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CAPE COD
COMMISSION

Minutes

Meeting of
Cape Cod Commission

March 1, 2012

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	√
Brewster	Elizabeth Taylor	Absent
Chatham	Lynne Pleffner	√
Dennis	Richard Roy	√
Eastham	Joy Brookshire	√
Falmouth	Vacant	Vacant
Harwich	Robert Bradley	Absent
Mashpee	Ernest Virgilio	Absent
Orleans	Leonard Short	√
Provincetown	Austin Knight	Absent
Sandwich	Joanne O'Keefe	Absent
Truro	Peter Graham	√
Wellfleet	Roger Putnam	Absent
Yarmouth	John McCormack, Jr.	√
County Commissioner	Mary Pat Flynn	√
Minority Representative	John Harris	√
Native American Rep.	Mark Harding	Absent
Governor's Appointee	Herb Olsen	√

The meeting of the Cape Cod Commission was called to order on Thursday, March 1, 2012 at 3:00 p.m. at the Cape Cod Commission in Barnstable, MA. Roll was called and a quorum established.

■ WASTEWATER UPDATE

Executive Director Paul Niedzwiecki thanked Commission members for their attendance and said as discussed before there are a lot of non-regulatory issues that the Commission deals with and he would like to get Commission members more involved in that role and not just primarily in a regulatory role.

Mr. Niedzwiecki said today he would be discussing wastewater and said it has been the topic of some discussion lately based on a recommendation made to County Commissioners. He referred to PowerPoint slides and said the Commission is working on a Regional Wastewater Management Plan (RWMP) and said there would not be a drive for one particular setup and said there would be alternatives. He said they want to make sure that taxpayers have as much information as they need before they make some important decisions. He said wastewater solutions are coming and they could be expensive so he wants to make sure that taxpayers have all the facts. He said the objective of the RWMP is to restore degraded water bodies through regional nutrient management policy promoting appropriate infrastructure and growth management mechanisms while protecting taxpayers from unnecessary costs. He said ultimately their efforts at regional planning are aimed at that and their goals are to integrate policies as they relate to the environment, affordability, infrastructure, and growth management. He said any solution to the problem has to be affordable or else it becomes much less likely to be implemented. He said Comprehensive Wastewater Management Plans (CWMP) developed by towns are reviewed by the Commission as Developments of Regional Impact (DRIs). He said he doesn't believe the Commission has been specific enough in their vision of wastewater on the Cape as a regional plan to provide the type of guidance that towns need when they go through that process as to whether they are going to need that or not. He said two towns have certified CWMPs and said those towns are Chatham and Orleans. He said no other towns have adopted CWMPs.

He said the plan the Commission is working on now will provide guidance to towns as they go through the CWMP process and said it also has tools associated with it as well. He said the tools would be previewed at the SmarterCape Conference on May 14 in Falmouth. He said he would be meeting with the EPA next week and he is interested to see their reaction to the work Commission staff has been doing. He said towns would be able to use the tool as they go through their planning process that will eliminate some of the upfront costs when doing a build-out and it will direct them to some counterbalance to engineering firms that they use to have that discussion about what technologies would be appropriate. He said this is an effort to give towns more information than they have now, it will save them some money, gives them more information, and show them ways to cooperate with their neighbors in a way that will help to facilitate a regional approach and a quicker solution to the problem. He said the problem is not a one big-pipe solution and said it's dependent on the situation on the ground and land-use patterns and said it employs potentially several methods to balance a watershed. He said it's more than a plan; it will be an interactive tool and said it's more of a dynamic plan. He said towns need to be given more tools and said the Commission is working on an innovative web-based tool that towns will be able to use that will calculate based on input for potential development and what the infrastructure costs are associated with it.

