

**PROVINCETOWN CONSERVATION COMMISSION**  
**JUDGE WELSH ROOM IN TOWN HALL**  
**February 15, 2011**  
**6:30 P.M.**

**Members Present:** Dennis Minsky, Lynne Martin (left at 7:42 P.M.), Jack McMahon, David Hale, Hank Janowsky and Barbara Prato.

**Members Absent:** None.

**Others Present:** Brian Carlson (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Dennis Minsky called the Public Meeting to order at 6:30 P.M.

**PUBLIC STATEMENTS:**

Rick Murray asked if the Request for Determination of Applicability by the Town of Provincetown was a continuation and if the public portion of the hearing of the case was still open. He also inquired if plans for the proposed kayak racks had been submitted, and if so, if they were available to the public.

**MINUTES: January 25, 2011 – *David Hale moved to approve the language as amended, Hank Janowsky seconded and it was so voted, 6-0.***

**Notice of Intent** (continued from February 1, 2010)

Application by **Gerard Irmer, Chair, Provincetown Harbor Committee**, represented by **Peter Markunas, of Woods Hole Group, 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 scope of work will include the annual springtime removal of fall and winter accumulated wrack and debris and periodic seasonal beach-raking.

**Presentation:** Jerry Irmer, Chairman of the Harbor Committee, and Chris Brooke, member of same, appeared to discuss the application. The scope of the project has been reduced and the proposed area for beach cleaning now stretches from behind Marine Specialties to 463 Commercial Street, opposite Bangs Street. Two access points would be required, one at the Johnson Street Parking Lot and one at the beach access adjacent to Fisherman's Wharf. The Beach Point area is being put off for now until the afore-mentioned trial area has been cleaned and the Harbor Committee returns to the Commission for approval for an expanded scope of work. All proposed work areas will be seaward of the historic mean high water mark and not on private property, eliminating the need for obtaining permission from land owners. The scope excludes the area designated as priority habitat for rare and endangered species, eliminating the need for a bird-nesting monitor.

**Commission Discussion:** The Commission questioned Mr. Irmer and Mr. Brooke. Dennis stated that the effects of the trial area beach-cleaning process must be properly evaluated by the Commission before any cleaning could take place and thus a base line evaluation of the beach must be undertaken. Subsequent to the cleaning, periodic evaluations, for a couple of years or more, would then need to occur in order to get an assessment of the effects of the cleaning on the

resource area. The Commission would hire an independent consultant, paid for with funds contributed by applicants, to undertake these evaluations. Dennis would like to see this process as a component of the proposal. He also listed the concerns of the Commission about the project, including compaction of the beach by heavy equipment, the positive and negative implications of the removal of the wrack line, the location of the debris disposal, the coordination of the raking activities with the Conservation Agent, given that he is only allotted three hours a week to work on conservation issues, the location of the seaward extent of the work, the precedent that might be set for other property owners, the logistics of using an employee of the DPW to operate the beach rake and how the beach cleaning would be scheduled given the tidal flow in the Harbor. The Commission discussed these concerns with Mr. Irmer. The Commission would like to see documented proof that the debris can be disposed of at the Transfer Station and evidence of a commitment with DPW concerning the operator of the beach rake.

**Public Comment:** John Santos, speaking as a private citizen, asked if the Commission's concerns could be addressed in the Order of Conditions for the project. Rick Murray had questions about the proposed extent of the cleaning area, the time of day during the summer that the cleaning of the beach behind the Crown and Anchor would occur and whether the beach rake would stay on the beach overnight or be removed daily.

The applicant requested a continuance to the March 15, 2011 Public Hearing.

***Lynne Martin moved to grant a continuance to the March 15, 2011 Public Hearing, Dennis Minsky seconded and it was so voted, 5-0.***

**Request for Determination of Applicability** (postponed from February 1, 2011)

Application by the **Town of Provincetown** for a **Determination of Applicability** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law, Chapter 12. The applicant proposes site work to include the installation of kayak racks at the property known as the **West End Parking Lot beach** in Provincetown.

**Presentation:** Rex McKinsey appeared to discuss the application. On August 9, 2010, the BOS reviewed a proposal to install two kayak racks on the beach at the West End Parking Lot. The proposal was for 2 racks to hold 18 kayaks. Each would measure 12' long by 7' wide by 6'4" high. Mr. McKinsey submitted proposed drawings of the racks for the Commission's consideration. The Harbor Committee has approved funding for the pilot project, which will provide residents in the area with a place to store kayaks and will protect the beach resource area, particularly the west end of the beach, where kayaks are currently stored. After evaluating how the racks are used this summer, Town staff may have recommendations about how to further implement the program.

**Public Comment:** Rick Murray spoke in favor of the project, suggested possibly placing the racks in a parking space instead of on the beach and had questions about the issue of enforcement.

**Commission Discussion:** The Commission questioned Mr. McKinsey.

***Jack McMahan moved to grant a Negative #3 Determination for site work to include the installation of kayak racks at the property known as the West End Parking Lot beach, David Hale seconded and it was so voted, 5-0.***

**Notice of Intent** (postponed from February 1, 2011)

Application by **Mary Moore**, 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. The scope of work will include the repair and replacement of existing timber bulkhead at the property located at **477 Commercial Street** in Provincetown. Jack McMahan recused himself because of a conflict of interest.

