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CAPE COD  
COMMISSION

## Minutes

### Meeting of Cape Cod Commission

May 28, 2015

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

Town	Member	Present
Barnstable	Royden Richardson	√
Bourne	Vacant	Vacant
Brewster	Elizabeth Taylor	√ <i>(left meeting at 4:05 p.m.)</i>
Chatham	Michael Skelley	√ <i>(left meeting at 5:10 p.m.)</i>
Dennis	Richard Roy	√
Eastham	Joy Brookshire	Absent
Falmouth	Charles McCaffrey	√
Harwich	Jacqueline Etsten	√
Mashpee	Ernest Virgilio	√ <i>(left meeting at 4:25 p.m.)</i>
Orleans	Len Short	√
Provincetown	Vacant	Vacant
Sandwich	Harold Mitchell	√
Truro	Kevin Grunwald	√
Wellfleet	Roger Putnam	√
Yarmouth	John McCormack, Jr.	√
County Commissioner	Mary Pat Flynn	Absent
Minority Representative	John Harris	√
Native American Rep.	Danielle Hill	√
Governor's Appointee	Vacant	Vacant

The meeting of the Cape Cod Commission was called to order on Thursday, May 28, 2015 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers, Barnstable, MA. Roll was called and a quorum established.

Chair Richard Roy introduced Charles McCaffrey who was recently appointed by the Falmouth Board of Selectmen as the Falmouth Representative to the Commission. Mr. McCaffrey said he is very happy to serve as the Falmouth Representative.

■ **SUMMARY OF ACTIONS TAKEN/VOTES:**

**Presentation of Certificates of Service to Former Cape Cod Commission Representatives:** The Commission acknowledged and presented Certificates of Service to former Provincetown, Bourne and Falmouth Representatives to the Cape Cod Commission.

**Public Hearing: Town of Dennis/Aquacultural Research Corp Land Protection Plan #EX-TR15007**

Following presentations, public testimony and discussion, the Commission voted with 13 votes in favor and one abstention to approve the Development of Regional Impact Exemption application submitted by the Town of Dennis and the Aquacultural Research Corp to divide the 40+/- property at 99 Chapin Beach Road into three parcels.

**Public Hearing: South Sandwich Village Sports & Convention Complex Notice of Intent to File a Development Agreement with the Cape Cod Commission #DA15002**

Following presentations, public testimony and discussion, the Commission voted with 10 votes in favor and two abstentions to adopt the draft written decision and determined that the project is suitable for consideration under a Development Agreement.

**Vote to Revise the document “Proposal for the Selection of Officers.”** Following discussion, the Commission voted with 10 votes in favor and one abstention to approve revisions to the Proposal for the Selection of Officers to reflect the vote of the Commission on August 7, 2014 to consolidate Planning and Regulatory Committees and reduce the Executive Committee to five members for quorum purposes.

**Presentation of Candidates for the Slate of Officers of the Cape Cod Commission:** The Nominating Committee presented its recommendation for a Slate of Commission Officers for the term beginning July 1, 2015 to June 30, 2016 as Richard Roy for Chair, Harold Mitchell for Vice-chair and Jack McCormack for Secretary. The Chair called for any additional nominations from the floor, and seeing none, the Commission voted with 10 votes in favor and one abstention to close the Slate of Officers as presented. The election on the Slate of Officers will be voted at the next scheduled meeting in June.

■ **PRESENTATION OF CERTIFICATE OF SERVICE TO FORMER CAPE COD COMMISSION REPRESENTATIVES**

The Commission presented Certificates of Service to Austin Knight as the former Provincetown Representative to the Commission and Michael Blanton as the former Bourne Representative to the Commission. The Commission also acknowledged Andrew Putnam for his service as the former Falmouth Representative to the Commission who was unable to attend today’s meeting.

■ **EXECUTIVE DIRECTOR’S REPORT**

Executive Director Paul Niedzwiecki did not provide a report.

