

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

Minutes

Meeting

Cape Cod Commission

First District Courthouse • Assembly of Delegates Chambers
3195 Main Street, Barnstable, MA 02630

December 14, 2017

The meeting was convened at 3:00 p.m., and the Roll Call was recorded as follows:

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Richard Conron	✓
Brewster	Elizabeth Taylor	✓ (left at 4:10 p.m.)
Chatham	Michael Skelley	✓
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	Absent
Falmouth	Charles McCaffrey	✓
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	Absent
Orleans	Len Short	✓
Provincetown	Vacant	Vacant
Sandwich	Harold Mitchell	✓
Truro	Kevin Grunwald	Absent
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	Absent
Minority Representative	John Harris	Absent
Native American Rep.	David Weeden	Absent
Governor's Appointee	Michael Maxim	✓ (arrived at 3:05 p.m.)

The Cape Cod Commission Meeting was called to order on Thursday, December 14, 2017 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers, 3195 Main Street, Barnstable, MA. Roll was called and a quorum was established.

SUMMARY OF ACTIONS TAKEN/VOTES:

Approval of Minutes: The minutes of the October 12, 2017 Commission meeting were unanimously approved.

Public Hearing: Dollar General #DR17013. Commission staff reported to the full Commission that the Eastham Town Planner notified staff that the applicant for the proposed Dollar General project is interested in withdrawing the project and the Eastham Planning Board will take up the request for withdrawal at its meeting on December 20, 2017. Commission staff asked that today's public hearing be continued when the Commission has received information that all permits have been withdrawn from the town. The Commission voted unanimously to continue today's public hearing to January 11, 2018 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers, 3195 Main Street, Barnstable, MA.

Public Hearing: TowerNorth Telecommunications Monopole Cotuit #TR17020. Following presentations, public testimony and discussion, the Commission deliberated on the Development of Regional Impact (DRI) application submitted by TowerNorth Development LLC, T-Mobile Northeast, Sprint Spectrum and AT&T for proposed construction of a 170-foot tall wireless telecommunications monopole with supporting improvements to serve wireless carriers that were located on the former Main Street water tower in Cotuit, MA. Following deliberation, the Commission voted unanimously to close the public hearing and voted with 10 votes in favor and one vote opposed to adopt the draft written DRI decision for the project and approve the project as recommended by the subcommittee, subject to the conditions in the DRI decision.

Public Hearing: Proposed Amendment to Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact. Following presentations, the Commission deliberated on the proposed amendment to Chapter A, Enabling Regulations and voted unanimously to approve and submit the amendment as drafted to the Assembly of Delegates for adoption by County ordinance.

■ MINUTES

The minutes of the October 12, 2017 Commission meeting were reviewed. Roger Putnam moved to approve the minutes, Jack McCormack seconded the motion and a vote called on the motion passed with a unanimous vote.

■ EXECUTIVE DIRECTOR'S REPORT

Executive Director Paul Niedzwiecki said the first round of the National Oceanic and Atmospheric Administration (NOAA) stakeholder meetings have ended and the next round will begin again in January. He said Commission staff presented at the Cape Cod Coastal Conference, he and Kristy Senatori attended a forum in Wellfleet on Monday, and yesterday they met with the Environmental Protection Agency in Boston regarding the Section 208 Plan. Mr. Niedzwiecki said the budget process is underway and the County's proposed Early Retirement Incentive Program is looking good and is being considered for July 1 as a potential effective date.

■ DOLLAR GENERAL EASTHAM #DR17013

Chair Harold Mitchell read the hearing notice and opened the hearing at 3:05 p.m. He said at its meeting on July 6, 2017 the Commission voted to accept the Dollar General project for Limited Development of Regional Impact (DRI) review upon the request of the Eastham Board of Selectmen. He said no application has been submitted for the project and at this public hearing the Commission is considering procedural denial for the project without prejudice.

