

The meeting of the Cape Cod Commission was called to order on Thursday, March 5, 2009 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

Executive Director Paul Niedzwiecki said there has been a lot of press coverage lately regarding tolls and said he would like to put it into context. He said he knows as Commission members a lot of things the Commission does can be radioactive and as Commission members they have to deal with questions directly and it can be awkward especially when it comes from an innocuous presentation that members didn't know about it. He said for that reason he would like to put in context for Commission members and people watching today's meeting on television what has happened in the press over the past few days. He said there was a presentation at the request of the County Commissioners last Wednesday on congestion management. He said Commissioner Doherty, in particular, has been pushing the Commission for a long time to have a discussion about congestion management planning with the County Commissioners. He said it was a good presentation and unfortunately he was not at the meeting but he did see the PowerPoint presentation before it was made to the County Commissioners. He said it is his understanding that it's not unlike a similar discussion that they had with County Commissioners two years before with an appropriate action which was no action at the time. He said the nature of the presentation was a survey of other traffic strategies that other communities used and said there were 13 transportation strategies discussed and one of them was congestion pricing. He said it was not inaccurate to suggest talking about tolls at that point as the issue of tolls on the bridge came up. He said one reporter took the information back to a radio station and at that point things started to snowball on Thursday and Friday. He said the presentation given to the County Commissioners was a very neutral presentation for informational purposes only. He said congestion pricing has never been part of a congestion management plan by the Cape Cod Commission and it was not a proposal or a suggestion. He said congestion pricing is there and is being used in other parts of the world certainly and said it's being used in Montgomery, Pennsylvania and inevitably that conversation was going to make its way to the Cape. He said the purpose of the discussion was to inform the County Commissioners that we as a community and as a planning agency and the County Commissioners, as elected officials, would be able to respond intelligently to those questions when they arise. He said that is an appropriate thing for the regional planning agency to do is to provide technical assistance to the County Commissioners at their request. He said that is what was done and it in no way suggests congestion pricing or the issue of tolls is going to be adopted by any plan by the Cape Cod Commission any time soon. Mr. Niedzwiecki said he personally has some reservations about congestion pricing that many people know and have known for a long time. He said he has no reservations about having that discussion or any discussion and putting all of those alternatives in a very informational planning discussion on the table. He said that is really the nature of what happened and said he can't control what the press and media does with the information that they collect. He said they certainly did put the Commission in a position on Friday even though the Commission prefaced with every report that was given that the information was not a suggestion or a proposal. He said even in the article the Cape Cod Times ran the first line said it's not a plan and it's not a proposal. He said people didn't hear that aspect of it and no one really wanted to read and cipher through to understand that it was an informational piece. He said transportation planners when they're looking at an issue with traffic and there's not enough revenue to pay for infrastructure repair, congestion pricing is obviously something that is going to don on a transportation planner as something that should be discussed. He said once that process happens it becomes a community responsibility and the responsibility of elected officials to look at that in a larger context. He said this was a presentation by transportation staff at the request of the County Commissioners for informational purposes only. Mr. Niedzwiecki said he doesn't support tolls on the bridge and he hopes that we can move beyond that discussion and get to the more serious issue of what we're going to do about traffic congestion on the Cape. He said it's more than just an inconvenience and we are all paying for the traffic scenario that we have now. He said we pay for an infrastructure that accommodates three times our year-round population on the backs of our year-round population and that is an inequity that needs to be dealt with to sustain adequate infrastructure on the Cape. He said it also creates an inevitable rub between our seasonal economy and our year-round economy. He said these are very important and serious discussions that we have to have. He said the discussion was a very routine discussion with the County Commissioners and there is no plan one way or another to carry through on this. He said he is hopeful that all the attention this has received can be channeled in a positive way. He said if we could put all of this attention on some of the pressing issues that relate to transportation infrastructure on the Cape, he is quite convinced that we could solve this. He said he hopes that as a community we can

agree that we are going to bump into controversial issues from time to time and that it will be done in a way that is responsible and where there isn't a lexicon of words that we can't speak in order to have an informed public discourse and he said that is what they tried to do. He said over the past 18 months, especially with the regional policy plan, there has been an effort to engage the public at every step and that is his commitment as the executive director of the agency. He said that is the way the Commission has done business in the past and that is the way the Commission will continue to do business.