■ **MINUTES**

The minutes of the February 19, 2015 Commission Meeting were reviewed. Royden Richardson moved to approve the minutes. Len Short seconded the motion. The motion passed with 11 votes in favor and 3 abstentions.

The minutes of the April 16, 2015 Commission Workshop were reviewed. Len Short moved to approve the minutes. Elizabeth Taylor seconded the motion.

Jack McCormack noted an error in the fourth paragraph on page 1 of the minutes regarding Andrew Putnam’s resignation and the re-assignment of vice-chair to finish out Mr. Putnam’s term. He said the minutes should be amended with Jack McCormack as Vice-chair through June 30, 2015 and Harold Mitchell as Secretary through June 30, 2015.

With 14 members voting the motion to approve the minutes, as amended by Mr. McCormack, passed with 12 votes in favor and 2 abstentions.

■ **TOWN OF DENNIS/AQUACULTURAL RESEARCH CORP LAND PROTECTION PLAN #EX-TR15007**

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

Dan Fortier, Dennis Town Planner, said the proposal divides a tract of land into three parcels and said it's consistent with Dennis' recreational plan. He said the project is important for shellfish aquaculture and it modernizes the facility. He said the Town of Dennis requests acceptance of the DRI exemption request by the Commission.

Jon Idman, Chief Regulatory Officer at the Commission, with the use of PowerPoint slides, said the Commission received a mandatory DRI referral from the Town of Dennis Planning Board and a DRI Exemption application for a proposed land division of the 40 acre +/- Aquacultural Research Corp (ARC) property near Chapin Beach in Dennis. He said ARC is an existing shellfish hatchery operation near Chapin Beach in Dennis and provides a significant supply of the region's seed for shellfish production. He said between a public/private partnership with the Town of Dennis, ARC and the town are proposing to divide the property into three parcels—two parcels totaling approximately 29 acres will be sold and conveyed to the town for conservation purposes, and ARC will reserve an approximate 10.5 acre parcel that includes its existing facility, subject to a conservation/agricultural restriction that will be acquired and imposed on ARC's reserved parcel. He said close to \$3 million in funding for the project has come from or is expected to come from a number of public and private sources. He said other than the division itself no actual development is proposed and no impacts including to protected or critical resources are anticipated from the division and potential development on the land is limited by the proposal. He said according to the Dennis Town Planner the project is consistent with open space and natural resources goals of the town's Local Comprehensive Plan, Open Space and Recreation Plan, and municipal development bylaws. Mr. Idman described the numerous benefits the project would provide and said approval of the requested DRI Exemption would allow the land division to proceed without the requirement for DRI review and approval. He said Commission staff suggests that the location, character, and environmental effects of the development will prevent its having any significant impacts and Commission staff recommends the Commission grant the requested DRI Exemption.

Elizabeth Taylor asked about the Conservation Restriction and said she is not sure it's specific enough and questioned whether it had been reviewed by MDAR. She said it doesn't say that it's an Aquaculture Preservation Restriction (APR).

Jon Idman, said this is a Conservation Restriction but use is limited to aquaculture. He said the project would need to go through the Executive Office of Energy and Environmental Affairs (EOEEA) as well.

Dan Fortier, Dennis Town Planner, said it is a Conservation Restriction with allowance for aquaculture uses on the property. He said it's not an APR and no APR is placed on the property.

Elizabeth Taylor questioned the use of herbicides in the area.

Bill Clark, Director of the County Cooperative Extension Service, said the products used are licensed to be used in water.

Jack McCormack said this is a wonderful project.

Chair Richard Roy said this is a fine project not just for Dennis but for all of Cape Cod.

Jack McCormack moved to close the public hearing. Royden Richardson seconded the motion. With 14 members voting, the motion passed with 13 votes in favor and one abstention.

Jack McCormack moved the Commission adopt the draft written decision and grant the DRI Exemption. Royden Richardson seconded the motion. With 14 members voting, the motion passed with 13 votes in favor and one abstention.

