

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
October 2, 2012
6:30 P.M.

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

Members Absent: None.

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

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

PUBLIC STATEMENTS:

None.

Administrative Review

Application by the **National Park Service** for review of the Stormwater Pollution Protection Plan for rebuilding the Herring Cove Beach Bath House Facility within the **Cape Cod National Seashore**.

Presentation: Lauran McKean, Jason Chlopecki and Karst Hoogeboom appeared to present the application. According to Ms. McKean, a wetland delineation was done and the project is not within 100' of wetlands, so the resource areas are outside the Clean Water Act, but within the Massachusetts Wetlands Protection Act regarding coastal bank and dunes. The project proposes to demolish the existing 6,600 sq. ft. of the Herring Cove Beach bathhouse, which is a deteriorated state, and replace it with a more efficient facility. The existing second floor is not currently in use because of structural concerns and hazards and the entire structure is threatened by coastal erosion. A large portion of the revetment in front of the facility failed during a storm in January of 2012, and the coastal bank eroded about 30' inland. There will be a net reduction of 70% in impervious areas through the demolition and the construction of the new facility and boardwalk system. Straw bales will be placed along the limit of work and a silt fence around the perimeter of the project to protect the surrounding area from sedimentation. No ponding will occur and infiltration rate for run-off is estimated at 100%. The existing septic system that is in the dunes will be removed and re-vegetation and re-planting will occur in that area. A force main will run down Route 6 to hook into the Town force main. The new facility will be set back further from the shoreline allowing construction beyond the 100' coastal bank buffer line in order to allow adaptation to erosion, sea level rise and climate change. The new facility will be composed of small modular buildings on pilings, organized around a raised boardwalk, to minimize impact on the dune ecology. The new buildings will be designed to be disassembled, moved and reassembled if threatened. No new impervious areas are being proposed. A re-planting plan is included in the documents submitted.

Documents Submitted: Administrative Review Determination application, Stormwater Pollution Prevention Plan/Rebuild Herring Cove Beach Bathhouse Facilities prepared by CHA for CHA Project No. 24706, NPS Project No. L7617, Final Construction Drawings for Rebuild Herring Cove and Rehabilitate Nauset Light Beach Facilities by Louis Berger Group, Landmark

Facilities, Structures North Consulting Engineers, Bargmann, Hendrie + Archetype, Inc. and Kyle Zick Landscape Architecture, Drawing 609/100709, Sheets 1-113 and a letter from the Department of the Interior, National Park Service, Michael B. Murray, Acting Superintendent, dated 1/6/05, to Elaine Anderson.

Commission Discussion: DH asked about materials to be used for the boardwalk. KH said it will be a recycled, plasticized wood material and will extend to the top of the coastal bank. In an effort to be ADA compliant, there will be one to three removable sections, depending on the condition of the sand during construction. DH asked about the timeline for the project. KH responded that demolition will occur around Thanksgiving and all ground disturbance will be completed by April 16th with a project completion anticipated by May 15th. BP asked if the old septic system would be completely removed. KH responded that it would in order not to saddle future superintendents or planners with their problems. DM asked for clarification about the project in relation to the resource area in light of the fact that a few feet of boardwalk will be within the buffer zone. LMc stated that it is within 100' of the coastal bank, a resource protected by the Mass. Wetlands Protection Act. She explained that the federal government has to comply with the Clean Water Act and with state laws related to water pollution and water quality and that's when they do come with a formal NOI package, such as for the Bike Path project on Moors Road. This is an Administrative Review because it does not have wetlands impacts. She briefly read from a 2005 letter from their Solicitor outlining what state and local regulatory processes needed to be followed by the Park Service. The sovereign immunity of the federal government is waived when activities resulting in the discharge or run-off of pollutants as presented in Section 313 of the Cleanwater Act. If there are local, e.g. Conservation Commission, permitting processes regulating these activities, then the Park is subject to those requirements. The Park is required, in this case, to consult with the Conservation Commission if a project involves the discharge or run-off of effluents. The Park is also required to get a sewer permit from DEP.

