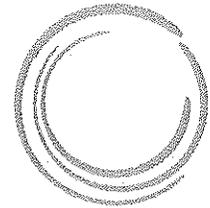


3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

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Minutes
Meeting of
Cape Cod Commission

May 10, 2012

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

Town	Member	Present
Barnstable	Royden Richardson	Absent
Bourne	Michael Blanton	✓
Brewster	Elizabeth Taylor	✓
Chatham	Vacant	Vacant
Dennis	Richard Roy	Absent
Eastham	Vacant	Vacant
Falmouth	Vacant	Vacant
Harwich	Robert Bradley	Absent
Mashpee	Ernest Virgilio	✓
Orleans	Leonard Short	✓
Provincetown	Austin Knight	✓
Sandwich	Joanne O'Keefe	✓
Truro	Peter Graham	Absent
Wellfleet	Roger Putnam	Absent
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	Absent
Minority Representative	John Harris	✓
Native American Rep.	Vacant	Vacant
Governor's Appointee	Herb Olsen	Absent

The meeting of the Cape Cod Commission was called to order on Thursday, May 10, 2012 at 3:00 p.m. in the Assembly of Delegates Chambers in Barnstable, MA. Roll was called and a quorum established.

■ MINUTES

The minutes of the February 16, 2012 Commission meeting were reviewed. Len Short moved to approve the minutes. Jack McCormack seconded the motion.

Michael Blanton referred to page 1, first paragraph under New Generation Wind Joint Venture on line 8 and said language should be corrected to say "most of the board members are no longer present on the Board of Selectmen." Mr. Blanton also referred to page 12, third paragraph from the bottom and said the language should be corrected to say "Michael Blanton said no, he doesn't know if any abatements have been sought."

John Harris moved to approve corrections to the February 16, 2012 minutes. Len Short seconded the motion. The motion passed with one abstention.

The minutes of the March 1, 2012 Commission meeting were reviewed. Len Short moved to approve the minutes. Jack McCormack seconded the motion. The motion passed with three abstentions.

Elizabeth Taylor read the hearing notices for the four public hearings and opened the hearings at 3:05 p.m.

■ 2009 REGIONAL POLICY PLAN (RPP) PROPOSED AMENDMENT FOR THE ADDITION OF A MARINE RESOURCES SECTION AND AMENDMENT TO THE COASTAL RESOURCES SECTION

Heather McElroy, natural resources planner at the Commission, said its April 9, 2012 meeting, the Commission's Planning Committee voted to forward the proposed amendments to the RPP, including a new Marine Resources Section, revisions to the Coastal Resources Section, and additional definitions that support these sections. Using PowerPoint slides she said the new Marine Resources Section and proposed regulations are all based heavily on the Cape Cod Ocean Management Plan (CCOMP) and the implementing regulations proposed for the Ocean District of Critical Planning Concern (DCPC). She provided background information and a timeline on the CCOMP DCPC. She said it was in response to the state's Ocean Management Plan, the DCPC was designated on April 21, 2010 by vote of the Assembly of Delegates, and the following year was spent planning and development implementing regulations. She said 20+ meetings were held with the Policy Committee, Technical Working Groups, Stakeholders, and Commission staff. She said in July 2011 the Commission forwarded recommendations to the Assembly of Delegates, in September 2011 the Assembly of Delegates voted to not adopt implementing regulations for the DCPC, and based upon its statutory obligations, the Commission adopted the CCOMP in October 2011. She said the proposed regulations now before the Commission round out the goals and obligations of the Commission originally sought through the Ocean DCPC and identified in the CCOMP. Ms. McElroy said the new Marine Resources Section focuses on sand mining and cable/pipeline installations as Cape Cod's regional interests may not be protected adequately from the potential impacts from these activities. She said impacts associated with offshore wind energy development are addressed through the definition of appropriate scale found in Section 2E of the CCOMP. She explained Marine Resources Goal MR1 in both the Planning and Regulatory Sections of the RPP, the Sand/Gravel Mining Prohibited Areas Map and the Cable/Pipeline Prohibited Areas Map in the Regulatory Section, and Minimum Performance Standards (MPSs) in the Regulatory Section of the RPP.

Ms. McElroy described amendments to Coastal Resources in both the Planning and Regulatory Sections of the RPP. She said in the Planning Section there is additional language regarding coastal erosion and beach nourishment, a change to CR2-C2 from "model floodplain bylaw" to "support for sediment management planning" and other minor edits. She said in the Regulatory Section two new MPSs have

been added for beach nourishment site conditions and beach nourishment site monitoring. She said today the Commission is being asked to vote to recommend the proposed amendments to the RPP with the addition of the new Marine Resources Planning and Regulatory Sections and to recommend amendments to the RPP Coastal Resources Planning and Regulatory Sections.

