

**PROVINCETOWN
CONSERVATION COMMISSION
JUDGE WELSH ROOM
June 16, 2015
6:30 P.M.**

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

Members Absent: David Hale (excused).

Others Present: Austin Brandt (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Chair Dennis Minsky called the Public Hearing to order at 6:31 P.M.

PUBLIC STATEMENTS:

None.

NEW BUSINESS:

Certificate of Compliance

Application by **K.I.P., LLC**, represented by **William N. Rogers, II** for a Certificate of Compliance for work conducted under Chapter 12 of the Provincetown By-Laws at the property located at **3 Heather's Way** in Provincetown. William N. Rogers appeared and gave some relevant background information regarding this property for which the Commission had issued an Order of Conditions. He submitted a letter certifying substantial compliance with that Order. Austin said he did a site visit and agreed with Mr. Rogers' assessment. The Commission noted that the vegetation on the property would need monitoring for its requirement that all plantings survive for a period of three years.

Dennis Minsky moved to grant a Certificate of Compliance for work completed pursuant to an Order of Conditions under Chapter 12 of the Provincetown By-Laws for the property located at 3 Heather's Way contingent upon a three-year survivability requirement of all plantings, Barbara Prato seconded and it was so voted, 4-0.

Review of proposal by Safe Harbor Environmental Services for wetland delineation at the **Browne Street Community Garden** located at **6R Browne Street** in Provincetown:

Gordon Peabody appeared to review the project, which will complete a determination of the location the Conservation Restriction boundary for the wetland edge of Shank Painter Pond and establish the 60' CR setback from the pond. Safe Harbor had started the project when the Commission was installing new beds on the site and a question was raised by an abutter concerning the exact location of the boundary. Dennis explained that the work was being done because of the uncertainties of the location of the boundary of the CR and how it related to the community garden and that the information could then be used for a future management plan for the buffer zone. The Commission questioned Mr. Peabody and discussed the project. The discussion included the outfall pipe issue on the site and whether the two projects could possibly combine engineering and surveyor services. The Commission decided to keep the engineering aspect of the two projects separate.

Mark Irving moved to approve the proposal to finish the delineation of the conservation restriction boundary at Shank Painter Pond as presented by Safe Harbor, Dennis Minsky seconded.

The Commission discussed the motion. The Commission discussed whether the proposed work should be done in tandem with an engineering plan.

The motion was so voted, 0-4. The motion was defeated.

Dennis Minsky moved to direct the Conservation Agent to investigate and solicit a proposal for an engineering site plan to accompany the delineation work proposed by Safe Harbor, Barbara Prato seconded and it was so voted, 4-0.

Notice of Intent by the **Provincetown Harbor Committee** to install kayak racks at the West End Parking Lot Town Beach at **55 Commercial Street** in Provincetown:

The applicant requested a postponement to the July 21, 2015 Public Hearing. ***Dennis Minsky moved to grant the request for a postponement to the July 21, 2015 Public Hearing, Lynne Martin seconded and it was so voted, 4-0.***

OLD BUSINESS:

Update on dune stabilization at **31 Point Street** in Provincetown:

William N. Rogers, II, Paul Shea and Lyn Plummer appeared to discuss the issue. Mr. Shea said that the restoration of the dune had begun that week. A landscaping company had been hired to install coir fiber matting on the property's slope. All of the previously altered soils had been covered with the fiber matting, which was staked into the ground, and the slope had been stabilized. According to Ms. Plummer, water service would be available on the site the next day. Hydro-seeding, with a New England erosion mix, would begin towards the end of this week and irrigation lines would be installed prior to the hydro-seeding. Once the hydro-seeding had been done, the growth would be monitored to make sure the seed was adequately watered for survival purposes. According to Mr. Rogers, who had been working on the issues related to the retaining wall, the existing wall would be adequate. According to Mr. Shea, the next step in the building process would be to install concrete footings, which will be located about 10' off the existing concrete retaining wall. He said that the plan was to continue to work on stabilizing the dune and to establish as much grass as possible throughout the summer. He suggested that the grass be left to stabilize over the fall and winter. He didn't anticipate any trees or shrubs being planted until the spring of 2016. The Commission questioned Mr. Shea, Mr. Rogers and Ms. Plummer. The Commission discussed whether the proposed construction of a building on the site would further compromise the stability of the dune.

Dennis Minsky moved to allow the construction to proceed contingent on continued surveillance by Mr. Shea that the stability of the dune is not impacted in any way, and frequent consultation with the Conservation Agent that that is the case, that updates on growth be provided and that the footings are hand-dug, Lynne Martin seconded.

The Commission discussed the motion. Dennis amended the motion.

