

# PROVINCETOWN CONSERVATION COMMISSION

**March 28, 2002**  
**6:30 P.M.**

**Members Present:** John Bennett (Chair), Peter Souza, Sheila Benzer, Susan Avellar, Robin Evans

**Members Absent:** Robert Guerreiro (unexcused)

**Others Present:** Roger Dias (Conservation Agent), Mark L LaTour (Assistant Town Manager), Ellen C. Battaglini (Recording Secretary)

## I. PUBLIC STATEMENTS

John Bennett called the Public Meeting to order at 6:32 p.m.

Carol McDonald, director of the Carrie A. Seaman Animal Shelter, asked the Commission to support Article 63 of the Town Warrant.

Chair John Bennett closed the Public Statements portion of the Public Meeting at 6:35 p.m.

## II. PUBLIC MEETING

### *Determination of Applicability*

Application by the Town of Provincetown represented by Mario DiGregorio of Horsley & Witten, Inc. for Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 for the property located at **the Town's Old Burn Dump on Route 6**, Provincetown.

**Presentation:** David Guertin (Department of Public Works) was present representing the Town, but deferred to Mario DiGregorio and Jennifer Corsi, of Horsley & Witten, Inc., also the environmental monitor on the project, to present the application. The application addresses the salvaging of trees at the site. In order to achieve control and to salvage as many trees as possible, Mr. DiGregorio proposed placing rip rap in four areas at the site. A map indicating the site of the four areas was shown. The Board questioned Ms. Corsi about the rip rap and its ability to prevent breaches into the resource area surrounding the site. According to Mr. DiGregorio, the rip rap will function better than a wall and will allow wildlife movement in the area. Sheila Benzer and Peter Souza had visited the site before the meeting and observed and videotaped a breach into the resource area that had occurred because of the heavy volume of rain we have experienced in the last several days. Chair John Bennett then observed that the request for the rip rap areas was actually more of a modification of the existing Order of Conditions and Mr. DiGregorio agreed. Mr. DiGregorio also said that he personally will address the issue of the breach immediately and come up with a remedial plan.

Ms. Benzer and Mr. Souza will meet with Mr. Guertin and Mr. DiGregorio at the site at 9:00 a.m., Friday, March 29, 2002 to inspect the breach. **Public Comment:** There were no speakers either in favor or in opposition.

*Susan Avellar moved to amend the current Order of Conditions to include proper fencing with rip rap protection, as shown on a plan submitted to the Conservation Commission on March 28, 2002 by Horsley & Witten, Inc., and that due haste be taken to repair the breach and the subsequent erosion of material from the site into the adjacent resource area that occurred as a result of the recent rain and to withdraw the application for a Determination of Applicability. Sheila Benzer and Peter Souza seconded and it was so voted, 5-0.*

#### **Determination of Applicability**

Application by Pied Piper Condominium Trust represented by William N. Rogers, II, of William N. Rogers, II, P.E., P.L.S. for Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 for the property located at **199 Commercial Street**, Provincetown.

**Presentation:** Gary Locke, representing William N. Rogers Civil Engineers, appeared to present the application. Mr. Locke presented a site plan depicting a temporary repair for two septic systems located on the property servicing Units 7-18 of Building #3 to the Commission. He stated that Health Agent George Heufelder had agreed to the temporary septic upgrade. Mr. Locke further informed the Commission that a consent order was in place for the property to hook up to the sewer. The site plan shows the proposed leaching beds that will replace the failed leaching beds and the location of a grease trap that will service Café Heaven.

**Public Comment:** No one from the public spoke in favor or in opposition to the application.

**Commission Discussion:** The Commissioners questioned Mr. Locke concerning the project and specifically about the environmental hazards that would be created if the application were granted. They also inquired of Mr. Locke if the grease trap could be relocated.

*Chair John Bennett made a motion for a Negative Determination (#3) with the additional conditions of implementing all the standard requirements of the environmental and construction protocol, including the erection of hay bales as needed. Peter Souza seconded and it was so voted, 5-0.*

#### **Determination of Applicability**

Application by Daniel P. Petrucci for Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 for the property located at **50R Point Street**, Provincetown.

Peter Souza and Sheila Benzer recused themselves from consideration of the application.

**Presentation:** Daniel Petrucci appeared to present the application. Mr. Petrucci stated that he had requested an extension of Point Street at the Annual Traffic Hearing. The Town Assessor's map depicts a wetland in the area so Town staff recommended that Mr. Petrucci appear before the Commission. Mr. Petrucci was appearing before the Commission for their approval for the extension of Point Street and to inquire about the use of pervious material with an overlayment of shells as a surface for that extension.

**Public Comment:** No one spoke in favor or in opposition to the application.

**Commission Discussion:** Chair John Bennett requested that the applicant present a license to improve the road. Robin Evans hasn't made a site visit and thus said that she would suspend judgment on the issue. The Commissioners decided that there was not enough information to determine whether there is a wetland in the area. The Commission would like an environmentalist to examine the area and Mr. Petrucci agreed to enlist the services of one. The environmentalist would then write a letter to the Commission advising them about the wetland in the area and recommending how to best improve the extension.