Suzanne McAuliffe, Yarmouth Board of Selectmen, said this has been very helpful. She said for 10 years Yarmouth has been dealing with wastewater in what they felt was a very flexible, comprehensive 25-year plan—a $255 million plan—that provided for a lot of flexibility for regionalization down the road and financially manageable but because the economy is bad there is nothing that can be perceived as manageable. She said it's not just embayments and estuaries and said Yarmouth had nitrogen appearing in two or three wells and one is above what is an acceptable level but not at a dangerous level yet. She asked Mr. Niedzwiecki if that was a concern Cape-wide. She said that is one of the things that resonated with Yarmouth voters that it's not just the embayments but rather quality of drinking water. She said that rings a bigger bell for most people.

Paul Niedzwiecki said the quality and supply of drinking water on the Cape is pretty good in general. He said if the estuaries go first it raises questions about the water table and hydrology in general. He said it's not just nitrogen that is appearing in some water supplies and said there are also emerging contaminant issues that have not been dealt with here. He said as we look toward solutions, we look for better, faster options for treatment and protection of water supply as well as the improvement in natural marine embayments. He said that is something that is being watched. He said water defines Cape Cod; the Cape is surrounded by it and has over a 1,000 kettle hole ponds and freshwater systems and we all share one aquifer. He said that is a metaphor as to how we should look at the problem. He said we are all drinking from the same place and in that respect we are one community.

He said if we want to get federal and state assistance, which he believes is desperately needed to make it affordable, then everyone needs to band together when advocating for that kind of assistance. He said drinking water is an extraordinarily important issue. He said much of the planning that is being done can be done in a pro-active way to make sure that we can protect that for a long time. He said while there are some wells that are showing nitrogen, it's not a wide-spread problem now.

Suzanne McAuliffe said her biggest concern is the talk of money that is available. She said for a decade they have heard that there is no money, do your planning and make your plan. She said that is essentially what Yarmouth did. She said they did a lot of clever budgeting and if any town wants to do anything they should call the Yarmouth Town Administrator. She said he came up with a very good plan that is truly affordable and is comparable to a cable bill a month. She said for a decade they have heard there is no money. She said towns should not plan on it and should not be looking for it. She said when we hear that there is money there is this concept that the federal government is going to come in with a billion dollars and said that is what people are waiting for and it's not going to happen. She said we need to get in our heads that this is our problem, we are polluting and we are going to need to fix it. She said the help is going to be interest on loans and we won't be getting any billion dollar grants.

Paul Niedzwiecki said Ms. McAuliffe brings up a lot of good points in particular Yarmouth's new town administrator. He said looking at Chatham's plan Chatham started retiring debt service a decade ago and has kept that debt service and said they had incredible foresight in planning. He said he knows Chesapeake Bay has received millions as well as the Great Lakes, Narragansett Bay and Lake Champlain. He said he understands Ms. McAuliffe's point and said nothing will stop him from continuing to ask. He said it's more powerful when we ask as Cape Cod. He said with two significant federal land holdings--the National Seashore and the Massachusetts Military Reservation--this would have to help us but it's not just financial assistance. He said he understands it won't be a billion dollar check; that is not going to happen. He said there are other ways to keep costs down and said one is to not overbuild the system and the other is negotiating regulatory flexibility from federal and state regulators and letting the Cape try some different things. He said there are a number of ways the federal and state government can help us that aren't going to be reflected in a giant check. He said they have been developing good relationships with both the EPA and DEP and said he believes they will be helpful.

Len Short said many years ago back in the 1950's the Town of Orleans actually put in a town-wide water system. He said that system in dollars in the 1950's was actually more expensive than the $150 million that they are looking for to put in a sewer system. He said they ran into some problems but they didn't run into nearly the problems that we are facing when we look at a wastewater system. He said the other thing is that they blew the opportunity several times ago when they were offered federal money up to 80%, and believes 90% at one point, to put those systems in and said people absolutely just shot themselves in the foot.