Jon Idman, Chief Regulatory Officer at the Commission, said the Commission opened the Development of Regional Impact (DRI) public hearing period on the Dollar General project September 1 and closed the period on November 29, the applicant has not submitted an application therefore no action has been taken and the project is now in the decision period. He said at this point the project can be withdrawn by the applicant or a procedural denial without prejudice can be considered by the Commission. Mr. Idman said he received an email from the Eastham Town Planner saying that

the applicant is interested in a withdrawal. He said the Eastham Zoning Board of Appeals accepted the applicant's withdrawal and the Eastham Planning Board will be taking up the request for withdrawal at its meeting on December 20, 2017. Mr. Idman said he would ask that today's public hearing be continued to the January 11, 2018 Commission meeting when the Commission has received confirmation that all permits have been withdrawn from the town.

Roger Putnam moved to continue the hearing to January 11, 2018 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers, 3195 Main Street in Barnstable, MA. Richard Conron seconded the motion and a vote called on the motion passed with a unanimous vote.

■ TOWNORTH TELECOMMUNICATIONS MONOPOLE COTUIT #TR17020

Chair Harold Mitchell said this is a continued public hearing from November 21, 2017. He read the hearing notice and opened the hearing at 3:10 p.m. He said the Commission will hear presentations and take public testimony on the TowerNorth Telecommunications Monopole project for the proposed construction of a 170-foot tall wireless telecommunications monopole with supporting improvements to serve wireless carriers that were located on the former Main Street water tower located at 414 Main Street in Cotuit.

Bert Stern, Vice President of Centerline Communications on behalf of TowerNorth Development, introduced the project team and said the project co-applicants are T-Mobile, Sprint and AT&T. He said TowerNorth was awarded a contract by the Cotuit Fire District that was derived from a Request for Proposal (RFP) in May. He said the former 170-foot water tank had several structural issues requiring a full demolition and an RFP was issued. He said when the tank was decommissioned T-Mobile installed a temporary structure on wheels. He said the purpose of the RFP was to replace the 170-foot water tank and contractual obligations with the wireless service providers required the Cotuit Fire District to offer a mutually suitable location for a new wireless communication facility. With the use of PowerPoint slides he said the proposed tower is located on a 158-acre parcel with an existing access road off Main Street, the proposed tower is set back 417 feet from Main Street and is 179 feet from the nearest residence line. He said the facility will be serviced by underground power, the total area of disturbance is less than a half-acre, they estimate that 49 trees will be removed, there will be an infiltration trench along the access road and the backup fuel tank will be propane. He explained service coverage by AT&T, Sprint and T-Mobile. He explained that a natural resources assessment had been conducted, a radiofrequency report shows the tower is within the maximum permissible allowable exposure limits and balloon fly tests were done at 170 feet and 150 feet. He said the proposed tower is a passive use with no noise, it will not be serviced by gas, the site is secured by a gate and other than propane tanks no hazardous materials will be stored onsite. He noted project benefits as it fills the existing gap in wireless service caused by the decommissioning of the water tank; restores service to wireless customers and first responders; provides an opportunity for future co-location of wireless service providers; the area is well screened from the surrounding community and it assists the Cotuit Fire District in meeting a contractual obligation.

Jon Idman, Chief Regulatory Officer at the Commission, with the use of PowerPoint slides said the Commission held a public hearing on November 21 and public comment ranged from height, moving the tower farther back and some asked for wireless coverage as soon as possible. He said the subcommittee voted to recommend the project for approval and said the subcommittee asked the applicant to investigate shared use of a backup generator and requested coverage maps from temporary carrier towers/coverage on wheels (COWs). He said the draft decision contains all required findings for Development of Regional Impact (DRI) approval including relevant provisions in the Commission's Wireless Technical Bulletin and Regional Policy Plan (RPP) standards, there is a condition for shared generator use and supplemental COW coverage maps provided and referenced. Mr. Idman provided a procedural history and background information on the project. He said the proposal seeks to make carriers whole in terms of former coverage, create opportunities for other carriers to co-locate, meet existing contractual obligations and provide a revenue stream for the Cotuit Water District. He said there is a significant gap in coverage relative to the water tower demolition and the project fills a gap at its proposed height and location. He said it will provide coverage where it once existed, the project is to restore what was there and it affects the entire network component formerly on the water tank. He explained DRI standards of approval and relevant provisions in the Wireless Technical Bulletin and Regional Policy Plan. He said the project is consistent with the Barnstable Local Comprehensive Plan, District of Critical Planning Concern (DCPC) Implementing Regulations are not applicable and although the Barnstable Fertilizer Ordinance is in place no managed turf is proposed, and the project is consistent with local development bylaws subject to permitting. Mr. Idman discussed project benefits and explained conditions in the draft written decision.

