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Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, May 7, 2013

ORLEANS TOWN CLERK

C. May

PRESENT: Judith Bruce, Chairwoman; Bob Royce; James Trainor; Jamie Balliett; Judy Brainerd; Philips Marshall, Associate; John Jannell, Conservation Administrator.

ABSENT: Steve Phillips, Vice-Chairman; Jim O'Brien; Nancy O'Mara, Associate.

For the purpose of the meeting, Philips Marshall will be a voting member.

8:30 a.m. Call to Order

Continuations

Last Heard 4/16/13 (JB1, JKB1, PM1)

Ronald E. Provost, 24 & 26 Pine Ridge Lane. by JC Ellis Design Company, Inc. Assessor's Map 27, Parcel 76 & 77. The proposed septic system upgrade, abandonment of existing septic system components, & construction of an addition. Work will occur within 100' of the Edge of an Isolated Vegetated Wetland. Jason Ellis of JC Ellis Design Company, Inc. was present. Jason Ellis explained that since the last hearing where there were concerns about the classification of the wetland, that John Jannell had agreed with Paul Shea's delineation. Jason Ellis said that the Board of Health was waiting for the Conservation Commission to rule on the Notice of Intent before they made a decision. Jason Ellis passed around the potential rendering of the addition with a floor plan per Jim O'Brien's previous request, and Judith Bruce noted that while the Commission preferred to have paperwork prior to the meeting, they would look at this proposed sketch. Judith Bruce asked for an explanation of the wetland delineation confusion. John Jannell explained that a delineation report from Paul Shea of Independent Environmental Consultants had been submitted to the Conservation Department, and questions arose during the previous hearing whether or not the dry bog was connected to the active bog. John Jannell spoke with Paul Shea who said that he had not gone through the canals to determine whether or not there was a connection. John Jannell explained that while it possessed a unique connection through old ditches, these ditches were not classified as streams, and therefore the Commission could accept the delineation provided to the Commission on this site plan. Judith Bruce clarified that this meant that the wetlands were connected but non jurisdictional, and John Jannell noted that it had been called both isolated and bordering in previous filings, and when a future filing is submitted it will be dealt with again. John Jannell said that Paul Shea agreed with this statement, and John Jannell noted that the wetland edge had been flagged correctly and what was in front of them today was a buffer zone project. Judith Bruce asked about the 50' and 75' buffer lines, and John Jannell showed her on the plan where the lines were located. Jason Ellis explained that the 75' buffer line straddled the addition, with it being 65' away from the Edge of the Isolated Vegetated Wetland at its closest point. Judith Bruce noted that the Commission typically did not permit new construction within the 75' buffer without mitigation or habitat improvement, and inquired if the addition would remain one-story. Jason Elis said yes, noting that the area where the addition was proposed was existing lawn, and that the applicant was willing to provide a 10-15' no-mow zone beyond the

wetland edge. Judith Bruce said that a once-a-year mow to maintain a meadow would also be acceptable, and Jamie Balliett asked if they had considered mowing the addition in line with the other part of the building. Jason Ellis said that the current house was pre-existing non-conforming, and needed to be 25' from the edge of the street. Judith Bruce asked if the screen porch was to remain on sonotubes and not be enclosed, and Jason Ellis said this was correct. John Jannell explained that when he spoke with Paul Shea, it was noted that the wetland delineation flags extended beyond the existing edge of lawn, and recommended that the applicant discontinue the mowing of this area. Jason Ellis noted the applicant was fine with leaving it naturalized, and Jamie Balliett asked about a seasonal mow. Judith Bruce noted the wetland extended into most of the existing lawn area, and John Jannell suggested spelling the once-a-year mow zone clearly as it was not located on the plan. Judith Bruce suggested that parcel 77 be a no mow zone, and Jamie Balliett felt a seasonal mow would be more suitable, otherwise it would quickly return to a woody area. John Jannell recommended that the area within the edge of lawn located at flags 8,9,10 not be maintained. Jamie Balliett noted that he had lived in the area, and that the water typically went away during the summer, and that if the applicant left it without an annual mow, it would become forested rather quickly. Judith Bruce asked for the opinion of the Commission, and Jason Ellis said while the applicant did not have a preference, it would be better to have a meadow to supplement the adjacent wooded area and provide a feeding ground for hawks. John Jannell recommended that the Commission not allow mowing below the 36' contour, and permit the applicant to have an annual mow. Jamie Balliett said the 36' contour line should be marked in the field, and Judith Bruce suggested the fall for the annual mow to prevent disturbing nesting birds. Jason Ellis agreed that those conditions were fine.