Paul Niedzwiecki said it's a pleasure to have Mr. Short serve on the Commission and said Commission members need to get more involved in non-regulatory matters. He said Mr. Short has a lot of experience with wastewater and said his point is an important one in that when the Clean Water Act passed in 1972 there was a planning process that was associated with it and said there was money that was available subsequent to that. He said up until 1981 there was significant money available for the construction of wastewater facilities; up to 80% and sometimes with the state's kick in you could get 90-95% of it covered from non-local sources. He said that all went away around 1982. He said with Boston Harbor the government applied for a waiver to secondary treatment instead of applying for a federal grant and said that was one of the biggest errors the Commonwealth ever made and that led to a $4 million project to clean up Boston Harbor a decade later. He said and that is 25 years in the past now.

Len Short said in college he worked for the Charles A. McGuire Engineering firm out of Providence, Rhode Island and was hired that summer to do a study on the pollution sources on the Charles River. He said he spent the entire summer going up and down the Charles River. He said he had all the contaminants going into the Charles River identified back in the 1950's and nothing was done about it.

Joy Brookshire said the Town of Eastham has a very complicated situation going on. She said the town has been planning for wastewater treatment and municipal water alone. She said when she was on the Tri-Town Septage Board of Managers she encouraged her Board of Selectmen to work with the Town of Orleans and take a more regional approach to wastewater treatment and it was not so well received so the Town of Eastham kept going alone. She inquired as to when the report would be ready to be presented to towns. She said Eastham is out there doing things on its own and it's costing the town money. She said this would be helpful and it could save the town

money. She said it would provide some assistance to the town instead of the town doing it on their own. She said a lot of communication has to take place on this especially if we're telling people that they can't fertilize lawns and whatever else it is, and said not only should they be presenting models, maps and overlays, but they should also be helping to direct the communication so that it's effective. She said as was mentioned earlier water flows over town boundary lines.

Paul Niedzwiecki said the plan is scheduled to be completed by the end of the calendar year. He said they would have a preview of the tool on May 14th at the SmarterCape Conference. He said they are putting in an application to do an alternative seminar in September and said they would be applying for some money and working with folks in order to do that. He said pieces of it will be shown over the next few months and they hope to have it in a final draft by the end of the calendar year and anticipate soliciting public comment.

Joy Brookshire asked if it was advisable for the towns that are working on this by themselves to take it slower and wait for the plan to come out or should they keep going. She said it's expensive.

Paul Niedzwiecki said all the towns that have gone through a planning process to date have been doing the right thing and none of that work is going to be wasted at all. He said, in fact, it puts them further along in many respects and it also tends to give them better standing should the lending agents take a different form. He said he thinks all of that is good. He said in the plan they will have gone through all the CWMPs on the Cape and incorporated that information into the plan that is presented. He said going forward would he recommend that towns continue to go forward and said if they do he does not think that effort would be wasted. He said if they wanted to pause for a period of eight months he doesn't think they would be that far behind. He said that is still a local decision and said he believes they could work with whatever the local decision is.

Joy Brookshire said it would be nice to have a meeting of the engineers from Orleans and Eastham so that they can come together and go forward when this plan is in place.

Paul Niedzwiecki said the big emphasis behind this is that towns have to fund. He said wastewater is financed almost exclusively from local revenue. He said unlike education, transportation or anything else that is where it starts to get expensive. He said the good news is that we can fix this; he said we can turn around the health of estuaries and embayments within the course of one generation and it can be done in a way that is affordable. He said that's the good news. He said these are 20-30 year construction cycles. He said as it relates to the towns a lot of them don't have wastewater planning capacity on staff or a lot of expertise. He said even those towns that have sewer plants already have professionals that know how to run those plants. He said what happens when we try to solve the problem is towns have to go out and spend a lot of money on a consulting firm or engineering firm and said they become the de facto wastewater planners in the towns and it may or may not work sometimes. He said we have to give towns more tools and give taxpayers more information so that we have a better chance at town meeting.