Brad Crowell said the phrase used frequently by former colleague Commissioner Doherty "teachable moments" comes to mind. He said Mr. Niedzwiecki eluded to efforts to try to turn this into something productive potentially with some of the individuals who may have helped to blow this somewhat out of proportion and asked Mr. Niedzwiecki to describe those efforts. He also asked if there was anything more that could be done through Commission members, the planning committee, the County Commissioners and perhaps the MPO.

Mr. Niedzwiecki thanked Mr. Crowell for his input and said a couple of things come to mind. He said he believes the Commission needs to move forward with a congestion management plan. He said he would like to take some of the heat and light around this issue and hopefully transition that into a vigorous public participation process as far as putting together a congestion management plan. He said he believes that would turn an uncomfortable situation into something that is positive and he would hope everyone would participate in that. He said the Commission has been on tour with the County Commissioners going before boards of selectmen and last night they were in front of joint boards of selection for Provincetown, Truro, Wellfleet, and Eastham. He said they were in front of Eastham alone and Dennis earlier in the week and they would be in front of Provincetown and Yarmouth next week. He said they have had good discussions with local boards and he believes it strengthens their relationship to appear in front of them and answer any questions that they may have open and honestly. He said he believes there is a moment of growth here as well. He said he is looking forward to "teaching moments" and having very public discussions about traffic and what can be done about it. He said the Commission would increase its visibility and continue to talk to people one on one.

Michael Blanton said he was invited to appear before his Board of Selectmen in Bourne to speak on this issue. He said the Selectmen offered that they have faith in Mr. Niedzwiecki personally in the approach he has brought to the Commission as the executive director. He said they feel that the congestion pricing issue needs to be looked at more strongly. He said as a board they have requested a copy of the transportation study and maybe an opportunity to meet as a board and go over the report with Mr. Niedzwiecki and transportation staff at the Commission. He said the Board of Selectmen would like to see that happen in the very near future.

Mr. Niedzwiecki said he would like to do that.

Sheila Lyons said she would like to offer her comment as a County Commissioner. She said this was a study requested by Commissioner Doherty back in November and his reason was that several studies had been done over several years and the number one concern and complaint from people on Cape Cod is traffic congestion in the summer. She said he believes those studies are looked at and then they get tabled and put on the shelf. She said Mr. Doherty felt since we have the Cape Cod Commission and it's moving in a planning direction, that it was time for the Commission to look at this and he asked that the Commission get back to the County Commissioners in February, which they did. She said it was a very thorough, informative and enlightening discussion. She said they felt it was information that they could take forward to the Chambers of Commerce, Boards of Selectmen and to whomever else wanted to help deal with this and maybe come to a consensus on what direction to take on this. She said they were hoping for results and action and not the usual performance. She said we have an excellent staff at the Cape Cod Commission and throughout the County and this was a very professional job and people were doing what was asked of them. She said she agrees with Mr. Niedzwiecki that we should be able to discuss these issues and take the options that we don't agree with and put them aside. She said we have to look at all the options to make educated and informed decisions. She said we have problems facing us in many different areas right now and we need to be able to have those discussions. She commended Commission staff for their professionalism and expressed her appreciation to Commission members for all their efforts.

Florence Seldin thanked Mr. Niedzwiecki for the clarification and said she hopes the minutes of today's meeting will reflect comments by Mr. Niedzwiecki and Ms. Lyons for Commission members who are not present today. She said she believes it's important in this case because she had questions about this and based on the newspaper she really had no answers. She said hearing from Mr. Niedzwiecki and Ms. Lyons certainly has given the Commission members answers.