MOTION: A motion to close the hearing was made by Jamie Balliett and seconded by James Trainor.

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated 3-20-13 with the condition that the 36' contour be marked by the applicant by a fence or large rocks for a no-mow zone, outside of mowing it once a year, specifically around November, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Notice of Intent

Steve Simon, 8 & 10 Beach Road. Assessor's Map 36, Parcel 23 & 24. The proposed installation of a water line. Work will occur within 25' of the Edge of Wetland. Steve Simon, applicant, and Bill Riley, legal representation from the Law Offices of Toabe and Riley, were present. Bill Riley explained that the applicant was seeking to install town water at 24 Beach Road over his easement which connected to Cole Place. The disturbance would be temporary, and the work comprised of the line being installed and re-seeded with conservation mix. The site was presently loaded with invasives, and the work which would be done would be minimal and temporary in nature. Judith Bruce asked if there was an existing water service from the house, and Steve Simon said yes. Judith Bruce asked if a water line could come in from Beach Road, and Steve Simon explained that while this was possible, he had been given a \$15,000 estimate for this to be done due the buried electric, gas, and septage lines along the existing driveway. Steve Simon said his current water line was in failure, with 3 of the other 4 cottages

having failed in the last. Judith Bruce noted that water pits did cause problems and were good to replace. Judith Bruce explained that while cost was not one of the things which the Commission looked at to determine the best solution, the Commission was concerned whether or not work within the buffer to the resource area could be avoided entirely. Judith Bruce asked if there was any tree removal planned within the proposed easement, and if directional boring to provide minimal disturbance had been considered. Steve Simon noted that there were dead stumps which would be left, and that there was a cost issue associated with directional boring. Judith Bruce noted that the Commission would like to consider directional boring due to its minimalistic impact. Steve Simon noted that while trenching in a water line could cause significant disturbance, a 3' trench would allow water service to be brought in to service the entire condominium complex of 24 Beach Road, and would be completed within a day. Bob Royce asked if there was a question of whether or not the applicant could come through the Right of Way, and Bill Riley noted that Mike Ford, Orleans Town Counsel, had validated the existence of the easement. John Jannell noted that Mike Ford's opinion letter had been circulated to the Commission with the previous filing for work within this easement. Bill Riley stated that the Town of Orleans had a water easement on Cole Place, and John Jannell said this was correct. Judith Bruce asked if this would go directly to the Cole Place water line easement, and James Trainor asked if a line would be installed to service all of the condos. Steve Simon said he could install whatever sized line the Commission deemed permissible. Jamie Balliett said the applicant had described a 3' trench, and asked if this was the smallest trench which could be dug. Steve Simon explained that in order to comply with Town Regulations, the hole would need to be 5' deep. Since it was an open trench, it would be sealed up on the same day which it was opened, and Steve Simon would dig this hole with his mini excavator. Jamie Balliett inquired if water would be hit by the applicant digging to that depth so close to the Edge of Wetland, and Steve Simon felt that based on the slope of the land they would not hit water coming in that way. John Jannell said he was unsure if the applicant would hit water, as excavation had not been discussed in previous applications. The resource area itself was an old cranberry bog and while he was not sure about depth to groundwater, John Jannell noted that the Water Department would let you install a water line in water. Silt and sediment management could become an issue, and Jamie Balliett noted that there was not standing water in the bog at this time. Steve Simon said that if there was water present, it tended to be in the irrigation ditches and old bog trenches, and Bill Riley said siltfence and haybales would be installed to protect the area. Myra Murphy, abutter at 10 Beach Road, said that while her letter against the proposed work had been submitted as part of the record, she noted that there was water almost to the top of the embankment which flooded into the extinguished Right of Way. Judith Bruce inquired if the abutter disagreed with the site plan, and Myra Murphy said yes, that it did not go through several properties as indicated and that no measurements were provided. Judith Bruce explained that the easement had been clarified by Town Counsel, and that it ran from Mr. Simon's property to Cole Place. The last time which the Commission saw this application was for a footpath, and with this application for a water line, the Town of Orleans has an easement over Cole Place. John Jannell noted that on the plan the Cole Place Right of Way was a dashed line, and that the Mike Ford opinion letter asserted that the applicant had no rights to Cole Place, but that the Water Department had rights over Cole Place.