Dennis Minsky moved to allow the construction to proceed contingent on continued surveillance by Paul Shea that the stability of the dune is not impacted in any way, and with frequent consultation with the Conservation Agent that that is the case, that bi-monthly updates on growth be provided and that the footings be hand-dug with supervision by Mr. Shea, Lynne Martin seconded and it was so voted, 3-1 (Mark Irving opposed).

The Commission concluded that it was reasonable to allow construction to proceed if there was evidence of dune stabilization.

Notice of Intent application for **5 & 7 George's Path** in Provincetown:

There was a request by the applicant to continue the matter until the August 4, 2015 Public Hearing. *Dennis Minsky moved to grant the request to continue the matter to the August 4, 2015 Public Hearing, Barbara Prato seconded and it was so voted, 4-0.*

Notice of Intent application by **Provincetown Airport Commission** and represented by **Horsley Witten Group, Inc.**, under the Massachusetts Wetlands Protection Act (M.G.L. c. 131 s. 40). Scope of work to include proposed capital improvement projects consisting of twelve (12) separate construction elements at the **Provincetown Municipal Airport at 176 Race Point Road** in Provincetown.

Amy Ball, of Horsley Witten Group, Inc., and Butch Lisenby, Airport Manager, appeared to discuss the application. Ms. Ball said that this matter had been continued from the last hearing because the applicant was waiting for information from the Department of Environmental Protection. She explained that the project required a variance from the DEP under the water quality certification because the wetlands in the area of the airport and within the National Seashore are outstanding resource waters. The DEP also informed the applicant that it would need a variance under the Wetlands Protection Act because of the coastal dunes in the area. The agency thought the project would not be able to meet the performance standards for alteration of coastal dunes, especially because the dunes were located within an area subject to coastal flooding. However, in order to overcome this situation, according to the DEP, the applicant needed to demonstrate that the project would have no adverse affect on the interests of storm damage prevention, flood control and wildlife habitat, specifically for shore birds. The applicant then submitted a document to the DEP in regard to this requirement. The DEP responded and indicated that the dunes in the area of the airport were significant to storm damage prevention and flood control and concluded that the applicant would not be able to overcome the presumption of significance. However, it stated that in lieu of the requirement, the local Conservation Commission could determine whether the project would have an adverse affect on the dunes and whether the applicant was in compliance with stormwater standards.

Ms. Ball stated that at this point, the applicant was requesting that the Commission close the public hearing and issue an Order of Conditions. She said the aspects of the project that might specifically affect the secondary dunes in the area would be the westerly taxiway system, the east end, the fence, the two access roadways and the parking area. She reviewed the six performance standards for working in a coastal dune resource area. Ms. Ball argued that the project would not affect the ability of waves to remove sand from the dunes, disturb a large enough area of vegetative cover so as to destabilize a dune, cause significant modification of any dune that would thereby increase the potential for storm or flood damage, interfere with the landward or lateral movement of the dunes, cause the removal of sand artificially from the dune or interfere with mapped, or otherwise identified bird-nesting habitat. The Commission discussed the standards as they related to the project. Ms. Ball concluded that while there will be alterations to coastal dunes, these alterations would not have an adverse affect on the interests that are protected by coastal dunes. She added that the applicant would be providing dune replacement in

areas that were being altered, and that some dunes would be replaced, or recreated nearby, and that there also was a dune restoration enhancement component to the project.

Lynne Martin moved to approve the Notice of Intent by the Provincetown Airport Commission and represented by Horsley and Witten Group, Inc., under the Massachusetts Wetlands Protection Act (M.G.L. c. 131 s. 40) for work to include proposed capital improvement projects consisting of twelve (12) separate construction elements at the Provincetown Municipal Airport at 176 Race Point Road, pursuant to plan AIP # 3-25-0043-36-2013 and including the mitigation and planting plans submitted, with the Standard Order of Conditions.

The Commission discussed the motion and decided it needed more time to formulate an Order of Conditions. Lynne withdrew her motion.

Dennis Minsky moved to close the public hearing and direct the Conservation Agent to prepare an Order of Conditions for the proposed capital improvement projects consisting of twelve (12) separate construction elements at the Provincetown Municipal Airport at 176 Race Point Road for the Commission to review and approve at its next meeting, Barbara Prato seconded and it was so voted, 4-0.

MINUTES: May 19, 2015 – Dennis Minsky moved to approve the language as written, Barbara Prato seconded and it was so voted, 4-0.

June 2, 2015 – Dennis Minsky moved to approve the language as written, Barbara Prato seconded and it was so voted, 4-0.

ANY OTHER BUSINESS:

Dennis said that there was an issue with Coastal Acres' sewage easement across the property owned by Mimi Gross. The reseeded was woefully incomplete. Rich Waldo is aware of the issue and will be working with the property owner to improve the situation.

ADJOURNMENT: Barbara Prato moved to adjourn at 8:15 P.M. and it was so voted unanimously.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2015
Dennis Minsky, Chair