*Susan Avellar moved to continue the application until the next meeting and require that an environmental professional provide a delineation of the wetland in the area and that the applicant provide more detail of the proposed work. Robin Evans seconded and it was so voted, 3-0.*

### III. PUBLIC HEARING:

#### Notice of Intent

Application by Slade Associates, Inc., representing Robert Steinberg and Lise Motherwell for Notice of Intent under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131 § 40 for the property located at **651 Commercial Street**, Provincetown.

Robin Evans recused herself from considering the application, as she is an abutter to the project.

**Presentation:** Chet Lay, representing Slade Associates, Inc., and William Von Thaden, builder, appeared to present the application.

**Public Comment:** No one spoke either in favor or in opposition.

**Commission Discussion:** Roger Dias questioned Mr. Lay and Mr. Von Thaden concerning any easements over the property. Sheila Benzer inquired about the location of the deck and what it would be located over.

*Chair John Bennett moved to approve the project subject to an Order of Conditions and that the plans presented to the Conservation Commission and all the construction protocol presented therein and attached thereto be made a Special Condition of the Order of Conditions. Peter Souza seconded and it was so voted, 4-0.*

### IV. OTHER BUSINESS:

#### Approval of Minutes

*Peter Souza moved to approve the amended minutes for the December 13, 2001 Conservation Commission hearing. Chair John Bennett seconded and it was so voted, 3-0-2.*

*John Bennett made a motion to approve the minutes of the January 24, 2002 meeting as written. Sheila Benzer seconded and it was so voted, 4-0-1.*

## **V. NEW BUSINESS:**

Brooks McBride, representing Hatches Harbor Condominium, appeared before the Commission to ask their opinion about planting dune grass on the side of the property located at 75 Provincelands Road. The Condominium Association proposes to do this as their property is within the 100-foot buffer zone of a wetland.

## **VI. MINUTES:**

*Chair John Bennett moved to approve the minutes of the February 28, 2002 Conservation Commission as written. Peter Souza seconded and it was so voted, 4-0-1.*

## **III. PUBLIC HEARING (continued)**

Town Meeting warrants

Conservation Commission: Natural Environment Articles

Assistant Town Manager Mark LaTour appeared to explain and comment on the Town Meeting articles.

## **SPECIAL TOWN MEETING ARTICLES:**

**Article 1:** *The Commission voted to recommend, 4-1 and Sheila Benzer moved to make the point in the Conservation Commission report on Town Meeting floor that the Commission approved of the article because the land is going into the conservation trust. Peter Souza seconded and it was so voted, 4-1.*

**Article 2:** *Sheila Benzer moved that the Commission make no recommendation, Peter Souza seconded and it was voted, 5-0.*

**Article 3:** *Chair John Bennett moved that the Commission make no recommendation, Sheila Benzer seconded and it was so voted, 5-0.*

**Article 4:** *Chair John Bennett moved that the Commission make no recommendation, Sheila Benzer seconded and it was so voted, 5-0.*

**Article 12:** *Robin Evans moved that the Commission make no recommendation, Peter Souza seconded and it was so voted, 5-0.*

**Article 13:** *Peter Souza moved that the Commission make no recommendation, Sheila Benzer seconded and it was so voted, 5-0.*

## **ANNUAL TOWN MEETING ARTICLES:**

**Article 15:** *The Commission voted 0-5.*

**Article 16:** *The Commission voted 4-0-1.*

**Article 17:** *The Commission voted 2-2-1.*

**Article 19:** *Chair John Bennett moved that the Commission make no recommendation, Susan Avellar seconded and it was so voted, 4-1.*

**Article 20 – Article 23:** *Chair John Bennett moved that the Commission make no recommendation, Sheila Benzer seconded and it was so voted 4-1.*

**Article 41:** *The Commission voted 0-4-1.*

**Article 42:** *The Commission voted 0-4-1.*

**Article 43:** *The Commission voted 0-4-1.*

**Article 60:** *The Commission voted 2-3.*

**Article 63:**

Susan Wasson and Carol McDonald rose to speak in favor of the Commission recommending Article 63 and said that if it passed the directors of CASAS would follow any environmental directives that may be involved with the land that they rent from the Town.

*Sheila Benzer moved that the Commission vote to recommend, Susan Avellar seconded and it was so voted, 5-0.*

**Article 61:** *The Commission voted 3-2.*

**Article 62:** *Chair John Bennett moved to make no recommendation, Peter Souza seconded and it was so voted, 5-0.*

The Commission then revisited Article 1 of the Special Town Meeting and discussed some of the articles and whether the Commission was being consistent in their decisions.

*Susan Avellar moved to void the previous vote on Article 1 of the STM, Robin Evans seconded and it was voted, 1-4.*

## **VII. ANY OTHER BUSINESS THAT SHALL PROPERLY COME BEFORE THE BOARD:**

The Commission needs to sign a release for a Certificate of Compliance from William N. Rogers, II, on an Order of Conditions issued in 1984 for 451-453 Commercial Street (The Standish House).

*Susan Avellar moved to issue a Certificate of Compliance for the property located at 451-453 Commercial Street, Chair John Bennett seconded and it was so voted 4-0-1.*

*Chair John Bennett moved that the Chair execute the Certificate of Compliance, Susan Avellar seconded and it was so voted, 5-0.*

**ADJOURNMENT:**

Chair John Bennett made a motion to adjourn the meeting at 10:10 p.m., it was so voted unanimously.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2002  
John Bennett, Chairman