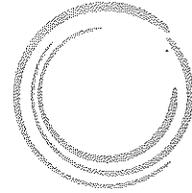


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CAPE COD
COMMISSION

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Minutes

Meeting of Cape Cod Commission

March 11, 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	✓
Brewster	Elizabeth Taylor	✓
Chatham	Lynne Pleffner	✓
Dennis	Vacant	Vacant
Eastham	Joy Brookshire	✓
Falmouth	Mario DiGregorio	✓
Harwich	Robert Bradley	✓
Mashpee	Ernest Virgilio	✓
Orleans	Peter Monger	✓
Provincetown	Austin Knight	✓
Sandwich	Sue Pommrehn	✓
Truro	Peter Graham	Absent
Wellfleet	Roger Putnam	Absent
Yarmouth	John McCormack, Jr.	Absent
County Commissioner	Sheila Lyons	✓
Minority Representative	John Harris	✓
Native American Rep.	Mark Harding	Absent
Governor's Appointee	Herb Olsen	Absent

The meeting of the Cape Cod Commission was called to order on Thursday, March 11, 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 since January 1st he has met with 11 boards of selectmen. He said there are four more to go and he said those meetings would happen over the next two weeks. He said the Commission has been involved with follow-up discussions with NSTAR regarding spraying in their corridor. He said they would continue this discussion and possibly make a request from the Department of Agriculture.

■ MINUTES

The minutes of the December 17, 2009 Commission meeting were reviewed. Roy Richardson moved to approve the minutes. Elizabeth Taylor seconded the motion. The motion passed with two abstentions.

The minutes of the January 7, 2010 Commission meeting were reviewed. Roy Richardson moved to approve the minutes. Elizabeth Taylor seconded the motion. The motion passed with one abstention.

The minutes of the January 21, 2010 Commission meeting were reviewed. Roy Richardson moved to approve the minutes. Elizabeth Taylor seconded the motion. The motion passed with three abstentions.

The minutes of the February 4, 2010 Commission meeting were reviewed. Peter Monger noted that in the first paragraph under Other Business his name had not been listed as an alternate on the Ocean Management Planning DCPC subcommittee. Roy Richardson moved to approve the minutes with the correction noted by Mr. Monger. Elizabeth Taylor seconded the motion. The motion passed with three abstentions.

■ OCEAN MANAGEMENT PLANNING DISTRICT OF CRITICAL PLANNING CONCERN (DCPC)

Chair John Harris noted that this is a continued hearing from February 25, 2010.

Heather McElroy, natural resources specialist at the Commission, provided background information and said following the Commission's vote to accept for consideration the Ocean Management Planning (OMP) DCPC nomination on January 21, 2010, a Commission subcommittee held five public hearings across the Cape to allow the public to comment on the possible designation of the district. She said the public hearings were held on February 11 at the Wixon School in Dennis, February 22 at the Eastham Town Hall, February 23 at the Assembly of Delegates Chambers in Barnstable, February 24 at the Bourne High School Library, and February 25 at the Provincetown High School Library. She said the process came out of the promulgation of the Massachusetts Ocean Management Plan on December 31, 2009. She said the Ocean Management Plan allows certain uses in ocean waters including up to 24 wind turbines. She said the Barnstable County Commissioners nominated the OMP DCPC on December 16, 2009 and the Commission accepted the nomination for consideration on January 21, 2010 starting the 60-day public hearing period. She said during the public hearings the comments that were heard indicated that the DCPC is a good tool and there is a need for the DCPC. She said the subcommittee met on February 23 and directed staff to draft a DCPC designation decision. She said the DCPC boundary is coincident with the planning area as defined in the Massachusetts Ocean Management Plan and excludes the Cape Cod Canal and many of the bays, harbors and embayments. She said the DCPC boundary is comprised of all the ocean waters and land below and air above within Barnstable County