Mr. Niedzwiecki referred to Mr. Crowell's comments about a "teaching moment" and said this has also been a learning moment for the Commission as well. He said he doesn't want this to be lost on anyone that the Commission hasn't learned something over the last few days about how to structure certain conversations. He said in closing he just wants people to keep in mind that this was an informational discussion by a planning agency that has no authority to put in a toll to an elected body that also equally has no authority to put in a toll. He said it was simply a discussion to prepare for conversations that we know are coming in the future.

Jay Zavala apologized for arriving late for today's meeting. He asked Mr. Niedzwiecki if he had discussed the fact that Commission members were not informed or didn't have any information on this through the regular processes that members go through at the Commission. He asked Mr. Niedzwiecki if that had been part of his opening remarks.

Mr. Niedzwiecki said it was part of his opening remarks and said he would reiterate that because he believes it's important. He said just to be clear it was a very routine discussion and it was a request for information from the County Commissioners. He said it was done pursuant to the transportation contract the Commission has with EOTC as a regional planning agency and there was no regulatory component to it. He said it's not something that would have come up during the ordinary course of business before any of the standing committees. He said once that presentation happened and the press started to react there was a feeding frenzy and a fairly busy work schedule to keep between the feeding frenzy. He said he did preface his comments today with understanding that Commission members are in a very difficult situation and there are a lot of things that the Commission does that can become radioactive and members have to answer for them and many times members won't have knowledge of them. He said this is an example of a very routine discussion by staff that made front-page news everywhere.

Joy Brookshire said she thinks this illustrates how little some people know about the Cape Cod Commission, the County Commissioners and how things get mixed up in the press all the time. She said when the Commission started the process of revising the regional policy plan they talked about the role of Commission members as representatives to the Commission and what their job is as far as communicating to the public. She said maybe this is an example of where they haven't been communicating quite well enough and maybe its time to do some public outreach online, in the newspaper and on the radio as they have discussed over the past three years. She said the Commission needs to reach the public and explain exactly what the Commission is and does. She said they need to explain the process and how over the past two years they have been defining and enhancing the Commission's role less in regulation, more in planning and technical assistance. She said it's the lack of knowledge of that role that may have caused this problem. She said this has been a lesson and they need to move forward and educate people in a better way.

Mr. Niedzwiecki announced that the CPTC workshop will be held on March 21<sup>st</sup> in Worcester and any members interested in attending should RSVP to Page Czepiga at the Commission's office by March 9<sup>th</sup>.

## ■ MINUTES

The minutes of the December 18, 2008 Commission meeting were reviewed. Roy Richardson moved to approve the minutes. Roger Putnam seconded the motion. The motion passed with one abstention.

The minutes of the January 8, 2009 Commission meeting were reviewed. Roy Richardson moved to approve the minutes. Brad Crowell seconded the motion. The motion passed with two abstentions.

The minutes of the January 22, 2009 Commission meeting were reviewed. Florence Seldin moved to approve the minutes. Joy Brookshire seconded the motion. The motion passed with three abstentions.

■ **NOTIFICATION OF WITHDRAWAL FOR BLANCHARD'S LIQUORS**

Marianna Sarkisyan, regulatory officer at the Commission, said the project came to the Commission as a discretionary referral. She said it was referred to the Commission by the town of Barnstable and voted in as a DRI on May 15, 2008. She said the project is subject to a DRI and Hardship Exemption application currently. She said the applicant is requesting the project be withdrawn at the local level and as such it meets the standards for withdrawal from Commission review. She said based on that staff is asking that the Commission vote to accept the withdrawal of the project.

Roger Putnam moved to accept the withdrawal of the Blanchard's Liquors application. Florence Seldin seconded the motion. The motion passed with one abstention.

■ **12(h) ASSERTION OF JURISDICTION OF 60 HAMMOND HILL ROAD, CHATHAM**

Sarah Korjeff, historic preservation planner, requested that this project be withdrawn from today's Commission agenda. She said additional information has been received for this project since today's agenda. She said there are no permits pending for this project to come before the Commission for review.

