

# PROVINCETOWN CONSERVATION COMMISSION

March 10, 2009

6:00 P.M.

**Members Present:** Dennis Minsky, David Hale and Jack McMahon.

**Members Absent:** Lynne Martin (excused) and Richard Silver (excused).

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

## WORK SESSION

The purpose of the Work Session is to review regulations, protocols and procedures for administering the Wetland Protection Act and local conservation regulations.

Chair Dennis Minsky called the Work Session to order at 6:00 P.M.

### **ARTICLE 7:**

Jerry Irmer was present to discuss the issue of beach cleaning.

Dennis re-wrote the preamble and made changes to Sections 7.2, 7.3, 7.5 and 7.6 as discussed at the March 3, 2009 Work Session. Dennis briefly reviewed and discussed the changes with the Commission, particularly Sections 7.5 and 7.7, which deal with beach cleaning. Section 7.5 was further amended to include the words "without a permit" after the phrase "Cleaning or raking of a beach is prohibited...."

The Commission next discussed with Mr. Irmer the areas of the beach that the Harbor Committee was interested in cleaning. He informed the Commission that they are initially interested in the areas from Pearl Street to Old Colony Wharf (Marine Specialties), but later may extend the cleaning to Bangs Street in the east and Court Street in the west. They would like to clean twice a week for 10 or 12 weeks, in addition to once in the spring and once in the fall. They would be using a beach raking machine, called a 'surf rake', which was purchased by the Committee.

The wrack line was discussed. Many shore birds feed on the wrack line, but they are usually present only in the spring and fall. The piping plovers that are present in the summer, but most are on the back shore and not on the bay beach. The Commission would limit the beach cleaning according to these concerns.

The Commission discussed Section 7.6, as Brian has gotten several inquiries from the public in regard to the removal of debris on the beach that would not need the Commission's approval, including the meaning of the phrase "reasonable traditional uses" and the phrase "unnatural debris".

The Commission suggested that Mr. Irmer may want to solicit the opinion of a marine botanist, such as Graham Geiss or Steven Smith, a botanist from the National Seashore. Dennis suggested that Mr. Irmer include that type of expert testimony, from either a coastal beach scientist or a marine botanist, in his Notice of Intent presentation. The Commission would like to hear from an expert that the proposed performance standards are such that the cleaning of the Town beach will not have an adverse effect upon that resource area. Dennis gave Mr. Irmer some suggestions about who and where to contact.

***Jack McMahon moved to accept the revisions made to Article 7 as noted and discussed at the March 10, 2009 Work Session, including the preamble, for the change of regulations Public Hearing, David Hale seconded and it was so voted, 3-0.***

### **ARTICLE 2:**

The Commission discussed Dennis' changes to this Article. The Commission agreed to strike the phrase "it is recommended that" which occurs before "proposed structures". The sentence beginning with "Proposed" is amended to read: "Proposed structures within the 100 foot buffer zone shall not be located

closer than 80 feet from the resource area...”

*Jack McMahon moved to approve Article 2 with the written and verbal corrections heretofore discussed, David Hale seconded and it was so voted, 3-0.*

#### **ARTICLE 9:**

Dennis questioned Brian about “hiring outside consultants”, which appears after the definitions and before Article 1. Dennis suggested making it an Article 9. The Commission briefly discussed the change.

*Jack McMahon moved to make the hiring of outside consultants Article 9 of the local regulations, Dennis Minsky seconded and it was so voted, 3-0.*

#### **ARTICLE 1:**

The ‘s’ is stricken from the end of the word ‘reason’ in paragraph 4. The ‘or’ in the third line of Section 1.1 is stricken. The Department of Regulatory Management is amended wherever it appears to read Department of Community Development. Under ‘Access Forms’, the fee in line 4 is revised from \$2.00 to “according to current fee schedule”.

#### **ARTICLE 3. ADMINISTRATIVE REVIEW:**

Line 2 of the first paragraph “their agent” is revised to read “its agent”. In the third line after “Administrative Review fee” insert “see fee schedule”.

#### **ARTICLE 4:**

In the first line of Section 4.1, insert ‘work’ between ‘to’ and ‘within’. In Section 4.8, Dennis suggested that the sentence “Some vines may require clipping around the base and dripping permitted herbicide on the cut stem” should be deleted until the Commission has a comprehensive herbicide/pesticide/fertilizer use policy.