Public Comment: None.

David Hale moved to approve the National Park Service's Stormwater Pollution Plan for the rebuild of the Herring Cove Beach Bathhouse Facilities, Barbara Prato seconded and it was so voted, 5-0.

MINUTES: May 1, 2012 – David Hale moved to approve the language as written, Barbara Prato seconded and it was so voted, 4-0.

July 17, 2012 – Barbara Prato moved to approve the language as amended, Mark Irving seconded and it was so voted, 5-0.

August 21, 2012 – Mark Irving moved to approve the language as amended, Dennis Minsky seconded and it was so voted, 4-0.

September 18, 2012 – Barbara Prato moved to approve the language as amended, Dennis Minsky seconded and it was so voted, 5-0.

DISCUSSION:

Mass. Bays Program Grant – Brian explained that the request is for \$20,000 to work with the Provincetown Center for Coastal Studies on a public forum process to discuss a plan for coastal resources protection. They will be looking at all the science, literature and data gathered over the last several years, such as beach closure data, estuaries project data, stormwater mitigation project data to figure out what direction to take. The money will pay for the PCCS to facilitate the process and help generate a comprehensive draft plan with action steps to deal with beach nourishment, dune restoration and planting, more regulations and any additional testing related to coastal resources. One of the goals of the program is to be prepared to adapt to climate change, which will be included in the discussion. Rex McKinsey, Greg Berman and Jo Ann Muramoto, of the Association to Preserve Cape Cod, are all involved in this process. This is a planning grant, not a research grant, which has been applied for previously with no success.

Lynne Martin moved to have the Conservation Commission's chairman write a letter of support for the application for a Mass. Bays Program Grant, Dennis Minsky seconded 5-0.

There is a Joint Meeting with the Harbor Committee on October 16, 2012 at 5:00 P.M.

Community Preservation Committee Appointment – Barbara Prato volunteered to become the Commission's representative on the CPC. *Lynne Martin moved to appoint Barbara Prato as the Conservation Commission's liaison on the CPC, Dennis Minsky seconded and it was so voted, 4-1 (Barbara Prato opposed).*

Conservation Restriction for 67 Harry Kemp Way – *Lynne Martin moved to approve the Conservation Restriction for 67 Harry Kemp Way, Dennis Minsky seconded and it was so voted, 4-1 (Barbara Prato opposed).*

CONSERVATION BOARD STATEMENTS:

Dennis asked Brian to update the Commission on the situation at 555 Commercial Street. Brian has photos of the area he can e-mail to Commissioners. There are no rocks beyond the buttresses and no rocks in front of, or next to, the O'Malley's beach stairs.

Dennis got an e-mail from Catherine Russo about banning herbicides in Town. She has spoken to Erik Yingling and Barbara Rushmore, both of whom would like to be involved. He said he would meet with them, as a private citizen, to discuss the issue. He suggested adopting a by-law similar to the Wellfleet one regarding banning the use of herbicides on Town property.

Dennis asked Brian about progress regarding boats on top of beach grass since the signs prohibiting that activity have been posted on Town beaches. The Marine Patrol Officer in the Harbormaster's Office has been ticketing boats on the beach that are not properly permitted. Dennis is concerned about beach grass being killed and thinks offenders should be fined. He wants to pursue that issue further with Brian.

Dennis was asked if a float from the Dolphin fleet could be stored on the beach for the winter. He didn't know if Rex had been asked about it. He didn't think it would be allowed, however.

Dennis asked Brian about dump mowing Brian replied that he has a permit to mow from Rich Waldo. He will check the dates. Dennis continues to be concerned about box turtles being killed.

Dennis mentioned the pipe along the fence on Browne Street. David Hale was going to look at it.

ADJOURNMENT: *Barbara Prato moved to adjourn at 7:38 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2012

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2012
Dennis Minsky, Chair