

**PROVINCETOWN
CONSERVATION COMMISSION
JUDGE WELSH ROOM
JUNE 2, 2015
6:30 P.M.**

Members Present: Dennis Minsky, Lynne Martin, David Hale and Mark Irving.

Members Absent: Barbara Prato (excused).

Others Present: Austin Brandt (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Chair Dennis Minsky called the Public Hearing to order at 6:43 P.M.

PUBLIC STATEMENTS:

None.

OLD BUSINESS:

Update on dune stabilization at 31 Point Street in Provincetown: Austin reported that he had been in touch with the owner of the property, William N. Rogers, II and Paul Shea, who has been hired to do remediation. Mr. Shea sent a preliminary remediation plan to the Commission. He wanted to know if the remediation could be started before the installation of the retaining wall. The Commission will be updated on the progress at the property at its next meeting on June 16th. In the meantime, Austin will stay in contact with Mr. Shea and Mr. Rogers about the project. The Commission requested that he confirm with Mr. Shea that the grass mix mentioned in the remediation plan was a native mix.

NEW BUSINESS:

Request for Determination of Applicability:

Application by the **Provincetown Shellfish Committee**, represented by Provincetown Shellfish Constable **Steve Wisbauer** 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 scope of work proposed includes a pilot project to test the viability of oyster seed set on natural shell material in two areas of the west end tidal flats in **Provincetown Harbor** in Provincetown.

Presentation: Steve Wisbauer appeared to present the application. As part of his regular propagation process, Mr. Wisbauer distributes shells with oysters attached. These are provided by the Division of Marine Fisheries. In order to try to improve the process, he would like to lay down a shell base in two different areas to observe what sets naturally and compare the growth to that of the pre-set shells. DMF had asked Mr. Wisbauer to request permission from the Commission to use the shells as a base. DMF requires a year of aging on the base shells before they can be broadcast in the Harbor. He is planning on laying down 3 yards of shells in each of the two areas. The shells will be transported to those areas on the Harbormaster's barge.

Commission Discussion: The Commission questioned Mr. Wisbauer. The Commission discussed whether the project would constitute an alteration of a resource area.

Harbormaster Rex McKinsey joined the discussion and added that the intent of the project was to provide enough shell to mimic the natural environment of an oyster reef. He said that the shells that will be distributed are no different than the material that is dropped by sea gulls on the flats through predation. Mr. Wisbauer added that the Oyster Conservancy, which is a sub-group of the Nature Conservancy, has been trying to restore oyster reefs in Massachusetts. He has been in contact with the group, which will be doing projects in this area. The proposed project would serve as a scientific test to gather information prior to undertaking larger projects with the Oyster Conservancy.

David Hale moved to grant a Negative #2 Determination for a proposed pilot project to test the viability of oyster seed set on natural shell material in two areas of the west end tidal flats in Provincetown Harbor pursuant to an application by the Provincetown Shellfish Committee, represented by Provincetown Shellfish Constable Steve Wisbauer, under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40 and the Provincetown Wetlands By-Law, Chapter 12, Dennis Minsky seconded and it was so voted, 3-0-1 (Dennis Minsky abstaining).

Request for a Certificate of Compliance by the **Provincetown Harbor Committee** and represented by **Provincetown Harbormaster Rex McKinsey** for work conducted under the Order of Conditions with DEP File No. SE-058-0486 at **Ryder Street and Freeman Street Town beaches** in Provincetown. Provincetown Harbormaster Rex McKinsey appeared to discuss the request. He stated that the pilot project had complied with the Orders of Condition issued by the Commission. Some adjustments were made in the protocol, but once the beach rake machinery operators got used to them, things went smoothly.

David Hale moved to grant a Certificate of Compliance for work conducted under the Order of Conditions with DEP File No. SE-058-0486 at Ryder Street and Freeman Street Town beaches in Provincetown, Dennis Minsky seconded and it was so voted, 4-0.

Notice of Intent

Application by **Provincetown Harbor Committee**, represented by **Harbormaster Rex McKinsey** 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 regular operation of beach raking machinery on **Ryder Street and Freeman Street Town beaches** in Provincetown.

