



## CAPE COD COMMISSION

### **Communications Policy for Cape Cod Commission Members**

*(Approved by the Cape Cod Commission on June 12, 2008)*

The Cape Cod Commission has three broad functions: planning, technical assistance and regulation. Because of these different functions, Cape Cod Commission members serve in several different roles: they are representatives of and liaisons to the 15 Cape towns; they are regional policy makers in issues areas such as land use, transportation, and affordable housing; and they are quasi-judicial board members in regulating development proposals. In their first two roles, Commission members are encouraged to communicate freely and regularly with local and county officials and the general public. It is important that members maintain open lines of communication in order to answer questions, report on Commission activities, identify needed technical assistance and discuss regional priorities.

In their role of reviewing Developments of Regional Impact (DRI), however, Commission members are more limited in when and how they communicate. Members of DRI subcommittees and the full Commission serve in a quasi-judicial role during the pendency of DRI review. For this reason, it is essential that each member confine his or her review to the oral and written information received during the public hearing process.

The pendency of a DRI review is defined as the time from which a DRI application is filed with, referred to, or jurisdiction is asserted by the Commission until the meeting in which the full Commission votes on the final decision or the DRI is withdrawn. During this time period, all communications to Commission members from an applicant, his or her representatives, town officials or the public at large should be made through the formal public hearing process. Both oral and written testimony may be provided at public hearings and meetings. Written comments may also be submitted to staff for distribution to all subcommittee and Commission members. Members may consult with staff about proposed projects but should not discuss the projects among themselves except in posted meetings and hearings. During the pendency of the DRI review as well as during the appeal period on each DRI, members should not express any opinions on

the project, nor should they make any statements which may be construed to show any prejudice or bias on the project itself.

If contacted by an applicant, representative or other party, Commission members should explain that such communications may only occur through the public hearing process. Letters or materials received directly by members from applicants or other parties should not be opened but should be forwarded to staff for distribution to all members.

In order to keep town officials informed about the process, Cape Cod Commission members may provide informational updates on the status of DRI review to their Boards of Selectmen/Town Council provided that the same is done in open session at a meeting posted in accordance with the open meeting law. Commission members shall report each appearance at the next CCC subcommittee/Commission meeting. Minutes of such meetings must be provided to the other Cape Cod Commission members at the next CCC subcommittee/Commission meeting after which the minutes become available.

This communications policy accompanies and supports all other Cape Cod Commission policies and procedures. The Cape Cod Commission may update this policy at any time.

APPROVED ON JUNE 12, 2008  
BY THE CAPE COD COMMISSION

### Questions about the Communications Policy

- Q. I am on the subcommittee for a DRI that is being reviewed by the Commission. Can I speak to my town officials to give them updates on status of the DRI review?
- A. Yes. You may provide your town officials information on the status of a DRI under review, such as where the DRI is in the process (I.e. a pre-application meeting is scheduled, a site visit was conducted, dates and times for public hearing, a draft hearing decision is being prepared) provided it is being done in a posted open meeting for which minutes will be prepared.
- Q. My Board of Selectmen wants me to appear before them so they can let me know the town's position on the project. This way I will know what position to take on the project. Is this allowable under the Communications Policy?
- A. No. As a quasi-judicial Board member, it is essential that you avoid all appearance of pre-judgment of the project and/or bias. While you may appear before the Board, it is necessary to the process that you have not "prejudged" the project or predetermined your vote. In order to keep town officials informed about the process, you may appear before them for the purpose of giving informational updates about the DRI process. Any testimony about the project itself should be made in the context of a DRI hearing or public meeting so that all members of the subcommittee may receive it. You may bring written comments from the town to the next posted DRI hearing. Town officials are also always welcome to attend and present their views.
- Q. Can I take into consideration in my vote on a DRI information that was not part of the formal DRI process?
- A. No. The reason the communications policy requires members to restrict their DRI review to information received as part of the DRI hearing process is to ensure that every member of the Commission is voting based upon the same information. This is the reason each member should direct anyone desiring to give him/her information to either attend a public hearing or to send written information to the Commission so that it may be made part of the DRI record.
- Q. I am on the subcommittee. Can I discuss with my fellow subcommittee members how they will be voting on the project prior to our scheduled subcommittee meeting?
- A. No. All deliberations on the project, including your analysis of how you will decide to vote on the project, must occur in the context of a posted public hearing and/or meeting.

- Q. Since I am not on the subcommittee which is analyzing the DRI, do I have any limitations in speaking to the general public, town officials or anyone else about a project?
- A. Yes. As a member of the Commission, you are considered a quasi-judicial board member who will ultimately vote upon that DRI at the full Commission meeting. The portion of the communications policy equally applies to both members on the subcommittee as well as the full Commission.
- Q. Can you tell me more about what would be considered improper bias on my part as a Commission member reviewing a project?
- A. Yes. Each member in reviewing a project should be impartial with no preconceived conclusions about that project in the same way a jury which hears a trial is impartial. Statements that a member makes either prior to or during the DRI which may be perceived as projecting the appearance of either a closed mind (whether it be about the project or the applicant), a conclusion on facts about that DRI that are made before the Commission hears the project, or an opinion about the facts of the project may be considered to show bias. In addition to specific statements made by a member individually, bias may be shown by your membership in an interested organization which may have made statements that could possibly be imputed to you. For further detail, please see the Commission Guidelines regarding Administrative Bias Affecting Commission DRI Proceedings.
- Q. Can I state my opinion on a pending DRI project in a letter to the editor of my local newspaper?
- A. As a member of the quasi-judicial board who will be ultimately voting on whether to approve or deny a project, Cape Cod Commission members should not express opinions in any forum which may be considered to show bias. For further detail, please see the Cape Cod Commission Public Relations Policy, approved 7/9/07, at page 5.
- Q. I have specific questions about whether I should recuse myself from a particular DRI. What should I do?
- A. Commission counsel is available to assist you with any questions you may have.