

PROVINCETOWN CONSERVATION COMMISSION

March 11, 2008

6:30 P.M.

Members Present: Dennis Minsky, Elaine Anderson, Dieter Groll, Lynne Martin, David Hale and Jack McMahon.

Members Absent: None.

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

PUBLIC MEETING

Co-Chair Dennis Minsky called the Public Meeting to order at 6:32 P.M.

PUBLIC STATEMENTS: None.

MINUTES: February 26, 2008 – Work Session – *Elaine Anderson moved to approve the language as written, Lynne Martin seconded and it was so voted, 4-0.*

March 4, 2008 – Regular Session - *Elaine Anderson moved to approve the language as written, Dennis Minsky seconded and it was so voted, 4-0.*

Executive Session - *Elaine Anderson moved to approve the language as written, Dennis Minsky seconded and it was so voted, 4-0.*

Notice of Intent (continued from February 26, 2008)

Application by **David Guertin, Provincetown Department of Public Works**, represented by **Environmental Partners Group**, 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 to do work for the capping of an historic dump onsite at the property located at **90 Shank Painter Road**, in Provincetown.

Presentation: David Guertin and Mark White appeared to discuss the application. The applicant had submitted a revised letter from NHESP approving the change of the start date for the project, a letter from DEP issuing a file number and a management plan from the environmental consultant, Don Lewis, for the project. The latter being for if and when a box turtle is found at the site during the capping process. Mr. Lewis, who has been doing site surveys for the box turtle already, will be having an education session with the DPW crew on the day that the project begins and will distribute flyers to the workers and supervisors with pictures and information about box turtles. He did a sweep of the area on March 8th, he will be doing one on March 12th and will go back again just prior to when work will begin on March 15th. Mr. Guertin researched the cracked retaining wall mentioned at a previous hearing by an abutter and he found that it was a pre-existing condition. NESHP has requested that Don Lewis pull a scientific permit prior to the beginning of the work, which he has done.

Public Comment: Paul Tasha informed the Commission that he had spoken to Bob Prescott at the Audubon Society and Mr. Prescott had suggested that someone from the Commission contact him about the project. Mr. Prescott feels that a March start time is too early. He felt that an April 15th start date was preferable.

Commission Discussion: The Commission questioned Mr. Guertin and Mr. White. Both Dennis and

Dieter had done research and consulted experts about whether a March date was a wise decision. Based on their research, the Commission requested that the applicant reconsider moving the start of the project to a later date. After a brief discussion, Mr. Guertin agreed to move the start date to April 1st.

Elaine Anderson moved to grant a Notice of Intent for the capping of historic dump material onsite at the property located at 90 Shank Painter Road, with a compromise start date of April 1, 2008, and relying on the knowledge and expert opinion of Don Lewis, and once the sweeps are made before the scheduled start date, David Hale seconded.

The Commission discussed the motion. Dieter suggested that the dates of the turtle sweeps change because the start date has changed and suggested that Dennis, or another member of the Commission, be onsite before the actual work begins.

Dieter Groll moved to amend the motion to add the following conditions:

- *a minimum of two comprehensive sweeps of the site shall be made a week before and immediately preceding the start date in order for work to begin;*
- *all capping work will be conducted under the direct supervision of the Town of Provincetown DPW;*
- *before the project begins, workers and supervisors will be briefed on appropriate procedures should a turtle come onto the site or be unearthed during the operations;*
- *all workers and supervisors will be provided with a 24-hour hotline number to call Mr. Lewis upon discovery of any turtle or other protected species during the operation;*
- *Mr. Lewis will be personally present when work begins at the site on or about April 1st, 2008, to ensure that no harm comes to any turtle that may have escaped detection during the sweeps;*
- *all turtles found will be re-located to the closest, safe, non-fragmented habitat, which Mr. Lewis will identify before the sweeps take place;*
- *all turtles discovered during the project will be fully documented in accordance with the prevailing Outer Cape protocols to include age, gender, weight, carapace and plastron size and general condition, with each turtle being marked with a unique identifying number and with all data being provided to Mass. NHESP and the Provincetown Conservation Commission;*
- *rare species reports will be submitted for each animal discovered at the site; and*
- *that a member of the Conservation Commission be on site to be part of the process.*

Dennis Minsky seconded and it was so voted, 5-0.