■ **SOUTH SANDWICH VILLAGE SPORTS & CONVENTION COMPLEX NOTICE OF INTENT TO FILE A DEVELOPMENT AGREEMENT WITH THE CAPE COD COMMISSION #DA15002**

Harold Mitchell read the hearing notice and opened the hearing at 3:25 p.m.

George Dunham, Sandwich Town Manager, said today starts the Development Agreement (DA) process and said there will be time to discuss the project in a few months. He said several years ago the town met with Commission staff —Margo Fenn,

Sharon Rooney, and Phil Dascombe—to discuss the town working together with the Commission on economic development opportunities in Sandwich. He said they talked about what steps the town and the county could do to work together on this. He said the South Sandwich Village (SSV) area has been designated as an economic growth area. He said it is appropriate commercial use focused on recreation and it does not take services away from other areas on the Cape. He said the use is ideal for the town. He said the town agrees with Commission staff's recommendation to proceed with a two-party DA and he asked for the Commission's support.

Robert Clark, principal R.P. Clark Consulting, said the vision started in Cooperstown 17 years ago and he always felt it would be appropriate to have this on Cape Cod. He said they responded to an RPF solicited by the town in 2014 and they were awarded with the RFP in December 2014. He said they felt it should be a public/private partnership and that is their goal. He said it's a unique integrated solution for this property and he thanked the Commission for the opportunity to work with the Commission.

John Hynes, manager with Boston Global Investors, said it's an appropriate location for this type of project and they feel it's a financially viable and welcoming program for the Cape. With the use of PowerPoint slides he described the proposed project site, the outdoor sports fields, plaza area/building layout, field house, gymnasium, convention center, natatorium, ice skating rinks, sports and spa hotel proposed for the project. He said the hotel is designed to accommodate families and during the shoulder season the spa hotel could be used as a well-being retreat. He said it's a multi-phased project that should cost approximately \$250 million. He said a fall back plan to get the field house and fields going is to cut it down to \$200 million.

Jon Idman, Chief Regulatory Officer, said the Commission received a Notice of Intent to file a two-party Development Agreement (DA) with the Commission. He said the other participating party of the DA is a joint development partnership comprised of R.P. Clark Consulting dba Cape Cod Sports, Falmouth Properties, Duquette Sports Academy, NRG Energy and Boston Global Investors (the Applicant). He said the Applicant is seeking a DA to construct a sports and convention complex in the Town of Sandwich including several playing fields, gymnasium, field house, ice rink, natatorium, wastewater treatment facility, two hotels, a retail building and parking. He explained the process for a Notice of Intent to File a DA and said the Commission is looking at whether the project is suitable for a DA and whether the applicant is a qualified applicant. He said a DA is an alternative to permitting and the DA allows the opportunity to look at the totality of impacts and infrastructure. Mr. Idman explained the criteria for approval outlined in the Commission's DA regulations. He said Commission staff has had favorable discussions with the town and they have a formal letter of recommendation from the Sandwich Board of Selectmen that it be a DA. He said the Commission's Committee for Planning and Regulation recommended approval to the full Commission on May 14. He said the Commission is being asked to make a determination that the project is suitable, appropriate and qualifies for Commission project review under a DA and that the Applicant may proceed with a DA application pending MEPA review.

Jackie Etsten said since the focus is on young people will they be seeking a tax exemption for educational purposes.

John Hynes said they are not.

Elizabeth Taylor left the meeting at 4:05 p.m.

Frank Pannorfi, Chair of the Sandwich Board of Selectmen, said he is speaking in favor of the project. He said the town's LCP was adopted in May 2009 and certified by the Commission in June 2009. He said this area was designated as a primary area for development and said some of the pre-requisites were to increase the tax base, create jobs, and provide steady revenue to the town that would help in the shoulder season. He said he has heard from parents that children don't have anything to do during winter months. He said not only will Sandwich benefit from the project, all of Barnstable County will benefit. He said the Commission will do the right thing when reviewing the issues during the review process.