Judith Bruce thought there was concern for the wetland delineation line, and Myra Murphy explained then when the snow melted, the standing water went beyond the embankment. Myra Murphy stated that since the denial to create a path through the easement to Cole Place, the applicant had cut, sprayed, and ruined the area, and an unpermitted cleared 4' wide path existed. John Haynie, Jr., of 18 Cole Place, concurred with Myra Murphy's statement regarding the unpermitted land clearing, and explained that his concern with the access to Cole Place. John Haynie brought up Mike Ford's opinion letter, which stated that the applicant had no legal access over Cole Place. John Haynie said the earlier plan which he had showed the termination of the claimed Right of Way immediately prior to Cole Place, and suggested that Steve Simon's plan was incorrect. Judith Bruce suggested that the Commission could get another opinion from Mike Ford to determine if the Water Department had rights over a location when an individual may not have those rights. John Haynie did not think that would be the case, and Judith Bruce said they would ask for clarification. James Trainor noted that Mr. Haynie had referred to the Right of Way as claimed, and asked if there was any reason to believe that the applicant did not have a Right of Way. John Haynie explained that he had spoken with the Murphy's who had in turn hired a lawyer, and it was their legal counsel's opinion that the Right of Way was extinguished because of the transfer of the property. Mike Murphy of 10 Beach Road explained that the Right of Way was between the Gast and Mayo owners, and that in the 1980's when another person purchased the property, not necessarily by lack of use but by abandonment of the Right of Way, that the rights to this became extinguished. Judith Bruce interjected that the Conservation Commission's jurisdiction was the wetland, and while they were not Land Court, they could not get involved in neighbor to neighbor disputes. John Jannell announced that the correspondence from the abutters had been received by the Conservation Department and circulated, and asked the Commission to look over the concerns brought up including dewatering and the impact of this work. Judith Bruce was concerned whether the Water Department's jurisdiction extended into the easement, and asked about the potential resolution. John Jannell felt that the town had the right to complete the installation, but would get the Commission the necessary information. Bill Riley said that in his experience when a town took a water easement, it took the full road, but given this situation, he was not sure. John Jannell concurred, and Bill Riley suggested that this information may be found at the Registry of Deeds. John Jannell said he would get clarification if the water line could be created, and Jamie Balliett asked if this issue had come up during meetings with Town Counsel. John Jannell explained that he was only present briefly for a meeting between Town Counsel and the Water Department, and said he would do his due diligence. John Haynie said that he did not recall any documentation which he would have signed granting the Water Department rights to Cole Place other than a permit to install a fire hydrant. John Haynie was not sure if any of the Cole Place residents drew water off of that line, and Judith Bruce reiterated that they would look into this Cole Place issue. Bill Riley suggested that this would not have been a document which the owners would have signed but rather a taking, and John Haynie recalled previous work done by the Water Department had included notification of the owners at Cole Place. Judith Bruce was concerned that the easement had been cut and/or worked on without Commission approval, and John Jannell recalled that the Commission had granted the removal of a fallen locust within the easement. Mike Murphy stated that any work done on their

property was under their existing Order of Conditions, and the work being done on site was the applicant utilizing the easement by creating an unpermitted path. Judith Bruce reiterated that trespassing disputes were not for this board, and John Jannell noted that the Murphy's had an open Order of Conditions for managing the invasives on their site. John Jannell suggested that if the Commission continued to ask for clarification, that it ask for alternatives for bringing in water such as limitations, engineering needs, etc. Bill Riley said that was something which they could submit, and John Jannell asked about the depth to groundwater and how they would handle dewatering should the water line come through the wetland. Bill Riley suggested that a hand auguring could be conducted to determine the depth to groundwater, and John Jannell suggested that if water was found, that moling be explored as another option. John Jannell noted that the most protective measure for the resource area should be the one explored, and that moling within the resource area had been permitted. Steve Simon asked if the Commission wanted a couple of test holes to 5', and Judith Bruce noted that this would be a hand auger and not the digging of pits. John Jannell asked that this be done by an engineer as they needed someone to certify the test holes, and Bill Riley said they would contact Tim Brady of East Cape Engineering, Ins. John Jannell recommended that these test holes take place over 8 Beach road, along the area on the plan which said "203' +/-." John Haynie presented to the Commission a cut locust limb, stating that this had been retrieved from the end of the Right of Way the night prior, and invited the Commission to visit the property at the end of Cole Place to determine if unpermitted work was occurring. Jamie Balliett suggested comparing the wetland delineation from 8 Beach Road to the one prepared for this filing. John Jannell noted that he asked for flag #7 to be moved, and Jamie Balliett asked if when the proposed footpath application came to the Commission, if an engineer had been hired to stake the area. Steve Simon said this would be something that could be re-staked, and Myra Murphy asked that the Commission delay their decision on the proposed application until their legal counsel was able to determine the legality of the Right of Way. Judith Bruce noted that while this application would be continued, she was not sure if the Commission had the authority to delay the proceedings until legal action had commenced. Bill Riley asked that the hearing be continued to May 21, 2013, to provide the Commission with the results of the hand augers and provide an alternative analysis.