Notice of Intent (continued from February 26, 2008)

Application by **Michael Leger, Airport Commissioner**, represented by **Jacobs, Edwards and Kelcey**, 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 to reconstruct the existing terminal apron at the property located at **176 Race Point Road**, in Provincetown.

Presentation: Maryann Magner, of Jacobs, Edwards and Kelcey, and Butch Lisenby, Airport Manager, appeared to present the application. The applicant seeks to reconstruct the pavement of the Terminal Apron at the Provincetown Municipal Airport. The pavement is more than 20 years old and is in fair to poor condition. The reconstruction would not change the existing pavement footprint and drainage system. The reconstruction will take place by recycling/reclaiming the existing hot-mix asphalt pavement with the existing underlying base materials. The recycled/reclaimed material created will be reused on-site as a base material. New hot-mix asphalt will be paved over the entire area of work followed by a pavement slurry seal and miscellaneous pavement markings. There is currently a mapped potential habitat for the vesper sparrow on the airfield, but the narrow existing grass areas adjacent to the apron have not been mapped as potential habitat. The grass areas will not be modified and any grass areas temporarily disturbed will be fully restored. The applicant demonstrated compliance with the new Stormwater Management Regulations for Re-Development Projects pursuant to 310 CMR 10.05(6)(k)7 and 310 CMR 10.05(6)(o).

Public Comment: Paul Tasha asked of what chemicals the de-icing fluid is composed.

Commission Discussion: The Commission questioned Ms. Magner and Mr. Lisenby. The Commission

suggested that the “hay” bales be changed to “straw” bales that will be delineating the limit of work. *Dieter Groll moved to approve the Notice of Intent for the reconstruction of the existing terminal apron at the property located at 176 Race Point Road, referencing the March version of the document, including the ‘General Notes’, and the construction schedule referenced in ‘Conditions’ and with the change from ‘hay bales’ to ‘straw bales’, which will be delineating the limit of work, Elaine Anderson seconded and it was so voted, 5-0.*

Request for Determination of Applicability

Application by **Provincetown Conservation Commission** for a **Request for Determination of Applicability** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes site work to include trail maintenance and expansion as well as native plantings and passive recreational enhancements at the property located at **185 Route 6** (Shank Painter Pond Wildlife Sanctuary), in Provincetown. The Commission seeks to amend a previous DOA for this project as new information has come to light. The amendments are as follows:

- the inclusion of all detail in the planting plan submitted by Irene Seipt;
- a reference to the site plan included in the application;
- a reference to the Robillard parking plan, less the timbers that are mentioned in the previous parking plan; and
- the inclusion of all of the information from the Work Session of February 26th, 2008 document, the site visit document and the approval letter from Natural Heritage in regard to the project.

The Commission then discussed each aspect of the project.

PARKING LOT: The parking lot plan is the Robillard plan dated 03/27/05. In addition the parking lot will need 1 load of ABC to make a better surface. The parking lot will also connect to the existing trail.

BENCHES, RAILING, BIKE RACK, SPLIT-RAIL FENCE AND PICNIC TABLE: The amended DOA will include a low railing on the deck (30” high with a slanted top) and 2 benches will be placed on the deck. The materials used for the benches and railing will be Trex. The bike rack and split-rail fence will be made from ACQ. There will be 1 bike rack at each of the 2 entrances, Route 6 and Ship’s Way. There will also be a new picnic table to replace the existing dilapidated one.

SIGNS: The signs will be posted at both entrances and 1 will be placed on the deck and 1 on the interior of the main trail. The signs will be smaller than what exists, of a natural color and low maintenance.

GARBAGE CANS: A garbage can and recycling bin will be placed at each of the entrances. DPW has agreed to pick up the trash.

SOIL REMOVAL: Instead of the removal of the existing soil, a stated condition of the previous DOA, it will be left at the site and it will be spread around and mixed in with the surrounding sand. The planting plan submitted by Irene Seipt will be followed, which includes the use of compost from the Watt’s Family Farm and a list of plants. An irrigation system is being proposed for the first few years with water to be drawn from the hydrant at the site.

The Commission discussed the issue of leaving the topsoil or removing the topsoil, as that topsoil contained some invasive species, in particular evening primrose and lady’s thumb. The advance of these species was stemmed in 2006. Several piles of the topsoil still remain the site. Irene has suggested that the soil be spread out, primarily in the bowl areas, and mixed with the sand down to a depth of about 4”.

