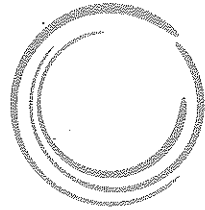


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CAPE COD
COMMISSION

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Minutes
Meeting of
Cape Cod Commission

December 2, 2010

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

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Michael Blanton	Absent
Brewster	Elizabeth Taylor	✓
Chatham	Lynne Pleffner	✓
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	Absent
Falmouth	Mario DiGregorio	✓
Harwich	Robert Bradley	Absent
Mashpee	Ernest Virgilio	Absent
Orleans	Peter Monger	✓
Provincetown	Austin Knight	✓
Sandwich	Joanne O'Keefe	Absent
Truro	Peter Graham	Absent
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Sheila Lyons	✓
Minority Representative	John Harris	Absent
Native American Rep.	Mark Harding	✓
Governor's Appointee	Herb Olsen	✓



Keeping a Special Place Special

The meeting of the Cape Cod Commission was called to order on Thursday, December 2, 2010 at 3:00 p.m. in the Assembly of Delegates Chambers in Barnstable, MA. Roll was called and a quorum established.

■ EXECUTIVE DIRECTOR'S REPORT

Paul Niedzwiecki said the final watershed tour was held in Mashpee this week and they had a good turn out. He said the relationship between IBM and the Commission has been formalized. He said the relationship would allow IBM and the Commission to work together to build a platform for water quality data by creating a database containing information that would help in the effort to achieve water quality excellence on the Cape.

■ MINUTES

The minutes of the September 30, 2010 Commission meeting were reviewed. Roger Putnam moved to approve the minutes. Lynne Pleffner seconded the motion. The motion passed with one abstention.

The minutes of the October 14, 2010 Commission meeting were reviewed. Austin Knight moved to approve the minutes. Jack McCormack seconded the motion. The motion passed with two abstentions.

■ AMENDMENT TO REGIONAL LAND USE VISION MAP: DENNIS LAND USE VISION MAP

Chair Roy Richardson read the hearing notice and opened the hearing at 3:10 p.m.

Ryan Christenberry, Commission planner, distributed a revised Land Use Vision Map (LUVV) for Dennis and noted a slight change to the map since the previous mailing to Commission members. She said on July 12, 2010 the Dennis Planning Board voted to submit their proposed LUVV for review and consideration by the Commission. She said the Planning Board voted to submit this proposal after having held a public forum, which invited the participation of all town regulatory and policy boards, as required by the Regional Policy Plan (RPP) for developing a LUVV. She said the Town has proposed eight Economic Centers to include: 1) the Agriculture Research Center, 2) Sesuit Harbor, 3) Government Center, 4) West Dennis Center, 5) West Dennis Resort Area, 6) Dennisport, 7) Dennisport Resort Area, and 8) South Dennis Economic Center. She said other categories include one Industrial Trade Area; one Village; and one Heritage Area of Concern. She said during the October 12, 2010 Commission Planning Committee meeting the merits of the proposed LUVV were discussed and the Committee voted unanimously in favor of recommending the map to the full Commission for their consideration and adoption as an amendment to the RPP.

Dan Fortier, Dennis Town Planner, referred to PowerPoint slides and said the proposal from the Town of Dennis comes after many months of discussion between the Town and the Commission. He said the Town recognizes that each area identified on the map requires its own unique regulatory tools, some areas are more advanced than others, and the adoption of the Vision Map will allow the more advanced areas to immediately apply for regional regulatory changes under Chapter H of the Commission's regulatory process. He said Dennis has 10 centers in town for which the Town is seeking regional consistency and the centers range from high-density centers to ones targeted to maintaining the character of existing neighborhoods. He said the Vision also includes Resource Protection Areas and one Cultural Resource Area. He said the Dennis LUVV accepts the Regional Minimum Resource Protection Areas and adds some Local Resource Protection Areas into the mix. He said these additional areas include town-owned lands, scenic vistas and other important areas to the town. Mr. Fortier described the proposed categories regarding cultural preservation and resource protection and economic centers. He said there are four centers with new zoning tools and he explained the four centers for Dennisport Village Center, West Dennis Village Center, Dennisport Hotel Resort District, and West Dennis Hotel Resort District. Mr. Fortier also described proposed categories regarding a Cultural Arts District, South Dennis Economic Center, Industrial Trade Center, a Government Center, Sesuit Harbor Center, and an Aquaculture Research Center. Mr. Fortier said, if adopted, the next step in the process would be to develop implementing agreements between the Town and the Commission and asked the full Commission for their support of the Dennis LUVV today.

