

# PROVINCETOWN CONSERVATION COMMISSION

March 25, 2008

6:30 P.M.

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

**Members Absent:** Dennis Minsky (excused).

**Others Present:** Ellen C. Battaglini (Recording Secretary).

## PUBLIC MEETING

Co-Chair Elaine Anderson called the Public Meeting to order at 6:37 P.M.

**PUBLIC STATEMENTS:** None.

**MINUTES: March 11, 2008** – Approval of the minutes will be postponed until the hearing on April 15, 2008. *Lynne Martin moved to postpone the approval of the minutes of March 11, 2008 until the hearing of April 15, 2008, David Hale seconded and it was so voted, 4-0.*

### Notice of Intent

Application by **Rex McKinsey, Harbormaster**, 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. Scope of work to include rehabilitation of courtesy float and connection to municipal sewer for a boat pump-out system at the property located at **19 Ryder Street Extension** in Provincetown.

**Presentation:** Rex McKinsey, Harbormaster, and Lisa Bowden, Tourism Director, appeared to present the application. Mr. McKinsey stated that the project will seek to rehabilitate and upgrade the public courtesy float and will include the addition of an ADA compliant accessible gangway. This work, which will be funded with grant money, will slightly enlarge the dock from 30 to 40 feet and replace four old pressure-treated timber piles with four steel piles, for added safety. The work for a sewer connection for the pump-out station falls under an existing order of conditions for the sewer system. Ms. Bowden submitted a summary of the proposed scope of work for the Waterfront Memorial Park Improvement Project. This Visitor Services Board project seeks minimal improvements to the existing park setting with minor landscaping, including the addition of mulching for existing ground cover and trees. It is projected that these two projects will be done in tandem.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. McKinsey and Ms. Bowden. The Commission concluded that they would prefer to separate the two projects and include only the rehabilitation of the courtesy float and the sewer connection as an NOI, while the minor improvements to the Waterfront Memorial Park Improvement Project would be dealt with as an Administrative Review. The Commission decided to impose the same Order of Conditions for this project as for the MacMillan Wharf Reconstruction Project. Brian Carlson will deal with the Administrative Amendment. *Elaine Anderson moved to approve the Notice of Intent for the rehabilitation of the courtesy float at MacMillan Wharf and the connection of a boat pump-out system to the municipal sewer system at the property located at 19 Ryder Street Extension with the same conditions as stated in the Order of Conditions for the MacMillan Pier Reconstruction Project, David Hale seconded and it was so voted, 5-0.*

*Elaine Anderson moved to consider the Waterfront Memorial Park Improvement Project for Administrative Review by the Conservation Agent, Brian Carlson, Lynne Martin seconded and it was*

*so voted, 5-0.*

***Notice of Intent***

Application by **Federal Highway Administration, Eastern Federal Lands Highway Division (EFLHD)**, in cooperation with the **National Park Service (NPS)**, 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. Scope of work to include reconfiguring the intersections of U.S. Route 6, Moors Road and Province Lands Road to provide a new exit for the Herring Cove Beach Parking Area, pavement preservation work on Race Point Road and pavement preservation work on Marconi Beach Road at the **Cape Cod National Seashore** in Provincetown.

**Presentation:** David Dajc, with EFLHD, appeared to present the application. The work will primarily be a reconstruction at the intersection of Route 6 and Province Lands Road, including the addition of an exit from South Herring Cove beach onto Route 6. In addition, the sealing of the pavement on Race Point Road will be included. Existing pavement at the intersection of Route 6 and Province Lands Road will either be removed or be pulverized and remain under the new pavement as a base. Part of the existing pavement in that area will be converted into a bike path. This area is within the buffer zone of Shank Painter Pond, but all work will be performed on the roadway in front of the guardrail. No excavation work will be undertaken in the buffer zone. According to Mr. Dajc, a large section of impervious material will be removed at the intersection as a result of this project.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Dajc. The Commission concluded that they would need more time to study the material submitted before rendering a decision. The Commission requested that the applicant submit enough copies of plan sheet D-7(the wetland hand-out), sheet B-3 (pavement surface), sheet M-4 (erosion sediment control) and the sheet entitled "Temporary Inlet Protection", Standard Detail #157-2, for all of the Commissioners. The Commission requested that the applicant flag or mark the site in question to indicate where the 100' buffer line is located, mark the section of pavement that will be under reconfiguration, and, to the best of his ability and with the resources available to him, make it easier for Commissioners who will be making a site visits to understand the location and scope of the proposed work. The Commission also requested that the applicant elucidate the intent of the project, as that was not made clear in his presentation. The applicant requested a continuance until the April 15, 2008 hearing.