*Jack McMahon moved to approve amending the grammar in Article 1 and Article 3 as discussed, David Hale seconded and it was so voted, 3-0.*

*Jack McMahon moved to change ‘Department of Regulatory Management’ to ‘Department of Community Development’ wherever it appears throughout the local Regulations, David Hale seconded and it was so voted, 3-0.*

*Jack McMahon moved to delete the second sentence in Article 4, Section 4.8, David Hale seconded and it was so voted, 3-0.*

#### **ARTICLE 6. CONSERVATION LAND USE**

In line 7 of the preamble, insert an ‘s’ after the word ‘deem’. The ‘c’ in the word ‘Conservation’ in Sections 6.1 and 6.2 is amended to lower case.

*David Hale moved to make the typographical amendments to Article 6 as discussed, Dennis Minsky seconded and it was so voted, 3-0.*

#### **ARTICLE 8:**

Dennis questioned why it is 40’ in the bay and 80’ elsewhere. Brian researched the topic and informed the Commission later in the evening.

#### **DISCUSSION:**

##### **SMART GROWTH – LID (Low Impact Development) REGULATIONS:**

The Commission discussed the topic of implementing an LID program and whether or not the Commission could be a LID authority. Dennis will work on writing up a LID by-law or regulation. Dennis suggested putting it on the Conservation flyer, which will contain educational and other relevant information to give to applicants and members of the public. Dennis read the notes he had taken after

reading the information on LID. This issue will be tabled until the next meeting.

**STORMWATER MANAGEMENT** – Dennis suggested that the Commission needs to become more informed about this issue.

**FLYER** – The Commission discussed ideas for the flyer. Brian will bring a draft to the next hearing.

**APPLICANT SUBMISSION REQUIREMENTS** – The Commission discussed the Town of Barnstable's example, which was handed out to Commissioners. It includes a checklist of tasks to be completed before a hearing. Dennis thinks that it is a good example for the Town. He also likes Gordon Peabody's example. He suggested that Lisa might want to work on a checklist for the Commission, incorporating elements of both.

**DOGS OFF-LEASH** – The Shank Painter Pond uplands should be deleted from the Warrant article as a dogs-off-leash area because it is not in the management plan. The times for being off-leash are being amended. This will need to be done on Town Meeting floor. The Commission will discuss Warrant articles at the next hearing.

**BY-LAWS & REGULATIONS** - The Commission discussed the overlap in the By-Laws and the Regulations and how to re-organize the definitions. The Commission discussed the definitions and where to put them. Brian suggested that they should be located in the local Regulations. The Commission also discussed inserting preambles and performance standards for each definition. He pointed out the Town of Tisbury's preambles and the Town of Chillmark's performance standards as good examples.

The Commission discussed the topic of land outside the buffer zone and what its jurisdiction is in regard to how projects outside the buffer may affect the resource area.

**CHILLMARK FERTILIZER REGULATION** – Dennis brought this to the attention of the Commission.

**TISBURY DRIFT LINE ZONE CLEANING** - The Commission briefly discussed Tisbury's regulation in regard to beach cleaning. Dennis thought their definition of the drift line was confusing. This language is used in the local Regulations and the definition should be clear and correct.

**FLOODPLAIN OVERLAY DISTRICT** – There is a Zoning By-law that deals with this issue being amended and brought to Town Meeting for approval. The Commission will be discussing it at the next hearing along with the other Warrants that relate to the environment.

**SECOND WORK SESSION** - The Land Management Plans will be discussed as well as the Conservation Projects Map and Citizen Stewardship Program. Brian passed out a list of permitted projects in Town from the last three years.

**SHANK PAINTER POND** – The Commission needs to get moving on planting lists, weeding and the water issue at Shank Painter Pond. Dennis suggested having more benches. The signage at Clapp's Pond also needs to be addressed.

**NICKY'S PARK** – Nicky's Park is looking great and has plenty of benches.

**CITIZEN STEWARDSHIP PROGRAM** – Dennis asked about the timeline for this project. Brian is waiting to hear about the grants.

**COMMUNITY GARDENS** – The Town Manager is going to negotiate with the Sellers about a price.

The Board of Selectmen thought the Sellers' quoted price of \$200,000.00 was too high. The appraisal came back at \$135,000.00.

**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 \_\_\_\_\_, 2009.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2008  
Dennis Minsky, Chair