Elizabeth Taylor said she agrees with the agriculture pursuits and said it's important to create a designation for agriculture. She suggested perhaps separating different areas on the map. She said Heritage Areas of Concern could perhaps be called Historic Areas in town.

Paul Niedzwiecki said he agrees with both Ms. Taylor and Mr. Fortier and said the proposed plan before the Commission today is a good plan.

Sheila Lyons asked for the point of reference on the map for the aquaculture area.

Dan Fortier noted the area on the map.

Elizabeth Taylor inquired about the number of aquaculture pursuits and said when looking at alternative energy we tend to run into a wall and we need to work on this.

Dan Fortier said the Town has supported ARC on their wind turbine proposal and said the Town is working on this.

Sheila Lyons moved to close the hearing and the record. Lynne Pleffner seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to approve the proposed Dennis Land Use Vision Map and forward to the Assembly of Delegates for adoption and incorporation into the Regional Land Use Vision Map. Sheila Lyons seconded the motion. The motion passed with unanimous vote.

■ **AMENDMENT TO REGIONAL LAND USE VISION MAP: BOURNE LAND USE VISION MAP**

Chair Roy Richardson read the hearing notice and opened the hearing at 3:30 p.m.

Ryan Christenberry, Commission planner, said on October 14, 2010 the Bourne Planning Board voted to submit their proposed Land Use Vision Map (LUVM) for review and consideration by the Commission. She said the Planning Board voted to submit their proposal after having held a public forum on September 23, 2010, which invited the participation of all town regulatory and policy boards, as required by the Regional Policy Plan (RPP) for developing a LUVM. She said the Town is proposing mapped land use categories for the part of the Town located on the northwest side of the Canal only. She described the proposed categories as two "Village Centers" one adjacent to the Sagamore Bridge and new fly-over, and the other located across from the scenic overlook along the Canal on Route 6; one "Industrial Service Trade Area" proposed in Bournedale, and includes the Cape Cod Aggregates parcels and the new Elementary School; one "Economic Center" which comprises most of Buzzards Bay; and five "Other" areas located along the transportation corridors. Ms. Christenberry said during an October 28, 2010 Commission Planning Committee the merits of the proposed LUVM were discussed and the Committee voted unanimously in favor of recommending the Bourne map to the full Commission for their consideration and adoption as an amendment to the RPP.

Coreen Moore, Bourne Town Planner, provided an overview and said the Town started to produce their map in 2008. She said the Town is only designating the north side of the canal in Bourne and said the Town is not comfortable designating the south side right now. She said the Town is still working on this and when they tried working the south side into the map, issues with the rotary and resource areas were not cohesive and the Town decided not to designate the south side at this time. She said the Town looked at the Commission's designations and tried to apply it to the Town. She thanked Mr. Niedzwiecki for visiting Bourne to discuss this with the Town and said what is before the Commission today is what the Town has come up with. Ms. Moore noted corrections to the map and said the elementary school is not included at this time. She said what is most important is the Buzzards Bay District as a growth center.

Paul Niedzwiecki said the Commission has had discussions with Bourne and the Commission is sensitive to the fact that Bourne is different than other towns and the Commission pays special attention to the Town because of it. He said the Commission understands why the south side is not being designated right now.

Jack McCormack said as a member of the Planning Committee he questioned a map that is being approved as an incomplete map but after conversations, he understands and now approves the map.

Elizabeth Taylor said all towns would be different so flexibility is important.

Coreen Moore noted a revision to the map and said the designation of "Other" will now be classified as "Undesignated" and not "Other."

Sheila Lyons said until it's seen on a map, people don't appreciate the size of the Massachusetts Military Reservation.

Elizabeth Taylor moved to close the hearing and the record. Lynne Pleffner seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to approve the proposed Bourne Land Use Vision Map and forward to the Assembly of Delegates for adoption and incorporation into the Regional Land Use Vision Map. Jack McCormack seconded the motion. The motion passed with a unanimous vote.