Chair Harold Mitchell called for public comment from federal, state, local officials and the public.

Jessica Rapp Grasseti, Barnstable Town Councilor Precinct 7, thanked the Commission's subcommittee for agreeing to hold the November 21 public hearing at Freedom Hall. She said three cell tower projects were reviewed by the Commission in last three years and the height of those towers were much lower than what is being proposed. She said the project is on a 158-acre parcel and a good portion of the gap in coverage is in an area of open space or grave stones. She said no area on Main Street has lost coverage from the tower and the Cotuit Fire District receives no coverage from this. She said she doesn't want to take coverage away from others but does have concerns with the height of the tower and visual impacts. She asked the Commission to consider an amendment to lower the height of the monopole.

Don Campbell, member of the Board of Water Commissioners/Cotuit Fire Department, said they had to look at the failing structure and the superintendent made a decision to not have any new attachments to tanks. He said they considered every possibility and came up with a monopole. He said people in the area are used to getting coverage and the elderly don't have contact with the service. He said coverage at a lower height would impact the coverage that people had before and the tower needs to be close to where it existed in order to have the same coverage and footprint. He said he would like to see the project move forward as soon as possible.

Carol Kanavos, a direct abutter, said she has concerns with the habitat and the Fire Department's operation. She said she appreciates the Fire Department having a communications tower, but she will be impacted financially and aesthetically if the tower is not moved back. She said the tower impacts homes nearby-and she would ask the Commission to consider a height of 150 feet and that the tower be moved back.

Wayne Coluccini, 476 Main Street, said one of his concerns is visual impact. He suggested lowering the height to 150 feet and set back or that a faux pine tree monopole be used. He submitted into the record renderings of pine cell trees that conceal cellular monopoles. He said there will be impacts at 170 feet with or without leaves on trees. He asked that the Commission consider the impacts to Cotuit Village.

Chair Harold Mitchell, subcommittee member, said the subcommittee heard all the concerns and noted that the tower is being moved back. He said there were concerns about leafed trees but there are a lot of pine trees on the property. He said the subcommittee felt it was important to get the monopole back up for people without service and they felt getting coverage back should be expedited. He said they also thought it was important to keep the same location to provide the same service. He said it's important for public safety and that was the basis of the subcommittee's decision.

Len Short moved to close the public hearing, Roger Putnam seconded the motion and a vote called on the motion passed with a unanimous vote.

Roger Putnam moved to adopt the draft written Development of Regional Impact (DRI) decision and approve the DRI project, subject to the conditions in the decision as recommended by the Commission subcommittee. Royden Richardson seconded the motion.

Jackie Etsten said there is a significant difference going from 170 feet to 150 feet. She said she would suggest an amendment to reduce the height be considered. She said Cotuit is a special village.

Jon Idman said the Commission cannot reduce the height and suggested asking the applicants if they are agreeable to a lower height. He said a height any lower degrades the coverage. Chair Harold Mitchell noted that the Commission voted unanimously to close the public hearing.

A vote called on the motion to approve the DRI project passed with 10 votes in favor and one opposed (Jackie Etsten).

■ PROPOSED AMENDMENT TO CHAPTER A, ENABLING REGULATIONS GOVERNING REVIEW OF DEVELOPMENTS OF REGIONAL IMPACT

Chair Harold Mitchell read the hearing notice and opened the hearing at 4:30 p.m.

