

# PROVINCETOWN CONSERVATION COMMISSION

May 12, 2009

6:30 P.M.

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

**Members Absent:** Jack McMahon (excused) and Richard Silver (excused).

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

## PUBLIC HEARING

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

### PUBLIC STATEMENTS:

Frank Vasello appeared before the Commission concerning the art exhibition held in the fall at the Shank Painter Pond Sanctuary. He is hoping to hold the exhibition again this fall, possibly between October 8th and November 1<sup>st</sup>, and he is looking to the Commission for guidance and a protocol regarding the event. He spoke to the Commission about the biodiversity at the site and offered to donate some beech or juniper trees. He was also concerned about the plantings looking too organized. Dennis informed Mr. Vasello that Irene Seipt would be at the site on Monday and could answer any questions or concerns that he might have at that time. Dennis also informed Mr. Vasello that the Commission would undertake discussions concerning the exhibition between now and October.

Rick Campbell, of 100 Bayberry Avenue, spoke to the Board concerning the conservation land located at 56 Creek Road. His condominium, Cape Tip Estates, seeks to clear a pathway from their property to the Town, over the property lot located at 56 Creek Road. He asked the Commission about clarification as to who owns the land; the abutter or the Conservation Trust, as he is confused about ownership after doing some research on the property. Dennis informed Mr. Campbell that the ownership of the property is currently the subject of litigation and should be adjudicated shortly. Mr. Campbell would like to assist in any effort to move the issue forward. Brian will put the topic on the Commission's agenda for June 16, 2009.

**MINUTES: April 28, 2009** – Postponed due to a lack of quorum.

### MARK ADAMS:

Dennis introduced Mark Adams, from the National Seashore, who made a public service announcement. Mr. Adams, who is representing the Seashore, has been in discussions with the Commission concerning Herring Cove beach. The Seashore seeks to co-sponsor, along with the Commission and the Center for Coastal Studies, a public forum on the movement of sediment, geomorphology and the physical characteristics of Herring Cove from Race Point to Wood End. It will not be an issue-based forum, but a public information session. The idea for it arose out of concerns about what is going on with the beach and sand in that area. Mr. Adams stated that within the next few years, the Seashore is preparing to do some rehabilitation or replacement of facilities at Herring Cove, including repairs to the bath house and changes to the parking area. The forum will allow the public to ask questions and find out about more about the science of what is occurring out there. The forum will be held on Wednesday, May 27, 2009 at the Center for Coastal Studies on Holway Avenue. Mr. Adams and Graham Geiss will give a presentation and then take questions from the Commissioners and the public. They have done

measurements of the movement of sand and beach erosion at Herring Cove and as a result, they have much better information about the rates of change in the beach, where the sand is going and how quickly it is eroding. The Commission briefly questioned Mr. Adams.

### **DISCUSSION: Beach Cleaning Standard Operating Procedures**

The Commission has been working with the Harbor Committee to devise standard operation procedures for the cleaning of the harbor beaches. Stearns & Wheler, who has done work for the Town, was contacted and Brian and Jerry Irmer met with one of their engineers, Russ Kleekamp, about the issue. The Commission and the Harbor Committee would like to establish regulations that would allow for certain types of beach cleaning rather than require private property owners, or the Harbor Committee, to have to file a Notice of Intent every time they sought to clean the beach. Russ Kleekamp, of Stearns & Wheler, addressed the Commission. He said that the goal of the Harbor Committee would be to establish some type of on-going maintenance procedure for beach cleaning. The Harbor Committee only seeks to clean the beach only in the downtown area. Mr. Kleekamp said that only slight water quality improvement would result from this activity, but it is more for aesthetic and maintenance reasons that the Committee is seeking to clean the beach.

**Commission Discussion:** The Commission questioned Russ. Dennis summarized what came out of the Commission's last discussion with Mr. Irmer, which was that the Harbor Committee would file an initial Notice of Intent, and from that filing and subsequent discussion; standard operation procedures would be established. Part of the NOI would be the establishment of a health and public safety aspect to the beach cleaning, in addition to an aesthetic one. Dennis would also like to have it established by an expert that the geomorphology of the Town beach indicated that it is not performing as a natural beach, unlike the beaches at Herring Cove and Race Point.