Blair Haney, Director of Planning and Development in Sandwich, said this phase began with meeting with Commission staff to discuss permitting options and the Commission recommended a two-party DA. He said the Commission's staff memo shows seven criteria for approval and the project meets all seven. He said Town Meeting has voted several times on the sale of the property and what is being proposed is allowed in this area. He said it will be a phased development and front loads the review of the project which is a better approach. He said the Commission's vote today will allow the project to go forward down the path of a DA. He said he supports the Commission's vote to allow the DA to move forward.

Wendy Nelson, resident of the Tom's Way neighborhood in Sandwich which adjoins the area known as the Golden Triangle, said she unearthed a number of artifacts in the area which she took to Dr. Curtiss Hoffman at the Robbins Museum of Archaeology in Middleboro which he examined and certified them as authentic primitive Native American tools. She spoke against the project and submitted into the record her testimony and a copy of Mr. Hoffman's findings.

Patricia Stebbins, 41 Easterly Drive, said the applicant's presentation shows that things can be changed and no one knows what could happen. It's going to be the sports destination of North America; it's already too big. She said she trusts the Commission to be good stewards.

Daryl Crossman, 15 Telegraph Hill Road, said he has concerns about the town not considering the concerns of the citizens and said it has happened before. He said he is concerned about traffic on Route 130.

Ernest Virgilio left the meeting at 4:25 p.m.

James Pierce, 18 Foster Road, spoke in favor of the project and said it's a win for the whole Cape.

Pamela Muldihill, 106 Snake Pond Road, said she has concerns about the traffic and said she already sits in traffic every day. She said Sandwich Town Meeting had an attitude, they voted to give the town the ability to sell/use the property but that snowballed. She said the Commission is an agency to keep a special place special and she objects to the scope of the project.

Patti Pennington, resident of Sandwich, said the Board of Selectmen do not care to hear what the residents have to say, the complex is too big for Sandwich, and it's about big money makers coming to the Cape to make money.

Kathleen Barrett, Popple Bottom Road, said she moved here from southern California three years ago to leave all the concrete and overdevelopment because she wanted to retire to a place like Sandwich. She is concerned about the increase in traffic, she is opposed to the project and asked the Commission to vote no.

Mark Wisentaner, 42 Chipman Road, spoke in favor of the project and said if not this project then what. He said he hopes the review will bring a better understanding to everyone and said it's important to have it be a part of the community.

Wendy Northcross, CEO of the Cape Cod Chamber of Commerce, said the Chamber has been working with two sets of consultants promoting Cape Cod as a destination. She said the consultant's study shows that Cape Cod is already a well-known tourist destination and it would be a good place for a sports center that would draw more people to Cape Cod. She said it would be a travesty if the Commission doesn't allow this to go forward. She said it can be done while keeping a special place special at the same time.

Hank Tuohy, 234 Cotuit Road, said this will bring people to the Cape and he is not concerned about the issues. He said issues will be taken care of during the review process.

Gene Mitchell, resident of Sandwich, said he commends the Commission for their service. He said he supports the project and this is an ideal situation.

James Rogers, 197 Main Street, said this proposal is all about elite athletes; it's not for the average kid.

Richard Johnson, President of the Sandwich Economic Initiative Corporation, said their nine-member board unanimously supports the proposal. He said two of their members have been involved in the RFP selection process. He said they believe jobs and tax relief are critical. He said the Corporation meets monthly with a focus on tax expansion. He urged the Commission to move ahead with the proposal.

Ed DeWitt, Director of the Association to Protect Cape Cod, said today we are really talking about process. He suggested Mr. Idman or Mr. Niedzwiecki explain the process. He said the public will have the opportunity to address those issues during the review process.

Paul Niedzwiecki said today is the beginning of a procedural hearing to determine if the project meets the criteria for approval. He said there was nothing the Commission could do to stop this project as it could have come here as a Development of Regional Impact. He said it will continue as a process to look at all the issues brought up today.