■ **AMENDMENTS TO 2009 REGIONAL POLICY PLAN: MPS LU1.1, LU2.1, ED1.1, ED1.2**

Chair Roy Richardson read the hearing notice and opened the hearing at 3:45 p.m.

Kristy Senatori, chief regulatory officer, said the amendments proposed are for clarification purposes. She said language has been added to four minimum performance standards—two in the Land Use Section and two in the Economic Development Section. She said in the Land Use Section, the added language proposed to LU1.1 and LU1.2 requiring project consistency with the designated land use category is to clarify that these standards only apply to developments proposed in areas designated on the Regional Land Use Vision Map. She said if a development is proposed within a town that does not have a map or portion of a town that has not been mapped, then these standards would not apply. She said in the Economic Section, the added language again provides clarification that for developments proposed within towns without a map or within an unmapped portion of a town, the location of the development cannot be found consistent with the map designation and the project would be required to meet certain waiver criteria in order to meet these standards. Ms. Senatori said the Commission is being asked to consider the proposed changes to the Regional Policy Plan (RPP) as presented today and forward them to the Assembly of Delegates for adoption.

Ms. Senatori noted that the ordinance with the proposed Wind Minimum Performance Standards that was rejected by the Assembly of Delegates and remanded back to the Commission in November, also contained minor technical amendments to the RPP that were previously approved by the Commission. She said those technical amendments need to be forwarded to the Assembly again for adoption. She suggested that the Commission vote to consolidate the Land Use and Economic Development standard amendments with the technical amendments and forward the proposal to the Assembly of Delegates as one ordinance.

Sheila Lyons asked if the Energy Section was being revised as well since the Assembly remanded it back to the Commission.

Kristy Senatori said the wind standards are separate and just the technical amendments that were previously approved by the Commission would be forwarded to the Assembly for adoption.

Elizabeth Taylor inquired about the map designations that are going to the Assembly.

Sharon Rooney, chief planner, said the two maps are consistent with current mapping that the Commission has.

Austin Knight moved to close the hearing and the record. Peter Monger seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to approve the proposed amendments to the Minimum Performance Standards (MPSs) and forward them to the Assembly of Delegates for adoption and incorporation into the RPP. Lynne Pleffner seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to consolidate the previously approved RPP technical amendments with the approved MPSs for Land Use and Economic Development and forward them as one ordinance to the Assembly of Delegates for adoption and incorporation in the RPP. Lynne Pleffner seconded the motion. The motion passed with a unanimous vote.

■ **AMENDMENT TO CHAPTER A, ENABLING REGULATIONS SCHEDULE OF FEES**

Chair Roy Richardson read the hearing notice and opened the hearing at 3:55 p.m.

Jessica Wielgus, commission counsel, said periodic review of the Commission's schedule of fees ensures adequate cost recovery for the regulatory program and ensures that fees charged are appropriate for the type of project relative to cost. She said the Commission's Executive Committee reviewed the Commission's regulatory revenue

and fee waiver history, fee schedules of similar agencies, and the cost to review actual projects. She said they learned that fee schedules of other land use regulatory agencies across the country, are based on size and number of units, cost of construction and the greater of size or cost of construction. She said selected projects that were looked at included DRIs/Non-Residential, Hardship/DCPC Exemption, Limited Review, and Type II Minor Modifications. She said the proposed schedule of fees would result in better-cost recovery, it would be less onerous for small businesses, it would encourage "good" development, and it establishes an objective standard for fee reductions. Ms. Wielgus said on October 12, 2010 the Executive Committee unanimously approved the proposed amendments that would maintain a cost structure based on size; eliminate "base fee" for certain commercial and mixed use projects; create a fee category for wind turbines and utilities; establish an annual adjustment of fees linked to the Consumer Price Index (CPI); and provide opportunities for the Executive Committee to reduce fees based on specific criteria. She noted a correction to the schedule of fees and the inclusion of fees for Wind Energy Conversion Facilities.

Roger Putnam questioned CPI as the reason for raising the fees. He suggested rounding off and not making it cumbersome.

Leslie Richardson, economic development officer, said that is addressed at the end of the document where it says it would be rounded off. She said CPI is used because it's a standard measure and it would be done on an annual basis.

Jessica Wielgus said that section of the schedule of fees could be deleted.