MOTION: A motion to continue the hearing to May 21, 2013, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Eric & Reva Fischman, 27 Ruggles Road. by Artistic Grounds, Assessor's Map 11, Parcel 21. The proposed landscape project to include the construction of a pool, fire pit, outdoor grill, stone walls, and re-surfacing of an existing patio using permeable pavers. Work will occur within 100' of the Top of a Coastal Bank & Land Subject to Coastal Storm Flowage. Dustin Wolfe of Artistic Grounds was present. Dustin Wolfe went over the proposed work, noting that there would be no disturbance of vegetation, pines and cedars would not be touched, and none of the bank would be disturbed. A 5' section of lawn was proposed to be removed. Judith Bruce noted that the regulations did not allow for new construction within the 75' unless mitigation was provided, and inquired if the work could be pushed outside of the 75' buffer. Dustin Wolfe noted that the septic system was in the front of the house, and the best location would be in the back where

the current deck and patio were located. Dustin Wolfe noted that the proposed structure was elevated, running back into the existing grade, with no excavation taking place. Judith Bruce confirmed that only a corner of patio was in the 75' buffer, and the rest of the proposed work was within the 50-75' buffer, and Dustin Wolfe said yes. Judith Bruce explained that while she was not against the repair of the existing stone walls, the pool may not be suitable for the area. Dustin Wolfe inquired if additional mitigation was proposed, would the pool be permissible. Jamie Balliett explained that a pool was an accessory structure and the mitigation would have to be significant, and Judith Bruce suggested that a form of mitigation may be that all of the lawn area within the 50' buffer be a naturalized area. Dustin Wolfe thought that the applicant may be willing to naturalize the area from the 36-38' contour, from the 14" cedar tree shown on the plan towards the resource area. Judith Bruce asked the Commission if this was something which they may find acceptable, and Jamie Balliett was curious of the square footage calculations of mitigation which would be offered. Judy Brainerd noted that the lawn could not be fertilized, and did not feel that the property provided enough room for a pool. Dustin Wolfe suggested that it could be pulled back a little bit further from the resource area, but that with setback requirements for buildings, there was not a lot of room available. Judith Bruce asked that the applicant be made aware that the Commission was looking for significant mitigation, and was not sure that the 36-38' contour line was enough. The discontinuation of fertilization needed to happen, and Dustin Wolfe thought from the 25' buffer line to 50' buffer line, across to the 36' contour line would be where irrigation could be removed and plantings would be installed per the approved native plant list. James Trainor asked if the pool could be moved to the current patio location, and Dustin Wolfe explained that because of setback requirements, the pool would be very narrow, and the current design to elevate the pool would be less of a disruption. Judith Bruce suggested that this property may not be meant to have a pool, and Judy Brainerd, Bob Royce, and Phillips Marshall agreed that the property was too narrow. Jamie Balliett did not feel that mitigation to the 36' contour line would be significant, and that additional mitigation needed to be proposed. Phillips Marshall said while the Commission could make exceptions for interior expansion, recreational structures were not a necessity. Judith Bruce suggested that the applicant completely naturalize the 50' buffer, and Dustin Wolfe said this would be something which he would have to look at to determine the next step. Judith Bruce explained that while the Commission did not like to encourage applicants to return with revised plans when it would not be something which the Commission would accept, and could not guarantee that even what the Commission was suggesting for mitigation would be approved. Dustin Wolfe suggested that they would look at moving the pool back and mitigation, and asked to be continued to May 21, 2013.