***Lynne Martin moved to grant the request for a continuance until the April 15, 2008, David Hale seconded and it was so voted, 5-0.***

**Request for Determination of Applicability**

Application by **Joel Shaw (West Beach Club Condo Trust)**, represented by **Cape Associates, Inc.**, 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 for the construction of a 15' by 15' pressure-treated deck on the beach at the property located at **101 ½ Commercial Street**, in Provincetown. The applicant requested a continuance until the April 22, 2008 hearing.

*Lynne Martin moved to grant the request for a continuance to the April 22, 2008 hearing, Jack McMahan seconded and it was so voted, 5-0.*

**Request for Determination of Applicability**

Application by **Shoreline Construction** 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 seeks determination of floodplains and wetland areas at the property located at **29 Bradford Street Extension** in Provincetown. The applicant requested a continuance until the April 22, 2008 hearing.

*Lynne Martin moved to grant the request for a continuance to the April 22, 2008 hearing, Jack McMahan seconded and it was so voted, 5-0.*

**Review of Annual Town Meeting Warrant Articles**

To determine the number of Commissioners in favor or opposed to the Town Meeting Warrant Articles that reference the natural environment.

**ARTICLE 24:** Elaine Anderson read the letter from Kopelman & Paige with Attorney Kathleen Connolly's suggestions and concerns regarding Warrant Article 24. The Commission discussed the letter.

12-5-1: The Commission discussed whether to change the distance back to '200' feet. They decided to leave the change as it was.

12-9: The Commission discussed the definition of 'passive recreation'.

12-16: The Commission discussed Attorney Connelly's advice that this Section is not necessary.

*Lynne Martin moved to proceed with Warrant Article 24 as written, with the omission of Section 12-16, inclusive of subsections B and C, Dieter Groll seconded and it was so voted, 5-0.*

**ARTICLE 17:** The Commission briefly discussed this Warrant Article even though it was going to be indefinitely postponed. There was no consensus on recommending or not recommending passage and no vote was taken.

**ARTICLE 32:** The Commission briefly discussed this Warrant Article and decided that they had no recommendation regarding passage. *Elaine Anderson moved that the Conservation Commission issue a 'no recommendation' concerning this Warrant Article, Lynne Martin seconded and it was so voted, 4-0-1 (Dieter Groll abstaining).*

**CONSERVATION COMMISSION STATEMENTS:**

Lynne Martin informed the Commission that there was a complaint from an abutter to the project at 609 Commercial Street. He was not notified that an extension for the completion of the project had been granted until April 1, 2008. The extension had been granted by the Commission on December 18, 2007.

Dieter Groll briefly discussed the e-mail from Stephen M. Smith, plant ecologist for the National Seashore, regarding the latter’s opinion on the topsoil issue at the Shank Painter Pond Wildlife Sanctuary.

Elaine Anderson mentioned the resource survey proposed by Rogue Wave Field Services. This discussion will be postponed until the April 15, 2008 hearing when Dennis and Brian are in attendance.

Lynne Martin said that she had come across the Town of Framingham website and said that they had some great public information regarding their Conservation Commission, its procedures and its resource areas. The Commission briefly discussed how they might improve their dissemination of information to the public.

**ANY OTHER BUSINESS:**

Ted Malone will be appearing before the Cape Cod Commission for review on April 9, 2008.

There was a letter back from the DEP acknowledging the Chapter 91 filing for the property located at 47 Commercial Street.

There was an e-mail sent to Brian in regard to 320R Bradford Street and the conditions of the Determination of Applicability for the property. Elaine will ask Brian to clarify the e-mail.

There was a letter from Brian Carlson to Jon Nordahl concerning the incomplete status of his NOI application that copied to the Commission.

**ADJOURNMENT:** *Lynne Martin moved to adjourn at 9:40 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