Peter Graham moved to accept withdrawal of this project from today's agenda. Florence Seldin seconded the motion. The motion passed with a unanimous vote.

■ **MASSCOASTER RAIL PRESENTATION**

John Kennedy, Chief Executive Officer and co-owner of Cape Rail Inc., said Cape Rail is planning to expand its services and he is here today to discuss proposed new rail service ideas. He said the Buzzards Bay Feeder Rail Demonstration Program is a three-year demonstration program providing a feeder rail passenger service between Buzzards Bay, Wareham and Middleboro to connect with selected MBTA trains to and from Boston. He said a 2007 Boston MPO study projects approximately 1,500 weekday round trip riders and noted that 70% would be new users of rail service. He said passengers would primarily be residents of Bourne, Falmouth, Sandwich, Barnstable, Wareham, Marion, Mattapoisett and Carver and weekend ridership would be approximately 600 passengers. Mr. Kennedy said there would be eight weekday trains and five weekend and holiday trains to and from Buzzards Bay and Wareham that would connect by cross-platform transfer at Middleboro with MBTA trains to and from Boston. He said total trip time including transfer is 1 hour, 25 minutes from Buzzards Bay to Boston and 1 hour, 17 minutes from Wareham to Boston. He said there would be approximately 800 privately owned parking spaces available at Buzzards Bay and 350 municipally owned parking spaces available at Wareham. He said food, beverage and weekend bicycle transport service would be available and the fares would be \$2.00 one way in addition to regular MBTA fares between Middleboro and stations north of Middleboro to Boston. Mr. Kennedy said they expect annual projected revenues of \$5.3 million and total projected expenses of \$3.0 million. He said no direct subsidy would be required assuming a revenue sharing agreement with MBTA that would cover operating costs and provide \$2.3 million in added income to the MBTA. He said capital investment of \$6.0 million would be available from Federal programs. He said the proposed program would be implemented within nine to twelve months of funding and completion of operating agreements with the MBTA. Mr. Kennedy entertained questions by Commission members.

Patty Daley, director of technical services at the Commission, said this project has the potential of going through MEPA and possibly coming to the Commission as a Development of Regional Impact. She said Commission members may be looking at this project on a regulatory level in the future and asked members to keep that in mind. She said the Joint Transportation Committee has discussed this and they are in favor of it.

Mark Lohan commended Cape Rail for trying to improve the public transportation system. He asked if there would be a link to bus service to the Cape from Buzzards Bay.

John Kennedy said there would be a choice of options. He said they are not thinking of taking transportation away from other modes and said it would be more to enhance what we have already. He said his presentation has been favorably received.

Florence Seldin questioned whether submitting a letter from the Commission would be advisable especially if the project comes to the Commission for review. She said she has concerns about that.

Patty Daley said it would be giving staff the approval to prepare correspondence in regard to the regional transportation plan.

Brad Crowell asked how the proposal has been received by the MBTA and questioned the status presently of ridership from the Lakeville/Middleboro Line.

John Kennedy said the proposal has been positively received by the MBTA and said it would extend their reach. Mr. Kennedy said ridership from the Lakeville/Middleboro Line has been standing room only. He said their plan would afford more seats to that Line. He said Congressman Delahunt has been very supportive and understands how important this is.

Brad Crowell questioned whether the MBTA would shut down its operation due to increases in capacity and the cost of gas.

John Kennedy said the MBTA would have a finite number of seats available.

John Pearson, co-owner of Cape Rail Inc., said there is cushion and expansion in the system. He said once service from New Bedford is available, passengers would be using that service which would alleviate over capacity elsewhere.

Michael Blanton said this is the second time he has seen this presentation and thanked Mr. Kennedy and Mr. Pearson for coming today. He said the feeling in Buzzards Bay is very optimistic. He asked how parking challenges would be handled.

John Kennedy said that is part of the MBTA plan and said that would have to be addressed. Mr. Kennedy discussed possible parking locations.