**Presentation:** Tim Brady, of East Cape Engineering, and Moe Van Dereck appeared to discuss the application. The existing bulkhead will be removed and the new one constructed in the same location. The work can be done from the upland, where materials will be stored so no heavy equipment will be needed on the beach. There is a wood deck on the landward side of the bulkhead. The proposal is to remove the deck, ideally in sections, and then replace it in the same location following construction. A small 4' by 4' platform, with cantilevered support, connected to a stairway to the beach is proposed on the east side of the new bulkhead.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Brady and Mr. Van Dereck. The Commission emphasized to Mr. Brady and Mr. Van Dereck the importance of policing the beach daily for debris removal.

*David Hale moved to approve the Notice of Intent for the repair and replacement of an existing timber bulkhead at the property located at 477 Commercial Street with the Standard Order of Conditions and with the Special Conditions that no heavy machinery will be on the beach, all materials will be stored on the upland and debris will be removed from the beach daily, with special attention paid during the demolition phase of the project, Hank Janowsky seconded and it was so voted, 5-0.*

#### Request for Determination of Applicability

Application by the **AJ Santos** for a **Determination of Applicability** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law, Chapter 12. The applicant proposes site work to include the replacement and installation of fender pilings at the property located at **71 Commercial Street** in Provincetown.

**Presentation:** Don Monroe, of Coastal Engineering, AJ Santos and Noah Santos appeared to present the application. The proposed project is for the replacement of 18 non-structural, hickory fender piles that support a rope railing. The project is being undertaken for safety reasons as many of the pilings are rotten. They will be replaced in kind. The work will be done from a boat which has pump equipment to remove the old piles and jet in the new piles. A small rubber-tracked excavator will be used below the high water mark. The applicant requested access for the excavator from the Town Landing next to Captain Jack's Wharf.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Messrs. Santos and Mr. Munroe.

*Jack McMahan moved to grant a Negative #3 Determination for the replacement and installation of fender pilings at the property located at 71 Commercial Street with the conditions that there is a daily clean-up of the beach, with special attention paid during the removal of the pilings, that beach access at the Town Landing at Captain Jack's Wharf is verified by the Conservation Agent at the time that the beach access permit is applied for and that the small rubber-tracked excavator remain below the high water mark, David Hale seconded and it was so voted, 5-0.*

#### Notice of Intent

Application by **Phillip Mossy** 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

scope of work will include the reconstruction of a structure, the addition of dormers and basement work at the property located at **15 Commercial Street** in Provincetown.

**Presentation:** Phillip Mossy, David Milliken and Sean Burke appeared to present the application. The applicant is reconstructing the structure on the property and a courtyard in the middle of the building has been filled in. The construction took place within the 100' buffer zone of a resource area. The major concern of the Commission is the stormwater management issues on the premises. There is a net increase of 4' in the impervious areas and the applicant has suggested remediation, including the removal of impervious walkway areas and impervious patio areas, the use of porous concrete pavers and native shells and the increase in landscaping features and plantings.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Mossy, Mr. Milliken and Mr. Burke. *David Hale moved to approve the Notice of Intent for the reconstruction of a structure, the addition of dormers and basement work at the property located at 15 Commercial Street with the Standard Order of Conditions, Hank Janowsky seconded and it was so voted, 4-0-1 (Jack McMahon abstaining).*

## **DISCUSSION:**

### **Sewer Project Update:**

No one from the Town appeared to discuss the topic. The Town is proposing shutting down portions of Thistlemore Road for a couple of weeks and diverting traffic behind the Eastwood Condominiums. In order to do that, the Town proposes to prune several large limbs on a pitch pine in the area. If the turning radius created by the tree-trimming is not sufficient for large trucks to access the area, the pitch pine will have to be removed, as well as smaller adjacent trees, and a small amount of fill to level the area will need to be added. Once the work is completed, the fill will be removed and two new trees will be re-planted. The Commission discussed the issue. Issues of concern for the Commission if the latter option was chosen included the nature of the fill, the contour of the filled land and the species of tree to be re-planted. It was decided that the issue would be dealt with as an Administrative Review.

*Dennis Minsky moved that this issue be considered as an Administrative Review with the concerns as discussed, Barbara Prato seconded and it was so voted, 5-0.*

### **Browne Street Storm Drain Pipe:**

David Hale updated the Commission on this issue. Joe Taves, an abutter of Shank Painter Pond, has contacted DPW about the problem. The Commission discussed the issue. Brian will take water samples from the catch basin on Browne Street and from the area where the pipe discharges into the Pond and have them tested.

### **Kendall Lane Discharge Pipe:**

The pump station at the Surfside Inn is being constructed and the de-watering of the area is being discharged through a new pipe running down Kendall Lane. Dennis has contacted Amy Ball, a wetlands scientist, to ask about any negative effects of this process. She indicated that it was no big deal, especially in the winter outside of breeding season.

**Bees:**

Rebecca Matarazzi would like to get a decision from the Commission by the end of March about whether she can put one or two of her beehives in the B Street Garden area and about possibly putting hives on conservation lands in Town, including one for the Green Arts Festival. The Commission discussed the issue. The discussion will continue at the Work Session on March 1, 2011.

***ADJOURNMENT: Jack McMahon moved to adjourn at 8:45 P.M. and it was so voted unanimously.***

These minutes were approved by a vote of the Conservation Commission at their meeting on \_\_\_\_\_, 2011

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2011  
Dennis Minsky, Chair