Jon Idman, Chief Regulatory Officer at the Commission, said the proposed amendment would be adding a new Section 2(d)(iii) to Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact. He said

Development of Regional Impact (DRI) review is not the best way to review water quality plans, it is intended to review private development and the Commission's Regional Policy Plan (RPP) reflects that type of review with standards. He said specific conditions in DRI review won't work well. He said water quality projects tend to be systemic and require long-term monitoring. He said they don't fit well with DRI review as they tend to be long-term projects as opposed to seven years with a DRI review. He said town water quality projects are more infrastructure or town capital facility projects and Section 208 review is what the Cape Cod Commission Act would see as infrastructure or capital facilities. He said in a DRI review the Commission determines the benefits and detriments of a project. He said the Commission's Executive Committee and Committee on Planning and Regulation discussed the language a few weeks ago. He said the joint committees asked for draft guidance on Section 208 Update Consistency Review and Erin Perry will be providing the review criteria. He said the proposed language also says projects shall go through review for consistency and the Commission will see more of these plans. He said today the Commission is being asked to vote to adopt the proposed amendment and submit to the Assembly of Delegates for adoption by County ordinance.

Erin Perry, Special Projects Manager at the Commission, said at the joint committee meeting on November 30 there was a request for guidance on Section 208 Consistency Review. Ms. Perry referred to PowerPoint slides and said the intent of the 208 Plan was to streamline the regulatory process, it seeks to provide technical assistance and an approved plan requires a consistency review for a watershed permit. She discussed implementation of the 208 Plan, reviewed the draft criteria for consistency review and explained 208 consistency determinations for proposed projects or plans that trip Massachusetts Environmental Policy Act (MEPA) thresholds and projects that do not trip MEPA thresholds. She said proposed projects or plans require consistency with the Section 208 Plan, this will assist towns when a consistency review is required and towns seeking funds would require 208 consistency determination. Ms. Perry said at the November 30 joint committee meeting a question was asked how Commission members would be kept up-to-date and Ms. Perry said she will bring updates to the Commission.

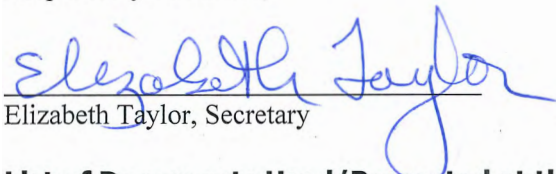
Jack McCormack said the request to keep the full Commission updated is a great plan. Mr. McCormack moved to approve and submit the proposed amendment as drafted, adding new Section 2(d)(iii) to Chapter A, Enabling Regulations to the Assembly of Delegates for adoption by County ordinance. Roger Putnam seconded the motion and vote called on the motion passed with a unanimous vote.

■ **NEW BUSINESS:** *Topics not reasonably anticipated by the Chair more than 48 hours before the meeting.*

Michael Skelley said Congress will be looking at an infrastructure Bill. He referred to the Town of Eastham and questioned if there was a way of developing a program for towns like Eastham to get into an infrastructure package. He asked if that was something the Commission could pursue. Chair Harold Mitchell said this is more of an agenda item. He said he will take it to the Commission's Executive Committee and then bring it to a future Commission meeting.

A motion was made to adjourn at 4:55 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,



Elizabeth Taylor, Secretary

List of Documents Used/Presented at the December 14, 2017 Commission Meeting

- Handout material: December 14, 2017 Commission Meeting Agenda.
- Handout material: October 12, 2017 Draft Commission Meeting Minutes.
- Handout material: Cotuit Wireless Communications Monopole Draft DRI decision.
- Handout material: Proposed amendment to Chapter A, Enabling Regulations as new Section 2(d)(iii).
- Material Presented: PowerPoint presentation on the Cotuit Wireless Communications Monopole project by Commission staff.
- Material Presented: PowerPoint presentation on the Cotuit Wireless Communications Monopole project by Centerline Communications.
- Material Presented: PowerPoint presentation on Guidance for 208 Plan Consistency Review by Commission staff.