MOTION: A motion to continue the hearing to May 21, 2013, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Enforcement Order

Kevin Doherty, 4 Duck Pond Lane. The proposed issuance of an Enforcement Order for the alteration of land within 50' of the Edge of Wetland and an Unnamed Pond. Michael Talbot, Restoration Ecologist from Talbot Ecological Land Care, and Kevin Doherty, applicant, were present. Kevin Doherty apologized to the Commission for

work which he felt was unintentional, and that it was he and his wife's intention to restore the cleared area. Kevin Doherty said he wanted to maintain an ecological buffer, wanted to improve the area, and encouraged the Commission to come out on site. Judith Bruce explained that she was familiar with this site, and said this was one of the most egregious wetland violations which she had seen. Judith Bruce noted that the applicant had an approval for the hand removal of wild grape and instead took a chainsaw into the resource area and removed vegetation without approvals. The pond, which was known as Critchett's Pond, had a natural wetland edge which abutters had worked hard to maintain. Judith Bruce explained that the Administrative Review approval was not to remove every planting within 50' of the Wetland, and wanted to know what the applicant's motivation was for doing this work. Judith Bruce urged the applicant to cease working on the site, as what had already been done was a serious violation. James Trainor asked if someone was hired to do the grading work, and Kevin Doherty explained that he hired James Reynolds to do a top-dress over certain areas of the lawn, scratch up loam and reseed. Kevin Doherty said he was unaware of all of the work which James Reynolds had done, and Judith Bruce said that retaining the services of Michael Talbot was a good start. Judith Bruce stated that this needed to be under an Enforcement Order to provide the applicant with some direction, and that loam would not be something which the Commission would support as suitable buffer zone material. John Jannell explained that in addition to circulating photos of the site and a copy of the approved Administrative Review form which the applicant had received, two pieces of correspondence had been submitted to the Commission. John Jannell explained that the Conservation Department was notified in the late winter/early spring of the violations on site, and at that time the Conservation Department sent a letter asking for work on this site within the buffer zone to stop. Robert and Nancy Burkert of 7 Harborview Lane wrote a letter dated April 25, 2013. A second anonymous letter dated May 2, 2013, was received by the Conservation Department against the current state of the property. John Jannell said that he had spoken with Michael Talbot about the species which had been on site, and although the grape on site was expansive, it was a native species and good food for the critters in the area. John Jannell explained that it was difficult to determine what had been removed, and Michael Talbot noted that buttonbush was cut in the water, as well as winterberry and arrowwood, not all of which had been cut. John Jannell said that before Michael Talbot addressed the Commission, what was before them today was the proposed issuance of an Enforcement Order by a date certain, and perhaps the request for a land management plan to determine how the area would be monitored and maintained. Judith Bruce inquired when a restoration plan would be presented to the Commission. Michael Talbot said that something could be ready for the Commission on either May 14th or May 21st, and wanted to know if the surveyed site plan be provided be used if the applicant had the wetland line flagged. Judith Bruce asked about the date of the plan, and Michael Talbot said October of 2012. John Jannell said that the wetland needed to be staked, and was sure that Mr. Ellis had a difficult time delineating the wetland. Michael Talbot noted that they could hire Paul Shea to delineate the wetland, and Judith Bruce explained that the Commission could be looking for restoration up to the 50' buffer line. Michael Talbot noted that the 50' buffer line went through the existing deck, and that he was a huge proponent of grassland restoration which would be suitable for this site given its full sun exposure. Judith Bruce inquired if the area received full sun because trees had been removed,