Roger Putnam moved that subsection 7 be deleted from the document. Austin Knight seconded the motion. A vote called on the motion failed with three votes in favor and eight votes opposed.

Roger Putnam moved to close the hearing and the record. Lynne Pleffner seconded the motion. The motion passed with a unanimous vote.

Austin Knight moved to approve the proposed amendment to Chapter A, Enabling Regulations Schedule of Fees and forward the amendment to the Assembly of Delegates for adoption and incorporation in the Regulations. Jack McCormack seconded the motion. The motion passed with a unanimous vote.

■ **PROCEDURAL ONLY: CHATHAM PARK CELLULAR TOWER EXTENSION**

Chair Roy Richardson noted that this is a continued hearing from October 26, 2010.

Page Czepiga, regulatory officer acting as a hearing officer for the Commission, said no testimony would be heard and no presentations would be made today. She said today's hearing for the Chatham Park Cellular Tower Extension project is being continued to the Cape Cod Commission meeting on Thursday, December 16, 2010 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers.

■ **NOTIFICATION OF WITHDRAWAL OF CAPE COD COOPERATIVE BANK PRELIMINARY PLAN/MASHPEE WOODS**

Kristy Senatori, chief regulatory officer at the Commission, said the Cape Cod Cooperative Bank/Mashpee Woods project was referred to the Commission as a Development of Regional Impact (DRI). Ms. Senatori said Attorney Michael Ford, representing the applicant, submitted a letter to the Mashpee Planning Board on October 14, 2010 requesting that the project be withdrawn from the local level and from Commission review. She said Attorney Ford has also notified the Commission of this request and has indicated that the Bank intends to re-file the plan again with the Planning Board and have it referred once again to the Cape Cod Commission for DRI review. Ms. Senatori said the Commission is being asked to approve the applicant's request to withdraw the project from Commission review.

Austin Knight moved to approve the withdrawal of the Cape Cod Cooperative Bank project from Commission review. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

■ **OTHER BUSINESS**

Ryan Christenberry noted, for clarification purposes only, that on the Bourne Land Use Vision Map in the area south of the canal where it had been designated as "Other" would now be designated as "Undesignated."

Paul Niedzwiecki introduced Liz Enos, a new regulatory officer at the Commission.

Mr. Niedzwiecki discussed the three proposed wind standards that the Assembly of Delegates remanded back to the Commission and said the Commission is considering how to respond to that. He said the Assembly consensus was that the standards didn't go far enough. He said there was some confusion about the 3,000-foot setback that had been removed previously making review for noise more onerous on the applicant. He said he believes that was incomprehensible to people and the nuances of the regulations were lost. He said this week the County Commissioners received a letter from the Falmouth Town Planner requesting consideration of a District of Critical Planning Concern for upper Cape towns on wind turbines. He said now a land base review is being considered. He said it has been a frustrating process but a very important process and the Commission is carefully considering how to approach this. He said he would keep Commission members apprised on the wind matter.

Sheila Lyons said she believes the nuances of the regulations were lost by the Assembly and asked if perhaps an Assembly member should be included in future Commission meetings for a better understanding.

Paul Niedzwiecki said this calls for a new process that will make the ordinance clear. He said the Commission needs to be thoughtful, concise and public on every word; careful so that it's not misrepresented in different formats; and it needs to do a better job of explaining what goes before the Assembly of Delegates.

Chair Roy Richardson said the Commission's process is a public process and noted that public notices did go out.

Paul Niedzwiecki said perhaps a press conference should be included in the process. He said the Commission is considering other options.

A motion was made to adjourn at 4:30 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Michael Blanton, Secretary

LIST OF DOCUMENTS PRESENTED AT THE DECEMBER 2, 2010 COMMISSION MEETING

- PowerPoint slide presentation on the Dennis, MA Regional Policy Plan Land Use Vision Proposal prepared by Dan Fortier, the Dennis Town Planner.
- Handout material: December 2, 2010 meeting agenda.
- Handout material: Memo and proposed Dennis Land Use Vision Map.
- Handout material: Memo and proposed Bourne Land Use Vision Map.
- Handout material: Proposed amendments to the 2009 Regional Policy Plan.
- Handout material: Proposed amendments to Chapter A, Enabling Regulations Schedule of Fees.