Royden Richardson thanked Mr. Niedzwiecki for his presentation. He said he doesn't have a solution but he has an idea that might be helpful. He said it seems at the municipal level and at the regulatory level there could be efforts to take steps that would at least not make it worse. He said an emphasis on getting together and working with people detailing regulations could be helpful.

Mary Pat Flynn said regarding the CWMPs that towns are working on and some that have already completed them when it comes to the shared watersheds those would be more regional. She asked if the state would accept a regional plan of a shared watershed or are they going to be required to do something on a town-by-town basis and asked how that would work.

Paul Niedzwiecki said towns have worked under the existing structure to do the right thing and fix the problem. He said these are towns that have brought forward solutions and those solutions are constrained by the existing regulatory structure. He said we need something different that allows us to deal with shared watersheds and spread cost in a way that is affordable. He said nothing that they do or produce should be seen as contrary to anything towns have done. He said he thinks what they will advocate for is to start talking about a particular regional approach that allows us a different way to spread cost and look at problem solving on the Cape. He said there are ways even now with a regional plan for a regional approach where we could sit down with two neighboring towns with a shared watershed and say this is really what it would look like so enter into an inter-municipal agreement with each other and agree to remove a certain percentage of nitrogen by a certain time. He

said this approach and this dynamic plan will lead to that kind of inter-municipal cooperation because it will be more fact-based and less emotion based. He said we need a new approach.

Jack McCormack said getting back to Yarmouth he just wanted to mention that Yarmouth thought they had a great plan as well as a great financing plan. He said the Yarmouth Selectman appointed a Water Implementation Committee that was made up of professionals and very well-informed people that went out into the neighborhoods and held meetings. He said they were pretty well convinced that the people who went to the meetings saw the picture and saw the need. He said but when you get to town meeting you have a demographic of young families that are trying to make ends meet financially who look at this strictly as a monetary thing and it's very disappointing and discouraging to them. He said hopefully we will find an answer. He referred to culvert widening and said a number of years back in Yarmouth when Long Pond was in the advanced stages of eutrophication, a plan was put together to widen the culvert and believes the majority of the money was going to pay the Corps of Engineers and said Yarmouth had to come up with in the vicinity of $1 million to build this new culvert because it wasn't getting flushed. He said the culvert was vastly inadequate. He said when they went to the polls, it was made into a pocketbook issue and people said they can't afford it.

Paul Niedzwiecki said what he wants to impress upon people is that this is not just an environmental issue that we face. He said if it were only an environmental issue, he thinks it would wake up the towns but it's not it's an economic issue. He said if we let the estuaries go we will lose the whole thing. He said if wait until people in coastal homes start asking for property abatements because they are starting to lose some of their value because of the water quality in front of them, but more importantly, if there is a federal implementation it's going to fall across the entire Cape. He said coastal homes will stay but it's the middle of the Cape where families live, where the workforce is, where lower housing values are that will crater. He said that is not just from the federal government; if the federal government pushes the state, say for example, DEP changes its groundwater regulations and designates nitrogen sensitive watersheds on the Cape, then we are looking at the potential of every home in those nitrogen sensitive watersheds to have to upgrade to an IA system at an additional cost of almost $20,000. He said the impact is going to be an economic dislocation on the Cape that will change the fabric of the Cape forever and in a way that we can't get it back. He said that can't happen. He said it's the frustration at town meeting that sees it as an immediate pocketbook issue now and those no votes that present an even bigger loss for all of us.

Jack McCormack said perhaps people should be thinking about their kids and what is going to be there for their kids. He wondered if there was any kind of educational program for school kids that they could be bring home and talk to their parents about.

Paul Niedzwiecki said the Commission had a federal grant and ran a WetFest Program with schools for a long time. He said that was recently transferred to the Barnstable County Extension Service and said that is out there and has been working. He said there has been a lot of education over the last decade and even more intense efforts over the last three or five years. He said you just can't reach everybody but they have to keep trying to do that.

