

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON JUNE 23, 2010

Members Present: Norman A. Hills, Chairman
Sherman E. Briggs, Jr. (absent from 7:00-7:10 PM)
Lawrence B. Dorman
Joel D. Hartley
Wendy L. Carreau
Jeffrey W. Oakes, Associate (absent from 7:00-7:17 PM)

Members Absent: Horace S. Kenney, Jr., Associate (resigned May 24, 2010)

Secretary: Diane R. Drake

Others Present: Elizabeth Hatch, Kenneth Steen and Brian Butler

Meeting convened at 7:00 PM Wednesday, June 23, 2010 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, June 19, 2010 by N. Hills, W. Carreau and L. Dorman.

7:00 PM **GEORGE F. ESTUDANTE** - RFD (41D-1417) to construct a 10' x 15' wooden shed and a 25' x 30' steel garage at 19 Giffords Corner Road (continued from May 26, 2010). No one represented Mr. Estudante. Thomas Lovett will be updating Mr. Estudante's wetland line. N. Hills moved to continue the hearing to 7:00 PM on July 28, 2010; J. Hartley seconded; voted unanimously.

WILLIAM HOLMES - L. Dorman moved to issue a three-year extension permit for replacing the foundation of the house at 75 Water Street, and constructing an in-ground swimming pool, W. Carreau seconded, voted unanimously (SE 041-1010).

COMMUNITY PRESERVATION COMMITTEE - L. Dorman moved to have N. Hills continue as the Conservation Commission's representative, W. Carreau seconded, voted unanimously.

7:10 PM **ELIZABETH HATCH** - RFD (41D-1424) to plant arborvitaes or Leland Cypress along the north property line and around the propane tank at 168 Allens Point Road. Mrs. Hatch was present. She said the line of trees will begin at the house foundation and extend to the driveway, and some old trees may need to be removed. She said shovels will be used to plant the balled trees, and no heavy equipment will be needed. L. Dorman disclosed that he is a direct abutter to this property and is not against this project, but has spoken with Mr. Hatch about leaving as many trees as possible to act as a privacy screen. J. Hartley moved to close the hearing, W. Carreau seconded, voted unanimously.

GREGORY KOSS - N. Hills said there has been extensive clearing taking place at 32 Beach Street and at minimum a request for determination of applicability filing is needed. N. Hills drafted an enforcement order for the unauthorized work and moved to issue it as written, L. Dorman seconded, voted by majority with S. Briggs abstaining (SE 041-987 and SE 041-676).

7:20 PM **BAY WATCH REALTY TRUST** - appointment for discussion regarding decertifying Vernal Pool #2 off Front Street (SE 041-1104). Kenneth Steen of Bay Watch was present with his wetlands biologist, Brian Butler of Oxbow Associates. B. Butler said he has been working with the Commission's wetlands biologist, Robert Gray of Sabatia, Inc., regarding the vernal pools at the Bay Watch site off Front Street, and a red fin shiner was seen in the classic Vernal Pool #1. B. Butler said Brandon Faneuf saw seven tadpoles in Vernal Pool #2 last year, but nothing in that pool this year. B. Butler said Vernal Pool #2 does not meet the criteria for a vernal pool and is not a functioning vernal pool. He said he wants to discuss this with the Department of Environmental Protection and the Natural Heritage and Endangered Species Program to have Vernal Pool #2 decertified. L. Dorman said that based on scientific evidence at the time, Vernal Pool #2 was certifiable, and B. Butler's calling the process illegitimate is not applicable - incorrect would be a better choice of words. B. Butler apologized for his poor choice of words. K. Steen said he has plans filed with the Zoning Board of Appeals. S. Briggs identified himself as a direct abutter to this site, and stated his displeasure with being told to remove fish from a holding pond. B. Butler said he wants to decertify Vernal Pool #2 because it precludes fill and filing a Form 404. B. Butler asked the Commission to speak with R. Gray to verify their findings and opinions. K. Steen said there presently is no way to decertify a vernal pool. B. Butler said Vernal Pool #2 has a very hard bottom which is not typical of a vernal pool. J. Hartley read from a section of www.vernalpool.org regarding the procedure necessary to decertify a vernal pool. B. Butler thanked the Commission for their time.

BAY WATCH REALTY TRUST - On a separate matter N. Hills asked Kenneth Steen to remain while the Commission discussed a proposed draft enforcement order for wetlands violations (the digging of at least three test pits) that had taken place off Front Street (SE 041-1104). Mr. Butler and Mr. Steen said Mike Howard of Epsilon Associates told them test pits are exempt from filings on 40B projects, and they will give the Commission a copy of the literature stating that. N. Hills moved to issue the enforcement order as written, L. Dorman seconded, voted by majority with S. Briggs abstaining.

ELIZABETH HATCH - J. Hartley drafted Mrs. Hatch's Determination for Boxes 2 and 3, W. Carreau seconded, voted unanimously (41D-1424).

L. Dorman moved to adjourn at 8:15 PM, W. Carreau seconded, voted unanimously.

Diane R. Drake, Secretary

Approved September 8, 2010