and Michael Talbot said that all of the cutting which took place was either in the Bordering Vegetated Wetland or Land Under Water. Judith Bruce asked what Michael Talbot was specifically suggesting for plantings, and Michael Talbot suggested little bluestem, Pennsylvania sedge, switchgrass, and purple milkweed, species strictly endemic to Barnstable County. Philips Marshall asked to what height the grasses became, and Michael Talbot said while Pennsylvania sedge grew to 4-5', little bluestem grew to 3-4'. Judith Bruce noted that these species would be good for upland areas, and Judy Brainerd said that she wanted shrubs. Michael Talbot inquired if Pussy Willows would be an option, and noted that John Jannell brought up his concerns about hybrid species. John Jannell said that he was asking around about the potential for hybrids of different species, and explained that Critchett's Pond had generally been devoid of invasive species, and would be comfortable allowing Pussy Willows if they were from a reliable resource. Michael Talbot presumed that the Commission would allow a 4' path to the water, and John Jannell said that this was something that the Commission had permitted on other sites. Judith Bruce noted that the 4' was the maximum width permitted, and that with the presence of a thick shrubs layer the path may be different. Michael Talbot anticipated a 3' wide path, and wanted to leave a walking area around the deck. Jamie Balliett inquired how much fill was brought in on site, if Mr. Reynolds was the only contractor hired, and whether or not an invoice had been issued. Kevin Doherty said that he only hired Mr. Reynolds, and that he could find out how much fill was brought on site. Jamie Balliett noted that a lot of the plantings would grow back, and that would need to be taken into consideration. Michael Talbot noted that he was on site April 19, and waded out to into the pond to determine what species were present. These species included buttonbush as well as some multiflora rose, bush honeysuckle, and privet, and they would be looking to eradicate the invasive species through a Land Management Plan. Judith Bruce noted that they were typically a 3 year cycle, and John Jannell noted that he did see privet on site. John Jannell suggested that an on-site be scheduled at the next work meeting, and Kevin Doherty wanted the Commission to see the site. Judy Brainerd asked which species had been severely cut, and John Jannell identified it as winterberry. John Jannell showed Michael Talbot on the plan where this was located, and Judy Brainerd thought that planting of red maple should also be included as part of a Restoration Plan. Michael Talbot said he could include restoration pruning to establish crowns, and guide the trees to being reestablished. Michael Talbot noted that there were a lot of stumps in that area, and it would be difficult to plant without disturbing. The buttonbush would be monitored, and restored if it did not come back, as well as the viburnum.

MOTION: A motion to put the applicant under Enforcement and issue an Enforcement Order with a plan to be received by May 21, 2013, was made by James Trainor and seconded by Jamie Balliett.

VOTE: Unanimous

Judith Bruce asked for John Jannell to look at the potential maximum allowable fines for the work which had been conducted, and John Jannell stated that he would have this available for the May 21st meeting.

Lisa Cohen, 165 Tonset Road. The proposed issuance of an Enforcement Order for the unpermitted construction of a deck and alteration of land within 50' of the Edge of Wetland and an Unnamed Pond. John Jannell explained that there was a problem with

the applicant receiving the Certified Mailing, and that he and the applicant had been in touch. John Jannell said that the applicant wanted to be present for any meeting discussing this matter, and suggested that this be put on either the May 21st, 2013, or May 28, 2013 meeting agenda. Judith Bruce asked if an official continuance vote to a date certain was required. John Jannell said no, and that he would bring this back in front of the Commission once he spoke with the applicant about when she could attend. The Commission agreed to take no action until John Jannell spoke with the applicant.

Administrative Reviews

Max & Anne Makowsky, 5 Deep Pond Circle. The proposed construction of a deck with hand-dug sonotubes. David Lyttle said that a plot plan had been submitted to the Commission showing a 10'x14' deck to be attached to the house, which at its closest point was 91' from the resource areas on site. This deck would require 3 hand-dug sonotubes, and Judith Bruce asked if the 91' buffer was from the Bordering Vegetated Wetland or the pond edge. David Lyttle explained that the 91' was from the Bordering Vegetated Wetland, and that the pond was greater than 100' from the proposed deck. Judith Bruce confirmed that this work was for the main house and not the cottage. *Judith Bruce noted that she was an abutter to Shoal Pond, and although she had no interest in the application, Judith Bruce recused herself and left the room, and James Trainor took over the execution of the Administrative Review.* James Trainor asked if there were any comments from the audience, and John Jannell noted that while conducting a site visit he noted an unpermitted fence on site. John Jannell recommended that it be permitted, and was not sure how far into jurisdiction it went. Jamie Balliett inquired if it was shown on the proposed plot plan with the proposed deck, and David Lyttle said no. John Jannell noted that he did not want to cause conflict with the current application but thought that a plan should be provided to show the fence. Jamie Balliett asked how far down the fence was located, and John Jannell showed him a rough idea on the plan where the fence was located, which had mesh on the bottom for an undetermined reason. The Commission decided that another Administrative Review for the After the Fact construction of a fence should be submitted and made part of the record for the property.

MOTION: A motion to approve the construction of the deck was made by Jamie Balliett and seconded by Judy Brainerd.

VOTE: Unanimous.