Michael Blanton said that's an excellent point and said it has been around school systems on the Cape but sometimes it gets less air play. He said maybe this is a time when people will listen because they are more concerned about what the cost will be and what the long term infrastructure needs will be. He said he thinks it's regrettable that not enough people see the value of preserving our embayments and estuaries but maybe if it hits them in their drinking water; something they use every day it would have a greater impact. He asked if a cost analysis had been done and what kind of cost would be involved if the Cape's aquifer were compromised and we had to import our water in from elsewhere.

Paul Niedzwiecki said, no, there is no Plan B for watershed and water supply.

Michael Blanton said it may be interesting to embark on a theoretical discussion as to what that might look like if the Cape's aquifer were compromised.

Paul Niedzwiecki said there are a lot of factors that go into that; caused where, by what and what quantity. He said in general water quality on the Cape is good and quantity is good but it's the fragility of 250,000 people and 500,000 in the summer at least that are drawing out of the same water source. He said if we can't protect our estuaries and embayments and freshwater systems what makes us think long term we can really do that with our drinking water.

Peter Graham said he thinks the vision that we have about this economic dislocation maybe needs the "paint by number" approach to say this is what the future looks like given this bad scenario. He said he thinks a detailed description of what would happen to motels, restaurants, people on fishing charters, people in the harbor, etc. would perhaps have a greater impact on people. He said he has heard Mr. Niedzwiecki say this several times and in his mind he keeps thinking what does this look like and what is this vision of failure because we haven't been able to take care of our own business.

Paul Niedzwiecki said part of the SmarterCape conference that will be held in May involves that kind of vision. He said the Commission is going to make a presentation of what the Cape is going to look like in the year 2025. He said they are going to make some assumptions about bad things that could happen and that are not completely made up because these are decision points that they know are on the horizon. He said then they will show a Cape in 2025 where we've made the right choices. He said the point they want to make is that we can be a smarter community.

Len Short said the Town of Orleans has been talking to the Town of Eastham for quite some time about the possibility of selling water because they have an abundance of water. He said one of the reasons why the town is anxious to sell the water to Eastham is because it allows them to maintain the levels of water production in their wells because the state has regulations which could cap their drawing from those wells and Orleans doesn't want them capped. He said because, again, they have the same problem there are 250,000 people on the Cape year round and then we at least double that in the summer and the state doesn't take that into consideration.

Joy Brookshire said Eastham has started testing in certain areas of Eastham particularly in the area where the nitrogen level is very high and something has to be done in the area because of the flow from the dump. She said she thinks the town knows in their wells what the capability is and they know fairly well where the problems with the water are. She said a woman from Orleans brought up a good point and said it goes back to where the area is more dense, the incomes are less, the costs are shared and people are going to start trying to sell their houses to get out from the assessment of municipal water and wastewater treatment. She said they are not going to be able to sell their houses so there will be more foreclosures and more people leaving the Cape. She said she doesn't think it's going to be that easy to sell property on the Cape.

Paul Niedzwiecki said that's a very good point and when we start to look at the impact on households that impact hits everybody at the same time. He said when we talk about impacts on the real estate market, if there is a lack of interest in property on the Cape because of this universal impact, we will have more houses going into foreclosure. He said the Hyannis area is in the top seven in the state for diminution in property values because of its number of foreclosures. He said foreclosures bring down property values in a neighborhood. He said the threat of what is possible here is real and it's not imagined. He said that is why we have to move quickly, we have to be bold, and we have to stand together as one community and one region.

Joy Brookshire said we have a growing older population and said Eastham has already been talking about if they start assessing households do they give rebates to people over 65. She said we can come up with a solution but this is so complicated. She said they all know because they are involved in discussions on this and have been for a long time whether as Selectmen or Commission members they know what's happening. She said they have to do a good job of selling this so that it does get voted through town meetings and town council.