Michael Blanton questioned whether a motion was needed to draft a letter.

Jay Zavala said perhaps that should be done by the Commission's Planning Committee.

Patty Daley said the Planning Committee has already given that directive to staff. She said today's presentation is for informational purposes and said a vote by the Commission is not necessary.

#### ■ DISTRICT LOCAL TECHNICAL ASSISTANCE (DLTA) FUNDS

Patty Daley said the Commission is in a position to grant funds from DLTA funding and said total disbursement received by the Commission is \$155,837. She said this year, funding for regional efforts is the state priority for distributing funds. She said under this year's contract with the state, the Commission is required to direct at least 30% of funding toward regional efforts. She said the Commission received nine technical assistance requests from the towns for various projects. She said two requests were merged with the support of the requesting communities and all but one request was funded. She said the un-funded request sought a significant portion for a worthwhile but single-town project. She said towns that have requested funding have been notified of the funding level for their technical assistance requests. She said the next steps are to complete a memorandum of agreement (MOA) between each town and the Commission and then town staff and the Commission would meet to develop a detailed scope of work and estimate the time and expertise required to fulfill the request. She said once that is done the Commission would draft an MOA for review by the towns. Ms. Daley

summarized the technical assistance requests based upon request letters and initial discussions with interested towns. She noted the technical assistance requests as: 1) analysis of options for outer/lower Cape regionalization of public safety functions funded at \$50,000; 2) analysis of options for outer/lower Cape regionalization of housing authority functions funded at \$15,000; 3) stormwater management and financing options/town of Yarmouth funded at \$10,000; 4) drinking water supply zones of contribution/town of Barnstable and others funded at \$15,000; 5) workforce housing overlay district/town of Chatham funded at \$10,000 and 6) municipal solid waste disposal alternatives analysis/Cape-wide funded at \$35,000. Ms. Daley explained the components of each of the six technical assistance requests. She said there is still approximately \$20,000 left and letters would be sent to communities.

Brad Crowell said he has looked at the six proposals and five appear to be in the Commission's purview but one doesn't. He said police and fire departments are beyond the Commission's scope and he has concerns about that. He said in the future he would hope the Commission focuses on what it's here for and what it's good at.

Patty Daley said the Commission was required by state to use the money on regionalization efforts. She said the Commission Act does touch on infrastructure, however, she is mindful of Mr. Crowell's concerns.

Florence Seldin asked if all SEMASS contracts are the same or would towns have different contracts.

Patty Daley said each town would have the same contract with SEMASS and tip fees would be similar.

#### ■ UPDATE ON STIMULUS LEGISLATION ON TRANSPORTATION PROJECTS

Priscilla Leclerc, senior transportation planner, said the American Recovery and Reinvestment Act (ARRA) recently enacted on February 18, 2009, and more commonly known as the Stimulus Legislation, provides for transportation funding over and above the annual appropriations for states and Metropolitan Planning Organizations (MPOs). She said for the U.S. Department of Transportation and its agencies, the transportation amount in the legislation totals \$47.35 billion. She referred to PowerPoint slides and referred to a table showing the amounts by agency. She said for the Cape Cod region, stimulus funds have been programmed through the Transportation Improvement Program (TIP). She said both the Federal Highway Administration and Federal Transit Administration stimulus-funding amounts are required to be included in the regional TIPs that are then combined into the State Transportation Improvement Program (STIP). She said amendments to the TIPs across the state, including Cape Cod, were triggered to include both the highway and transit eligible and ready to go economic stimulus projects into TIP year 2009. She said the Cape Cod MPO endorsed the "Year 2009 TIP Amendment January 2009" for the TIP federal fiscal years 2007-2010 at their meeting on Wednesday, February 25, 2009. She summarized the Transportation Stimulus/Cape Cod TIP projects, explained the timelines and said the next TIP would be developed this spring.

A motion was made to adjourn at 4:45 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

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Florence Seldin, Secretary