

# PROVINCETOWN CONSERVATION COMMISSION

July 17, 2007

6:30 P.M.

**Members Present:** Dennis Minsky, Elaine Anderson, Dieter Groll, Lynne Martin and David Hale.

**Members Absent:** Paul Tasha.

**Others Present:** Brian Carlson (Health Inspector) and Ellen C. Battaglini (Recording Secretary).

## PUBLIC HEARING

Co-chair Dennis Minsky called the Public Hearing to order at 6:32 P.M.

### PUBLIC COMMENTS:

None.

**MINUTES: June 19, 2007** – *Lynne Martin moved to approve the language as written, David Hale seconded and it was so voted, 3-0.*

### DISCUSSION:

**Beach Cleaning:** Jerry Irmer, Chairman of the Harbor Committee and Rex McKinsey, Harbormaster, appeared to discuss the issue with the Commission. Mr. Irmer and Mr. McKinsey are appearing to get input and guidance on how to proceed from the Commission. They would also like to develop a protocol and procedures for beach cleaning. They will be utilizing manpower from the Department of Public Works, Americorps and inmates housed in Barnstable County, amongst others. All agreed that the beaches, especially on either side of MacMillan Wharf, need immediate attention in regard to cleaning, both for aesthetic and for public safety purposes. After discussing the issue with Mr. Irmer and Mr. McKinsey, the Commission resolved that:

- They will hold a joint Work Session with the Harbor Committee on August 7, 2007 at 6:00 P.M. to discuss the issue further; and
- They will arrange a site visit with Rex and Jerry in September.

### NEW BUSINESS:

#### Notice of Intent

Application by **David Guertin, DPW Director**, for a Notice of Intent under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant has filed a Notice of Intent for work previously conducted at the **Mount Gilboa** water holding tank and the adjacent **Foss Woods Conservation Area** in Provincetown.

Lynne Martin recused herself because of a conflict of interest.

**Presentation:** David Guertin, DPW Director, and Mark White, of Environmental Partners Group, Inc., appeared to present the application. Mr. Guertin explained the process that was undertaken, the issues involved and the subsequent effect on the resource area of Foss Woods when the discharge of water from the holding tank on Mt. Gilboa occurred. He wanted to discuss standards of mitigation if similar discharges are needed in the future. Mr. Guertin suggested that the Town and its engineers submit a standard operating procedure to the Commission for critique and comment.

**Public Comment:** Celine Gandolfo, speaking on behalf of the Provincetown Conservation Trust, spoke of her concerns about the species habitats in the area and the damage that may have been done to those habitats as a result of the discharge.

**Commission Discussion:** The Commission questioned Mr. Guertin and Mr. White. Mr. Guertin agreed to formulate a plan for proceeding with discharges in the future, in consultation with Environmental

Partners Group, Inc., and send it to Brian Carlson who will present it to the Commission for discussion. The case is continued until the September 18, 2007 hearing.

*Elaine Anderson moved to grant a continuance until the September 18, 2007 hearing, Dieter Groll seconded and it was so voted, 4-0.*

## **OLD BUSINESS:**

### Notice of Intent (continued from June 19, 2007)

Application by **Richard L. Bready**, represented by Coastal Engineering Company, Inc., for a Notice of Intent under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant has filed a Notice of Intent for proposed landscaping improvements at the property located at **531 Commercial Street**, in Provincetown.

**Presentation:** Reggie Donoghue, John DeSouza and Glen Parker appeared to discuss the application. The applicant submitted revised proposed landscaping plans, which incorporate suggested changes requested by the Commission from a previous hearing. Mr. Donoghue stated the changes that were made:

- The proposed footprint of the palletized patio has been reduced and moved behind the seawall, which will allow the patio to sit lower and be less subject to storm damage.
- The irrigation well was removed.
- The outdoor shower was moved further away from the resource area and reduced in size.
- Information was submitted to the Commission regarding the permeability of the cobblestones to be used for the driveway on site.
- The gas service to the plumbed barbecue has been moved.
- The concrete pads for the air-conditioning condensers were raised in height to keep them above the flood elevation per the request of the Building Commissioner.
- The new calculations regarding green area have shown an increase in that percentage.
- Only native plantings will be used on site.

**Public Comment:** John Livingstone, an abutter, voiced his dismay at not having an opportunity to see the new plans. He requested that the Commission continue the matter.

**Commission Discussion:** The Commission questioned Mr. Donoghue, Mr. DeSouza and Mr. Parker. *Dieter Groll moved to grant the Notice of Intent with the Standard Conditions, incorporating the construction detail submitted with the new plans labeled 'SD-1' in addition to the following:*

- *A reduction of the patio size as presented;*
- *The elimination of the irrigation well;*
- *The relocation and a reduction in size of the outdoor shower;*
- *The use of the cobblestones for the driveway as presented;*
- *An increase in the percentage of green area;*
- *The relocation of the deck behind the sea wall as presented;*
- *The use of native plantings only; and*
- *No fertilizes to be used.*

*Lynne Martin seconded and it was so voted, 4-1 (David Hale opposed).*

### Certificate of Compliance

Request for a Certificate of Compliance by Mark Kinnane, of Cape Associates, for David Butler for the property located at **15 Creek Round Hill Road** in Provincetown.

Brian Carlson informed the Commission that the previous Conservation Agent had inspected the premises and determined that all of the work at the property had been done in compliance with the Order of Conditions issued.

*Elaine Anderson moved to grant a Certificate of Compliance for the property located at 15 Creek Round Hill Road, Lynne Martin seconded and it was so voted, 5-0.*

### Notice of Intent

Application by **Joan Rogers**, represented by East Cape Engineering, Inc., for a Notice of Intent under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12 for the property located at **7 Sandy Hill Lane**, in Provincetown. The applicant requested that this application be continued indefinitely. The Commission would request that the applicant either withdraw without prejudice or continue the application to a date certain.

**CORRESPONDENCE:**

The Commission has received a proposal for an Agreement for Judgment in litigation regarding the property located at 781 Commercial Street.

Elaine Anderson brought up the issue of sinkholes at the Shank Painter Pond Resource Area. Dieter Groll mentioned that there was still Lady's Thumb present at the site.

Lynne Martin mentioned that someone had enlisted the help of a DPW employee to removed seaweed on the beach in front of the Bull Ring Wharf Condominiums.

*Dieter Groll moved to write a letter to the Bull Ring Wharf Condominium Association requesting that they file a Notice of Intent with the Commission in order to perform that type of work in the resource area and if it happens again in the future without an NOI being filed with the Commission , the Association will be subject to an Enforcement Order issued by the Conservation Agent, Lynne Martin seconded and it was so voted, 5-0.*

Dennis Minsky briefly discussed the upcoming work to be done at the Provincetown Airport. WK Red Clay, LLC has requested a time extension for the re-hearing of their Notice of Intent application until the August 7, 2007 hearing. The Commission briefly discussed the matter.

*Dieter Groll moved to accept a time extension offer from the applicant and to re-open the hearing of the Notice of Intent application for WK Red Clay, LLC, to accept and hear new information Elaine Anderson seconded and it was so voted, 5-0.*

Americorps will help work on the database of Conservation Commission applications.

*Lynne Martin moved to go into Executive Session at 9:15 P.M. in order to discuss ongoing litigation. Each Commissioner was polled separately and each assented to the motion.*

**ADJOURNMENT:** *Elaine Anderson moved to adjourn at 9:30 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on \_\_\_\_\_, 2007.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2007  
Dennis Minsky and Elaine Anderson, Co-Chairs