL** - RFD (41D-1212) to remove the existing garage at 46 Front Street and construct a two-story garage in its place. J. Mendes recused herself, as Ms. Purtell is her daughter. Due to the lack of voting quorum, the hearing was postponed to later tonight when S. Briggs would be present.

The status of Arthur and Cheryl Walker's second Enforcement Order for illegal cutting and filling at 587 Front Street was discussed (41D-1208). N. Hills said he recently spoke with Rich Gioiosa of D.E.P., who is the supervisor of Ed Burke's "REACT" (Strike Force) team. N. Hills said R. Gioiosa gave the impression that he did not want to get involved, but R. Gioiosa did say that he will set up a mutual site inspection with himself and Ed Burke and someone from the Marion Conservation Commission when the snow is gone. J. Oakes said he would like someone from the Environmental Protection Agency, such as Mark Mahoney, to be present at that time, too.

7:20 PM **THE KITTANSETT CLUB** – RFD (41D-1213) to verify the delineation of the resource areas at 11 Point Road, on the two lots at the southwest tip of Butler's Point. J. Oakes left the room. Susan Nilson of CLE Engineering, Inc. represented The Kittansett Club, but without S. Briggs' presence, there was no quorum. S. Nilson agreed to postpone

the hearing until later that evening when there would be a voting quorum. J. Oakes returned to the table.

7:23 PM Appointment for discussion with Robert Lane regarding the buildability of Lot 170 Cove Circle, Piney Point, which is beside 73 Cove Circle on Lot 85. J. Oakes left the room because he reflagged that lot. Robert and Linda Lane were present with the owner of the lot, Donna Butler. R. Lane showed his plan of the renewed wetland lines. He said the old tennis court site, surrounded by wetlands, is the only suitable spot for a house, and asked the Commission if they would consider a variance to their 30' no-build policy. N. Hills said the Commission would have to inspect the site before that could be determined, and suggested Mr. Lane submit a Request for a Determination of Applicability, along with his updated plan showing the flagged resource areas, when the snow has melted. Mr. Lane agreed to do that and was given the appropriate form. J. Oakes returned to the room.

7:35 PM **TEMERAIRE REALTY TRUST** – RFD (41D-1210) to upgrade a septic system at 38 Register Road (continued). N. Douglas Schneider represented the Trust and said the revised plan places the leaching field further from the wetlands, as requested by the Commission. S. Briggs joined the meeting at 7:37 PM. J. Mendes moved to close the hearing; J. Oakes seconded; voted unanimously.

7:40 PM **ZORA ENTERPRISES, INC.** – ANRAD (SE41-1023) to verify the resource areas as flagged at Olde Willow Road (continued). Joseph Zora, Jr. was present with his attorney, Margaret Ishihara. M. Ishihara said she has not yet had a chance to retain a wetlands person to do the soil sampling requested by the Commission, and asked for a one-month continuation. N. Hills moved to continue the hearing, with the Applicant's consent, to 7:20 PM March 2, 2005; S. Briggs seconded; voted unanimously.

7:41 PM **WILLIAM & RUAH PURTELL** - RFD (41D-1212) to remove the existing garage at 46 Front Street and construct a two-story garage in its place. This hearing was continued from earlier tonight due to the lack of a voting quorum. J. Mendes left the table. J. Oakes said this is strictly a flood plain issue. In accordance with the "50% Rule," the cost breakdown of the proposed improvements shows it to be well below one-half of the appraised value of the house shown on the Assessors' data card. N. Hills moved to close the hearing; S. Briggs seconded; voted unanimously. J. Mendes returned to the table.

7:46 PM **THE KITTANSETT CLUB** – RFD (41D-1213) to verify the delineation of the resource areas at 11 Point Road, on the two lots at the southwest tip of Butler's Point. This hearing was continued from earlier tonight due to the lack of a voting quorum. J. Oakes left the room. S. Briggs said he would participate due to the Rule of Necessity. Susan Nilson of CLE Engineering, Inc. represented The Kittansett Club and submitted photographs of the site. She said the abutter's (Epstein) lawn encroaches on the Kittansett site. She said the Club is considering doing something with the lot, maybe making a putting green there, but not a structure at this time. S. Nilson said the field data sheets show the area is not a wetland, but there is a coastal bank and it is in the velocity zone.

J. Mendes moved to close the hearing; S. Briggs seconded; voted unanimously. J. Oakes returned to the table.

As drafted by J. Oakes, J. Mendes moved to issue a Negative Determination for Box #3 for Temeraire Realty Trust's septic project at 38 Register Road (41D-1210); N. Hills seconded; voted unanimously.

N. Hills moved to issue a Negative Determination for Box #2 for William and Ruah Purtell's garage project at 46 Front Street (41D-1212); S. Briggs seconded; voted by majority with J. Mendes not participating in the discussion and vote.

N. Hills moved to issue a Positive Determination for Boxes #1 and #2 for The Kittansett Club's resource area delineation at 11 Point Road (41D-1213); S. Briggs seconded; voted by majority with J. Oakes abstaining from the discussion and vote.

Meeting adjourned at 8:15 PM.

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Diane R. Drake, Secretary

Approved March 2, 2005