Presentation: Harbormaster Rex McKinsey, the Harbor Committee and Amy Costa, of the Center for Coastal Studies, appeared to present the application. Ms. Costa submitted a brief summary of the three-year beach raking monitoring project conducted by the Center for Coastal Studies at the two sites. The summary included identifying the goals of the program, what was done and how it was done. She reviewed the results of the program. The overriding result was that it was hard to tell what humans caused and what the environment caused. The positive impacts included an improvement of the beaches' aesthetics due to the removal of decomposing wrack and trash. Anecdotal evidence was gathered that the beaches were cleaner and used more often as a result. The negative impacts included higher bacteria counts in the sand in relation to the control beach. Ms. Costa speculated that this could have been because the raking dispersed the bacteria or dispersed the wrack more. In addition, sediments were less compacted on the raked beaches, which could potentially cause more erosion. She said it was hard to say what impact the raking had on the beaches. She postulated that since the beaches were used so frequently and impacted by humans that the raking did not have that much of an impact. One

recommendation that she had was that the monitoring of several variables, such as compaction, beach morphology, bacteria and wrack percent cover, be sustained if the raking were to be continued in the future. Dennis added that he had designed and carried out an avian study of the beach during this period of time.

Commission Discussion: The Commission questioned Ms. Costa and discussed the issue with Mr. McKinsey and the Harbor Committee. Ms. Costa would not recommend expanding beach raking to other parts of Town without a study similar to what was done at these two beaches, as each beach is unique. Mr. McKinsey proposed modifying the recently expired Special Conditions to further protect the areas and submitted proposed Special Conditions to the Commission. In addition, he would like to be able to pick up debris or hazardous material that could pose a public safety issue at Town Landings on an emergency basis after notifying the Conservation Agent. Dennis suggested that Mr. McKinsey and the Conservation Agent meet to revise the protocol that was referenced in the CCS report, so that the people who do the raking know the proper procedures. A DEP File No. has not yet been issued for the project.

Public Comment: Herbie Hintze spoke in favor of the application.

Dennis Minsky moved to approve the Notice of Intent for the Provincetown Harbor Committee, represented by Harbormaster Rex McKinsey under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for the regular operation of beach raking machinery on Ryder Street and Freeman Street Town beaches with the Standard Order of Conditions and with the five Special Conditions presented by the Harbor Committee and with the added Special Condition that the Harbormaster and the Conservation Agent collaborate to assure a smooth and efficient operation of the beach raking machinery by DPW personnel, Lynne Martin seconded. The Commission discussed removing Special Condition #4. Dennis amended his motion.

Dennis Minsky moved to approve the Notice of Intent for the Provincetown Harbor Committee, represented by Harbormaster Rex McKinsey under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for work to include the regular operation of beach raking machinery on Ryder Street and Freeman Street Town beaches with the Standard Order of Conditions and with Special Conditions #1, #2, #3 and #5 as presented by the Harbor Committee and the added Special Condition that the Harbormaster and the Conservation Agent collaborate to assure a smooth and efficient operation of the beach raking machinery by DPW personnel, Lynne Martin seconded and it was so voted, 4-0.

Discussion with Harbor Committee regarding municipal kayak racks. This matter is postponed until the June 16, 2015 Public Hearing.

Notice of Intent

Application by **Kathleen C. Meads Family Trust** represented by **Coastal Engineering Co., 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 proposed includes construction of a driveway and two residential units including a single family dwelling and a two-unit dwelling located within Estimated Habitat of Rare Species at **5-7 George's Path** in Provincetown.

Presentation: John McElwee and Kathleen Meads appeared to present the application. Mr. McElwee stated that the project involves the construction of a residential driveway, two

residential structures and associated site work. MESA has determined that the project will not result in a prohibited 'take' of state-listed rare species. He reviewed the site plan, which includes two lots at #5 and #7 George's Path. The driveway to the lots will be constructed of bituminous concrete, 10' wide with a 1' berm on each side. The drainage will be directed towards a catch/leach basin down on George's Path. Utilities will be placed underground. The dwellings will have parking areas, landscaping with non-invasive species, walkways and decks. The limit of work will be delineated with straw sediment barriers.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. McElwee and Ms. Meads. It had several concerns about the project, including the percentage of lot area that would be built upon, the amount of material that would be removed to create the driveway, which concern will be communicated to the Planning Board by the Conservation Agent, and the number of trees that would be removed. Ms. Meads said she would keep as many trees as possible. Dennis suggested undertaking a biological inventory of vegetation that would be removed from the site and discussing possibilities for mitigation for that loss. The Commission discussed the issue with the applicant, including possible mitigation on the adjacent lot. It requested that pervious material be used in the parking areas and that the applicant submit a planting plan with native vegetation.