Public Comment: There were letters of support from the Cape Cod Compact, the Provincetown Conservation Trust and the Open Space Committee in the file. Paul Tasha spoke with the USDA in

Barnstable and Steve Smith of the Seashore and both thought the existing soil should be removed. Paul's concern is with the possibility for the importation of viruses with the compost that is being proposed for the planting medium. Viruses could potentially kill off plant species in the quaking bog. Ghee Patrick cautioned the Commission about disturbing the blow-out areas. She suggested that since the compost was being wheel-barreled in, the existing soil could be wheel-barreled out to be possibly used nearer the highway. She also suggested that a sign be placed at the Ship's Way entrance stating that it was a private way and asking people to be respectful of the neighbors. Celine Gandolfo stated that she would like to see the timbers remain on the edge of the trail as they serve to keep people on the pathway. The reason that the soil was brought in originally was that it was to be put around the trail. She suggested that the soil could be covered in order to kill the invasives.

Dennis took a poll of each of the Commissioners in regard to the elements already discussed. All Commissioners agree with the amended plan for the bike rack, the split-rail fence, the signs, and the picnic table. The viewing platform was then discussed.

Public Comment: Celine believes that the viewing platform should remain as it keeps people off the dune area and keeps it from eroding. Ghee stated that the viewing platform is within the buffer zone, but the Cape Cod Commission was not concerned about it. She believes that the platform keeps people and their dogs contained and discourages wandering. Paul would like the site not to have a platform at all.

All Commissioners agreed that the viewing platform with benches should remain.

The trail was then discussed. There is an existing trail and a trail extension connecting to the parking lot. To remove the timbers from the sides of the trail or not was discussed, including the implication of their removal. The trail and the trail extension were agreed upon.

The parking lot was again discussed.

Irene gave an overview of the plantings. Dennis suggested forming an oversight committee to keep an eye on the progress of the plantings. There is approximately \$2,000.00 available for trees from the Provincetown Re-greening Committee and she suggested shad, sassafras or white or scarlet oak could be planted. There would be no trees planted beyond the picnic table. The planting plan includes an irrigation element, which will remain for at least 2 years and that would involve the use of the hydrant at the site.

The Commission discussed the removal of the existing soil again.

Dieter Groll moved to amend the restoration plan to include the removal of the introduced soil from the level areas or from where it is not contributing to erosion control or native plantings.

There was no second.

Elaine Anderson moved to grant a Negative #2 Determination with the following conditions as discussed and agreed upon:

- *the deck with railings and two benches;*
- *a picnic table, a split-rail fence and a bike rack at the entrances at Ship's Way and Route 6;*
- *signs to designate and make clear the significance of the area;*
- *plantings as presented in the planting plan;*
- *garbage and recycling cans at both entrances;*
- *the surfacing of the parking lot with natural cover;*
- *the use of compost from the Watt's Family Farm;*

- *the acceptance of the offer of trees from the Provincetown Re-Greening Committee; and*
- *leaving the existing soil on the land.*

Dennis Minsky seconded and it was so voted, 1-4(David Hale, Dieter Groll, Lynne Martin and Dennis Minsky against). The motion failed.

Dennis Minsky moved to grant a Negative #2 Determination with the following conditions:

- *that the elements of the planting plan, formulated by Irene Seipt, which include trees contributed by the Provincetown Re-Greening Committee, be implemented along with other infrastructure heretofore discussed;*
- *the removal of the imported soil (within reason) that was deposited there in 2005 and 2006, which will be flagged beforehand, from level areas where it is not serving a purpose for either erosion control or for native plants, David Hale seconded and it was so voted 5-0.*

CONSERVATION COMMISSION STATEMENTS:

The Harbor Committee appeared before the Board of Selectmen about the beaching cleaning machinery without the Commission having approved the activity.

ANY OTHER BUSINESS:

The Commission voted on reimbursements.

Dennis Minsky moved to approve the reimbursement of \$196.00 to Dennis Minsky for the MACC conference and the reimbursement of \$31.40 to Brian Carlson, Dieter Groll seconded and it was so voted, 5-0.

The Commission voted to change the Nordahl court date.

Dennis Minsky moved to have the date for the hearing of the Nordahl appeal in District Court rescheduled, Lynne Martin seconded and it was so voted, 5-0.

ADJOURNMENT: *Lynne Martin moved to adjourn at 10:15 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2008.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2008

Dennis Minsky and Elaine Anderson, Co-Chairs