East Egg Homeowners & Gene Hornsby, 19 & 21 Little Bay Road. The proposed bank nourishment with 30 yards of compatible beach sand and proposed covering of existing gabions with 20 yds compatible beach sand Work to be done by Anchor Marine. David Lyttle explained that Anchor Marine was on site finishing the approved gabion project and there were currently in a position to provide bank nourishment above the gabions which had developed a scarp. This application was to cover the gabions, and Judith Bruce asked if this was the area under the stairs, or if plans were in the work to fix this area as well. David Lyttle said it was the hope that the applicants would be able to nourish this area as well, and James Trainor commented that this seemed to be a yearly event. David Lyttle noted that they were not smothering the marsh, the height of the gabions was appropriate, and John Jannell explained that the last approved plan found the homeowners association gabion project in compliance but lacking an on-

going condition for nourishment. John Jannell noted that the Commission needed to be more deliberate about on-going conditions for future Certificate of Compliances, and Jamie Balliett asked if there were any additional open Orders for this site. John Jannell noted that the open Order of Conditions in this area was for the abutting property.

MOTION: A motion to approve this Administrative Review was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Richard Thompson, 24 Priscilla Road. The proposed construction of a 10x20' shed. Work to be done by applicant. Richard Thompson, applicant, was present. John Jannell explained that he was on-site yesterday, and the proposed shed would be partially within and partially outside of Conservation Commission jurisdiction. The shed would replace an existing Bush Honeysuckle which John Jannell encouraged him to remove. John Jannell also noted that the applicant was currently under Order for restoration work on site, which looked good and commended the applicant.

MOTION: A motion to approve this application was made by Judy Brainerd and seconded by Bob Royce.

VOTE: Unanimous.

James Trainor asked if this shed met the Building Department requirements, and Richard Thompson said yes.

Jen Burton, 13 Quail Hill Road. The proposed removal of 6 trees. Work to be done by Jimmy Reynolds. John Jannell explained that this was for trees which were fairly overgrown, one of which was down, and two which were leaning over the house.

MOTION: A motion to approve this work was made by Bob Royce and seconded by Jamie Balliett.

VOTE: Unanimous.

Bernd Zellar, 654 S. Orleans Road. The proposed repair /replacement of storm damaged stairs over the existing rock revetment. Work to be done by Harry Ellis. John Jannell said these stairs over the revetment which were dislodged during the recent nor'easters and would be going back in the same location.

MOTION: A motion to approve this Administrative Review was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous.

Elliot Lewis, 84 Arey's Lane. The proposed removal of a locust tree. Work to be done by S & L Tree Services. John Jannell explained that this was a single wind thrown locust which the applicant wished to cut and remove which would end up in the water if it was not removed.

MOTION: A motion to approve this application was made by James Balliett and seconded by Bob Royce.

VOTE: Unanimous.

Chairman's Business

Approval of the minutes from April 2, 2013, April 9, 2013, and April 23, 2013.

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Erin Shupenis announced that the April 2, 2013 minutes were not ready at this time.

Approval of the minutes from April 9, 2013.

MOTION: A motion to approve these minutes was made by Judy Brainerd and seconded by Bob Royce.

VOTE: Unanimous.

Approval of the minutes from April 23, 2013.

MOTION: A motion to approve these minutes was made by James Trainor and seconded by Judy Brainerd.

VOTE: Unanimous.

Other Business

Request from Town Administrator to approve the use of the Wetland Filing Fees to help offset expenses to support the work of the Conservation Office and Parks Department in the care and maintenance of properties under their jurisdiction and control.

John Jannell said that a memo from John Kelly had been submitted to the Conservation Commission which was an identical request from last year. James Trainor asked what had been collected in fees from the year prior, and John Jannell explained that \$8,553.00 had been collected so far, and that \$10,876 in fees was the average for the past 5 years. Judith Bruce noted that the annual request was \$10,000.00, and John Jannell noted that the Conservation Commission had granted this request for the past 4 years. Jamie Balliett asked if the Parks Department billed the Conservation Department as these expenses arose or if it was through this annual request. John Jannell said it was done through this request. Judith Bruce was not sure that they provided specific requests, and Bob Royce noted that equipment purchases had been made through these funds. John Jannell noted that materials were purchased such as split rail to maintain Conservation properties, and Judith Bruce noted that the Commission did not want to draw down the fund too quickly.

MOTION: A motion to approve the use of the Wetland Filing Fees to help offset expenses to support the work of the Conservation Office and Parks Department was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous.

The meeting was adjourned at 10:22am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department