Dennis Minsky moved to approve the Notice of Intent application by Kathleen C. Meads Family Trust, represented by Coastal Engineering Co., Inc. under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for the construction of a driveway and two residential units including a single family dwelling and a two-unit dwelling located within Estimated Habitat of Rare Species at 5-7 George's Path with the Standard Order of Conditions and with the Special Conditions that the applicant submit a biological inventory of the affected area, a detailed planting plan of native species prepared by a professional for disturbed areas, a conversion of the parking areas to porous material and a good faith attempt at mitigation on the site or on other property owned by the applicant, Mark Irving seconded. The Commission discussed the motion. ***The motion was so voted, 1-3 (David Hale, Mark Irving and Lynne Martin opposed).*** The motion did not pass.

The Commission would like more information, specifically regarding the biological inventory.

The applicant requested a continuance to the June 16, 2015 Public Hearing.

Dennis Minsky moved to grant the request for a continuance of the 5-7 George's Path project to the June 16, 2015 Public Hearing, David Hale seconded and it was so voted, 4-0.

Notice of Intent

Application by **Provincetown Airport Commission**, represented by **Horsley Witten 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 proposed capital improvement projects consisting of twelve separate construction elements at the **Provincetown Municipal Airport** in Provincetown.

Presentation: Amy Ball of Horsley Witten Group, Inc., Bill Richardson, airport planner, and Butch Lisenby, Airport Manager, appeared to present the application. Ms. Ball stated that the project consists of twelve project elements designed to improve safety and security at the Provincetown Airport, as well as to improve airport efficiency. These elements include improvements to the westerly taxiway system, relocation of the east end taxiway, reconstruction of the terminal apron, reconstruction of the easterly end of the taxiway, installation of taxiway

lighting and the construction of an electric vault, repair of the sightseeing shack, improving the access road to the approach light system, construction of service access roads to the localizer equipment shelter and to the automated weather observation station, installation of a perimeter safety/security fence, expansion of auto parking, expansion of the terminal building and expansion of the turf apron.

Two of the project elements have already been permitted and reconstructed, namely the terminal apron and the easterly end of the taxiway. The Airport Commission has decided to defer the terminal building expansion and associated parking lot grading, as well as Phase 2 of the parking lot expansion, for a future review and permitting process, as there is a need to re-evaluate and/or re-design the elevation of the terminal building. In addition, the Airport Commission has committed to conducting traffic and parking analyses prior to proposing Phase 2 of the parking lot expansion.

The entire project will result in impacts to the wetland resource areas. Proposed mitigation will include wetland replacement and restoration, invasive species management, implementation of rare species protection plans, construction timing and the implementation of a sedimentation and erosion control plan. The project will manage stormwater runoff and result in a net reduction in impervious cover. Natural Heritage has reviewed the project and given it a conditional no 'take' of state-listed rare species. However, for every one of the elements, MESA will require a separate project-specific and area-specific rare species protection plans.

Commission Discussion: The Commission questioned Ms. Ball.

David Hale moved to grant the Notice of Intent pursuant to an application by the Provincetown Airport Commission, represented by Horsley Witten Group, Inc., under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for proposed capital improvement projects consisting of twelve separate construction elements at the Provincetown Municipal Airport, Mark Irving seconded.

Ms. Ball told the Commission that the Department of Environmental Protection has informed her that it might require a variance for the project because it would not meet the performance standards for coastal dunes. This has not yet been confirmed by DEP, which may also rule that while the project might be altering coastal dunes, it was not going to have an adverse effect, which is one way of overcoming the performance standards for work done in a resource area. She is expecting an answer this week. In light of that issue, she was concerned that if the Commission approved the project at this point, DEP would appeal it. She recommended that the Commission continue the matter to the next Public Hearing on June 16, 2015.

The motion was so voted, 0-4. The motion did not pass.

Ms. Ball requested a continuance to the June 16, 2015 Public Hearing.

Dennis Minsky moved to grant the request for a continuance to the June 16, 2015 Public Hearing, Lynne Martin seconded and it was so voted, 4-0.

Dennis said that there was a Bicycle Committee meeting tomorrow that Austin was planning to attend. He said it was important that the Committee hears from the Commission.

MINUTES: Postponed to the next Public Hearing.

ADJOURNMENT: *Mark Irving moved to adjourn at 10:00 P.M. and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2015
Dennis Minsky, Chair