Paul Niedzwiecki said this is the Commission's biggest challenge; it's huge and it's extraordinarily complicated but he is confident with Commission staff and the approach the Commission is going to take that they will be able to make a difference and help towns and help everybody solve this problem. He said he is very optimistic.

John Harris asked if this initiative is in-house.

Paul Niedzwiecki said, yes, the Commission is working on this with the Cape Cod Water Protection Collaborative. He said at some point they will be able to take the Massachusetts Estuaries Program's scientific data and link it to the land use database that the Commission has and then link it to a rate model. He said this is the dynamic tool that the Commission will be able to share with towns. He said this will make a complicated issue easier to digest.

John Harris said he looks at the presentation that was made and said it's very clear and on to the point of the problem that we are trying to solve. He said he has heard people say this is very complex and very difficult and said he agrees and disagrees. He said he disagrees because if you don't have absolutely the title of who is in charge

to do this and when it's going to be done, then it becomes extremely complicated. He said it's really quite simple to solve the problem from an engineering project but it's the politics and who is in charge. He said he hopes that is all sorted out before we go too far.

Paul Niedzwiecki said he can't figure that out. He said there is recognition on the federal level by the EPA and recognition on the state level by the Governor, by the Secretary of Energy and Environmental Affairs, and the Commissioner of the Department of Environmental Protection that we have a problem and need a regional approach to solve it. He said this week the Commission would be contacting all the Boards of Selectmen and would be going before them to push this message as hard as they can.

John Harris said a few years ago he participated in a group called "Cape Keepers" and said he doesn't know what the impacts were from that and said he hasn't seen anything changed. He said we can talk about urgency but if there isn't someone out there being in charge of this project it will go in the same direction as these things. He said projects don't just get up and start doing things unless someone who has the authority, ability and skills to know how to do this to make it happen. He said it's been laid out what has to be done but the towns have to decide that this is a situation that they have to work together on.

Suzanne McAuliffe said when Yarmouth designed their plan they designed it to be flexible to jump into a collaboration with neighboring towns and to jump out of sequence because they had five stages. She said towns can work individually to go ahead because they can build in the ability to save money down the road. She said regionalizing can save money and can be done in-house in each town as long as their plan is flexible for others to jump in at any time. She said that was the beauty of Yarmouth spending the money and all the years they did planning. She said at this point it's pretty much political suicide to get in front of a plan. She said it's a very hard thing in this economy to ask people to spend money on something that everyone knows is important and has an impact on the future. She said that is why she was willing to put it out there because she has experience and has been on the board for a long time. She said she put her political future on the line because she felt it was that important. She said it's a daunting task to bring something this unpopular before a populace and said it's a political nightmare. She said that is what people who take the lead have to expect but hopefully there are enough people who get this message and said she really appreciates the support the Commission will be giving to towns over the next year. She said it's important that all towns recognize the problem and said the cost of not doing something is much worse.

Paul Niedzwiecki said he would underscore Ms. McAuliffe's comments and said it takes courage both in political leadership and in getting out front to talk about this issue. He said Ms. McAuliffe has done it with the Yarmouth Plan and they certainly left the flexibility open for a regional approach because they recognized the potential to save money in the long term.

John Harris complimented Ms. McAuliffe for being courageous and said that is the reason why people like Ms. McAuliffe are elected; because they are courageous. He said project management should also be added to the mix because it makes everyone accountable and that people who have authority exercise authority. He said he commends Ms. McAuliffe for being courageous.

Jack McCormack thanked Mr. Niedzwiecki and Commission staff for their efforts.

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

Respectfully submitted,

Elizabeth Taylor, Secretary

LIST OF DOCUMENTS PRESENTED AT THE MARCH 1, 2012 COMMISSION MEETING

- PowerPoint slide presentation on Cape Cod Regional Wastewater Management Planning prepared by the Cape Cod Commission.