Harold Mitchell, Sandwich Representative to the Commission, said he is happy everyone came out today and said this is the first step. He said he lives in this area and he has listened. He said the Commission knows what the concerns are and concerns will be addressed. He said today they are just looking at starting the process; it's the best way for Sandwich to look at the project as a whole and keep Sandwich special.

Len Short asked if a similar project was being looked at in Falmouth and whether that should be considered.

Paul Niedzwiecki said there has been regional interest; probably several towns are looking at options like this but none of that should concern the Commission's vote today.

Len Short moved to close the hearing. Roger Putnam seconded the motion. With 12 members voting the motion passed with a unanimous vote.

Harold Mitchell moved to adopt the draft written decision and determine that the project is suitable for consideration under a Development Agreement. Jack McCormack seconded the motion. With 12 members voting the motion passed with 10 votes in favor and two abstentions.

Michael Skelley left the meeting at 5:10 p.m.

#### ■ **VOTE TO REVISE A PROPOSAL FOR THE SELECTION OF OFFICERS OF THE CAPE COD COMMISSION**

Jessica Wielgus, Commission Counsel, said the revisions to the Proposal for the Selection of Officers are in keeping with the vote of the Cape Cod Commission on August 7, 2014 to consolidate Planning and Regulatory Committees and reduce the Executive Committee to five members for quorum purposes. She said Commission staff is requesting authority from the Commission to make those changes to the Proposal for the Selection of Officers to reflect the vote of the Commission on August 7, 2014.

Roger Putnam moved that authority be given to Commission staff to make the appropriate revisions. Len Short seconded the motion. With 11 members voting the motion passed with 10 votes in favor and one abstention.

#### ■ **PRESENTATION OF CANDIDATES FOR THE SLATE OF OFFICERS OF THE CAPE COD COMMISSION**

Len Short said the Nominating Committee consisted of Ernest Virgilio serving as Chair, Royden Richardson, and himself—Len Short. He said the Nominating Committee's recommendation for the Slate of Commission Officers for the term beginning July 1, 2015 through June 30, 2016 is Richard Roy for the position of Chair, Harold Mitchell for the position of Vice-chair, and Jack McCormack for the position of Secretary.

Chair Richard Roy called for any additional nominations from the floor. Seeing none Roger Putnam moved to close the nominations. John Harris seconded the motion. With 11 members voting the motion passed with 10 votes in favor and one abstention.

Mr. Roy said the Slate of Officers will be voted at the next scheduled meeting in June.

#### ■ **OTHER BUSINESS**

No other business was taken up by the Commission.

A motion was made to adjourn at 5:15 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

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Harold Mitchell, Secretary

## **List of Documents Used/Presented at the May 28, 2015 Commission Meeting**

- Minutes of the February 19, 2015 Commission meeting and April 16, 2015 workshop.
- Handout material: May 28, 2015 Commission meeting agenda.
- Handout material: Staff memo from Jon Idman to the Commission and draft written decision for the Aquacultural Research Corp (ARC)/Town of Dennis Land Protection Plan DRI Exemption.
- Handout material: Memo from Jon Idman to the Commission and written determination/decision for the South Sandwich Village Sports and Convention Complex Notice of Intent to File a Development Agreement.
- Material presented: PowerPoint presentation on ARC/Town of Dennis Land Protection Plan prepared and presented by Commission staff.
- Material presented: PowerPoint presentation on the South Sandwich Village Sports and Convention Complex prepared and presented by Commission staff.
- Material presented: PowerPoint presentation on Cape Cod Sports and Convention Complex presented by John Hynes, Manager, Boston Global Investors.
- Material presented: Proposal for the Selection of Officers.
- Submitted into the record by Wendy Nelson: Her testimony and information from Dr. Curtiss Hoffman
- Submitted into the record by Frank Pannorfi: Town of Sandwich Economic Development Efforts and Accomplishments June 2014; Cape Cod Times newspaper articles of May 14, 22 and 23, 2015; and a letter of support from Frank Pannorfi, Chairman Sandwich Board of Selectmen to the Cape Cod Commission.