### **NEW BUSINESS:**

#### **Notice of Intent**

Application by **Joseph Realmuto**, represented by **Roy Okurowski**, of 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 applicant proposes the repair and replacement of an existing failed timber bulkhead with vinyl sheeting at the property located at **579 Commercial Street**, in Provincetown.

**Presentation:** Roy Okurowski appeared to present the application. Mr. Okurowski stated that the project involved the replacement of an existing timber bulkhead with vinyl sheeting. The bulkhead will be replaced in the same location as the existing one. The goal is to use the least invasive approach to improve the function of the bulkhead. Access for the construction will be upland of the property and from the water via a work barge. The Division of Marine Fisheries sent a letter to the Commission stating that they found that this project would have no potential impacts to marine fishery resources and habitat. The property is licensed under Chapter 91.

**Public Comment:** None.

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

**Dennis Minsky moved to approve the Notice of Intent for the property located at 579 Commercial Street, with the Standard Order of Conditions and with the Special Conditions that the Shellfish Warden will be notified and that the applicant obtain a Beach Access Permit prior to the start of construction and that there will be no change in the location of the stairs, David Hale seconded and it was so voted, 3-0.**

#### **Request for Determination of Applicability**

Application by the **Phredco, LLC**, c/o **Howard J. Weisman & Pamela J. Foss**, represented by **David LaJoie**, of Felco, Inc., for a **Request for Determination of Applicability** under the Provincetown Wetland Bylaw, Chapter 12 and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, Section 40. The applicant proposes constructing a new driveway access and abandoning part of the

existing driveway at the property located at **742 Commercial Street** in Provincetown.

**Presentation:** David LaJoie and Attorney Lester J. Murphy appeared to present the application. The applicant seeks to establish a new access to the property, moving the existing driveway to a location 25' from the easterly property line. The new driveway will come off of Commercial Street and connect to an existing stone driveway. It will be paved from the property line down to Commercial Street. This location was chosen because it requires the least amount of vegetation to be removed on the easterly side of the property. The new location also removes the driveway from crossing a portion of the front yard and of an abutting property. The old driveway area will be replaced with native plantings. The plan for the new location has to be submitted to the State for approval and if the latter has any changes, the applicant will have to appear before the Commission again for the approval of a revised plan.

**Public Comment:** Katherine Bachman, an abutter, spoke in favor of the project. Mrs. Papetsas, an abutter, had concerns about drainage issues.

**Commission Discussion:** The Commission questioned Mr. LaJoie and Attorney Murphy.

*Lynne Martin moved to grant a Negative # 3 Determination with the conditions that the existing driveway shall be re-vegetated with native plantings and that no excess asphalt shall be left at the site, Dennis Minsky seconded and it was so voted, 3-0.*

### **DISCUSSION: 6 Duncan Lane Project**

Helen Ryde and Kate Schiappa appeared to discuss the project. Dennis asked the property owners if they objected to his joining the discussion as there would not be a quorum without his participation. The owners agreed to allow his inclusion in the discussion. Ms. Ryde and Ms. Schiappa stated that they were not aware that they were supposed to contact the Conservation Agent before removing 5 trees at the site. As remediation, they agreed to remove the old, unsightly pile of lumber at the site at their own expense and replace it with native plantings.

*Dennis Minsky moved that the property owners, Helen Ryde and Kate Schiappa, of 6 Duncan Lane, to remediate the loss of 5 trees on the property by removing the rubbish on the property and replacing it with native planting, which will be kept alive for three years, in the fall, Lynne Martin seconded and it was so voted, 3-0.*

### **CONSERVATION BOARD STATEMENTS:**

Dennis is hoping that Brian will publicize the work day with the Seashore in early June, when the date has been determined, including a letter to the editor and a posting on the Town website. The Commission discussed the topic.

Brian updated the Commission on the work at Shank Painter Pond Sanctuary. Americorps planted sweet fern on Friday and compost was delivered to Ship's Way. Jack picked up a load of plants in Amherst. Irene will be there on Monday for more planting activities and everyone is invited to join her.

Harbour Drive update – Brian reported that permits were issued, but they cannot begin work until they get approval from FEMA to change the flood zone. The Commission discussed the project and their decision.

Community Garden – Brian gave the Commission an update on the project. Town Counsel is drafting an easement agreement with Shirley Cabral, an abutter to the property. The Commission discussed the project.

**ADJOURNMENT:** *Lynne Martin moved to adjourn at 8:30 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 \_\_\_\_\_, 2009  
Dennis Minsky, Chair