

**PROVINCETOWN CONSERVATION COMMISSION**  
**JUDGE WELSH ROOM**  
**May 17, 2011**  
**6:30 P.M.**

**Members Present:** Dennis Minsky, David Hale, Lynne Martin and Barbara Prato.

**Members Absent:** Jack McMahon (excused) and Hank Janowsky (excused).

**Others Present:** David Gardner (Assistant Town Manager), Brian Carlson (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Dennis Minsky called the Public Meeting to order at 6:31 P.M.

**PUBLIC STATEMENTS:**

None.

**MINUTES: May 3, 2011 – *David Hale moved to approve the language as amended, Dennis Minsky seconded and it was so voted, 3-0-1 (Barbara Prato abstaining).***

**After the Fact Notice of Intent (continued from April 19, 2011):**

Application by **Cliff Schorer and the Provincetown Conservation Trust** for an **After the Fact 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 a mitigation of a bentonite clay spill into a protected wetland resource area at the property located at **2 Commercial Street** in Provincetown. This application is continued until there is a DEP File Number and a response from Natural Heritage.

***David Hale moved to grant the request to continue to the June 7, 2011 Public Hearing, Barbara Prato seconded and it was so voted, 4-0.***

Brian received an invoice totaling \$2730 from Horsley Witten Group related to their consulting work in regard to 2 Commercial Street.

***David Hale moved to instruct the applicant to pay the consulting fee of \$2730 as detailed in the invoice from Horsley Witten, Dennis Minsky seconded and it was so voted, 4-0.***

**DISCUSSION:**

**RFPs for Shank Painter Pond Environmental Survey:**

David Hale recused himself from the discussion. The Commission received two proposals, which were briefly discussed at the previous Public Hearing. The Commission decided not to proceed with either because of budgetary issues. Brian will investigate whether the bids have expiration dates.

***Dennis Minsky moved that the Commission not choose either proposal for the Shank Painter Pond Environmental Study at this time, Barbara Prato seconded and it was so voted, 3-0.***

## **CONSERVATION BOARD STATEMENTS:**

David Hale raised an issue about a member of the B Street Garden Advisory Group. This particular member has not taken part in any Group meetings. A new application has been submitted by another individual. David would like to speak with the applicant and is asking for the approval of the Commission to move forward. He will bring the issue back if an appointment is pending.

Brian submitted a grant report to the County in order to have the balance of the grant money for the B Street Garden released. Everything is going well at the Garden.

## **ANY OTHER BUSINESS:**

Dennis reported that a plan from Mr. Demetrios Daphnis was submitted to the Planning Board on May 16, 2011, regarding the development of the property at 67 Harry Kemp Way. The plan was brought to the attention of the Commission by David Gardner as it was not the same plan approved by the Commission for that property. The Commonwealth had extended the time period for permits in effect, or in existence between August 15, 2008 and August 15, 2010. The original Notice of Intent for 67 Harry Kemp Way was heard and approved by the Commission in January of 2007. The applicant applied for an extension on December 8, 2009. An extension was granted by the Commission with revisions proposed by the applicant to the original plan. The project was down-sized and the remaining buildings were moved farther away from the resource area. Dennis read the minutes from the Public Hearing on December 8, 2009. The plan presented to the Planning Board was not this revised 2009 plan, but the original 2007 plan. The Commission discussed the issue with David Gardner.

***David Hale moved that the Order of Conditions for the property located at 67 Harry Kemp Way approved by the Conservation Commission on December 8, 2009, referencing revision #8 dated November 25, 2009, be upheld, Dennis Minsky seconded and it was so voted, 4-0.***

The Commission discussed the issue further.

***David Hale moved to direct the Conservation Agent to communicate with the Planning Board that the Conservation Commission is in disagreement with the applicant's presentation to the Planning Board on May 16, 2011, and that the presentation does not conform to the Order of Conditions issued by the Commission on December 18, 2009, Dennis Minsky seconded and it was so voted, 4-0.***

Dennis reported that the Commission is still waiting on a report on the health of the plantings at the staging areas on Route 6 from AECOM.

Dennis and Brian met with David Guertin and Sandy Turner to discuss the Shank Painter Pond drainage system. David Hale recused himself from the discussion. DPW will be developing a study of the Shank Painter Pond drainage system, including the flora and fauna and the water quality. The engineering firm of GHD will undertake the study. Dennis and Brian have also spoken with Russ Kleekamp, who is working on the drainage mapping of the Pond and a water quality monitoring and testing protocol. Mr. Kleekamp has consulted with his wetland ecologist who will be writing up her ideas for the water quality tests, including frequency of testing and areas to test. The testing could start in a couple of weeks. DPW will cover 90% of the cost. The

report will include recommendations for mitigation. The Commission needs to recommend that the Board of Selectmen vote to approve the study. The Commission discussed the topic.

***Dennis Minsky moved that the Conservation Commission recommend to the BOS that it support the DPW's effort to conduct a study of the Shank Painter Pond ecosystem to include the following components: drainage mapping, water quality assessment, a search for potential pollution sources and flora and fauna, Barbara Prato seconded and it was so voted, 3-0.***

There was a complaint made to the Conservation Commission regarding the deck constructed on the beach at 101 ½ Commercial Street. The Commission reviewed the project on September 9, 2008. The complainants are concerned about the partial removal of a dune-like landform that has been building up in the area over a number of years. Sand and plantings were removed when the deck was constructed. Brian ordered the contractor to replace the sand and plantings that were removed, to add more plantings and to install sand fencing on either side of the deck in order to capture sand. The Commission discussed the complaint.

***Dennis Minsky moved to direct the Conservation Agent to direct the applicant to increase plantings on the east and west side of the structure to a distance of 3' out from the fencing, but not to obstruct the walkway, and to install sand fencing in front of the plantings, David Hale seconded and it was so voted, 4-0.***

***ADJOURNMENT: Lynne Martin moved to adjourn at 7:30 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