starting from a line drawn 0.3 nautical miles seaward from Mean High Water (MHW) around Barnstable County and extending to 3 nautical miles from MHW or the state jurisdictional boundary, whichever is farther from the shore, not to include the waters of Plymouth County. She said the proposed OMP district qualifies under Section 10(a) of the Cape Cod Commission Act for designation as a district due to factors regarding the presence of significant wildlife, natural, ecological, archaeological, economic and recreational resources, as well as values of regional, statewide and national significance. She said as the Barnstable County Commissioners identified, this area is designated as a: 1) wildlife, natural, scientific or ecological resource district; 2) cultural, historic or archaeological resource district; 3) economic and development district; 4) hazard district; and 5) major public investment district. She said the purpose of the district is to evaluate and establish criteria for determining appropriate scale for renewable energy projects within Barnstable County and establishing procedures and regulations for the review of wind turbines and other uses/activities allowed under the Oceans Act of 2008 within the district including: 1) the installation or development of activities and facilities associated with the generation, transmission and distribution of electric power, 2) the laying of cables, 3) channel and shore protection projects, 4) sand and gravel extraction for shore protection or beach restoration, 5) projects authorized under Chapter 91 and deemed to be of Public Necessity and Convenience, and 6) other related activities not specifically prohibited by the Oceans Sanctuaries Act. Ms. McElroy outlined the general guidelines and said the objective of the district is to ensure protection of goals and interests through the establishment of implementing regulations by the towns through the Cape Cod Commission. She described the goals as: evaluate and establish criteria for appropriate scale renewable energy; protect natural, cultural and balanced economic development; plan for impacts to natural resources and ecosystems; plan for impacts to historic, tribal, and community character resources; plan for impacts to resources that support regional economy, support appropriate use of resources that support economy, involve the community in identifying appropriate scale and location for development; and clarify possible hazards and use conflicts. Ms. McElroy outlined the guidelines for implementing regulations and summarized the possible impacts and benefits of the designation. She said the Commission's review of Developments of Regional Impact would not be affected by possible implementing regulations. She noted technical corrections made to the draft designation decision and said the subcommittee unanimously recommends acceptance of the DCPC designation. She said if the Commission votes to accept the DCPC designation and forward to the Assembly of Delegates for consideration, the Assembly has 60 days to consider and designate the DCPC district by ordinance. She said if the Assembly designates the district as a DCPC by ordinance, then the one-year planning period for developing implementing regulations would begin.

Sheila Lyons said the County Commissioners put this forward because it's a unique opportunity for Cape Cod and its towns to come together. She referred to Joe Bayne's letter in support of renewable energy and said his letter enforces the need for the DCPC. She said the DCPC would help with siting and permitting of wind energy projects and it would help to expedite the process. Ms. Lyons urged the Commission to approve the DCPC designation and forward to the Assembly of Delegates for consideration and designation as a DCPC district by ordinance.

Joy Brookshire said when wind energy projects come up in Eastham zoning changes are made. She said there is an increased understanding why we're considering the DCPC. She said the DCPC would encourage wind energy projects in an appropriate manner and she believes the Town of Eastham will support this.

Austin Knight said he wears two hats as he is a selectman in Provincetown and as well as the Provincetown representative to the Commission. He said Provincetown has a renewable energy committee. He said because Provincetown has historic areas and an airport that limits the town in the placement of turbines, the DCPC would allow Provincetown to work together with other towns to develop a plan. He said it's a good opportunity for Cape Cod. He said it would give towns control over what is done and provides an opportunity for towns to move forward with other towns in developing a plan. He said it's a good step forward and he's encouraged by the DCPC.

Sheila Lyons said it's an opportunity for towns to come together. She said towns will have an important role and she hopes that the towns do get involved. She said it's an opportunity for the towns to have control over the situation.

Joy Brookshire said the Commission needs to do the outreach and it behooves the Commission to start going out and meeting with the towns to let them know that the Commission is there to help the towns.

Heather McElroy noted one more technical correction on page 9, Section 6B and said the language has been revised to say "towns and other stakeholders shall develop implementing regulations in conjunction with the Cape Cod Commission consistent with the guidelines described herein."

Roy Richardson asked for a motion by the subcommittee to approve the minutes of the March 2, 2010 subcommittee meeting.

Lynne Pleffner moved to approve the minutes of March 2, 2010. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

Michael Blanton inquired about the technical correction on page 9, Section 6B regarding towns and stakeholders developing implementing regulations in conjunction with the Commission.

Jessica Wielgus said staff felt the sentence as it read without that clause could preclude staff and the Commission to enact regulations on turbines in the future. She said it's basically for clarification of the Commission's jurisdiction.

Michael Blanton asked if towns could develop plans as they see fit.

Jessica Wielgus said the subcommittee is going to reconvene to discuss how the process for developing implementing regulations will happen. She said perhaps they would have a model for towns to use. She said the subcommittee would continue to discuss that process.

Paul Niedzwiecki said Section 6B does not mean that there will be 15 implementing regulations and said there will be just one. He said the 15 towns would participate in the goal to come up with one set of implementing regulations. He said how that will be done is yet to be determined. He said the Commission is looking for town consensus on one set of implementing regulations.

Joy Brookshire referred to a letter to Dale Donovan, Wellfleet Board of Selectmen, regarding Wellfleet Harbor and asked if Wellfleet Harbor stays in the OMP DCPC boundary or if it's being excluded.

Heather McElroy said they have not come forward with a request to modify the boundary so Wellfleet Harbor is in the DCPC boundary. She said staff believes that will benefit Wellfleet.

Paul Niedzwiecki said if the boundary were to change there would be no protection through the DCPC. He said town planners and stakeholder groups would be included in the planning process for the development of the implementing regulations. He said local communities would be useful in that process.

Chair John Harris called for comment from municipal, state, and federal entities and the general public.

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

Roy Richardson moved that the Commission accept the designation of the Ocean Management Planning DCPC and forward the proposed district to the Assembly of Delegates for designation as a DCPC by ordinance. Lynne Pleffner seconded the motion. The motion passed with a unanimous vote.

A motion was made to adjourn at 3:50 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Elizabeth Taylor, Secretary