■ **PROPOSED TECHNICAL BULLETIN 12-001, VISUAL IMPACT ASSESSMENT (VIA) METHODOLOGY FOR OFFSHORE DEVELOPMENT**

Sharon Rooney, chief planner at the Commission, with the use of PowerPoint slides said the proposed Technical Bulletin 12-001 represents over a year-long effort to develop an objective methodology for DRI applicants in assessing the visual impacts from wind turbines and other offshore development as described in the 2011 Cape Cod Ocean Management Plan (OMP). She said the VIA methodology was developed with the assistance of Richard C. Smardon, Ph.D., Professor of Environmental Studies, SUNY College of Environmental Science and Forestry, and Commission project team members Phil Dascombe, Sarah Korjeff and Sharon Rooney. She said input was also provided by a peer review committee consisting of local design professionals. She said the 2009 OMP revised the Massachusetts Ocean Sanctuaries Act, allowed for renewable energy and development in sanctuaries, established a state policy and standards for development in the ocean, developed exclusion areas, and examined physical resources, not scenic resources. She said the state's OMP charged Regional Planning Agencies (RPAs) to identify appropriate scale and development criteria for allocation of up to 24 turbines in the planning area and develop regulatory review thresholds and criteria. She said the CCOMP established a two-mile prohibited area for Wind Energy Conversion Facilities (WECFs). She said the 2009 RPP MPS HPCC2.3 states that a VIA may be required as part of the project review and if the Technical Bulletin is approved and adopted today, a VIA would be required for DRI review of any WCEF in the Cape Cod Ocean Planning Area. She said the purpose of the Technical Bulletin is to provide guidance to applicants in meeting MPS HPCC2.3. Ms. Rooney outlined the major steps in the VIA process as Step 1 establish visibility of the project; Step 2 identify visual and scenic resources; Step 3 determine affected resources; Step 4 prepare visualizations/simulations; and Step 5 impact assessment. She said mitigation measures would include contrast reduction; height/size reduction; turbine density/group configuration; distance from shore; turbine structure color/value; night lighting impact reduction; and interpretive sites. Ms. Rooney said at its March 26, 2012 meeting, the Planning Committee unanimously recommended Technical Bulletin #12-001 be adopted by the full Commission.

■ **2009 RPP PROPOSED AMENDMENT TO MPS HPCC2.3 IN THE HERITAGE PRESERVATION AND COMMUNITY CHARACTER SECTION**

Sharon Rooney said the proposed revision to MPS HPCC2.3 in the Heritage Preservation and Community Character Section of the RPP would require a VIA for all offshore WECFs and other development based on staff recommendation and a vote of the Commission's Regulatory Committee. Ms. Rooney said at its March 26, 2012 meeting, the Planning Committee unanimously recommended that revised MPS HPCC2.3 be forwarded to the full Commission for their review and adoption by the Assembly of Delegates as an ordinance.

Elizabeth Taylor questioned whether towns would have local review or authority and asked if the Commission would be working with towns abutting development.

Sharon Rooney said the Commission's intention is to work with towns to develop a model bylaw for the gap area.

Elizabeth Taylor questioned whether towns would be able to prohibit any activity or would it be strictly the Commission.

Heather McElroy said what the Commission is voting on today is in addition to what is in the RPP. She said it would apply to DRI projects or projects that go through the MEPA process. She said towns would continue to have a voice during the DRI process.

Elizabeth Taylor asked if there would be flexibility as we go along since this has never been done before. She said changes may need to be made as we go along.

Heather McElroy said these are MPSs that the Commission can take up and amend as appropriate. She said after today's vote by the Commission, it would need approval by the Assembly of Delegates.

Elizabeth Taylor asked how impacts to resources would be dealt with if they occur as we go along.

Heather McElroy said the regulations do require monitoring. She said if the Commission finds that a project doesn't perform as the Commission anticipates, then she believes they would need to go back to the table.

Elizabeth Taylor asked if there would be flexibility if the terrain changes. She asked if maps could be changed.

Sharon Rooney said the information is based on MacConnell Land Use Maps that are periodically updated.

Elizabeth Taylor referred to marine mammals, benthic communities and asked if that would include mid-water organisms, invertebrates. She asked what would be done with other communities that are not listed.

Heather McElroy said the Commission's intention was to take into consideration many of the organisms in the waters. She said it may not capture everything but they may be captured in other MPSs.

Ernest Virgilio said he appreciates Ms. Taylor's questions and concerns. He said there are multiple levels of environmental review and his concern is that the state can step in. He said it bothers him that what the Commission is doing may not mean anything.

Heather McElroy said both councils still exist in the state's ocean management process and the Commission has a seat on the advisory commission. She said the kind of regulations that the state is considering are consistent with the Commission's OMP DCPC. She said she can't speak definitively to the state's intentions but her understanding is that they will listen to the Commission during the environmental process.

Austin Knight said Provincetown is working to bring large ships into its harbors and questioned whether this would inhibit the dredging process.

Heather McElroy said it would not. She said it's for sand and gravel mining for beach nourishment purposes. She said it's not for dredging purposes.

Joanne O'Keefe complimented Commission staff for their work and asked if the Policy Committee had been involved.

Heather McElroy said they have been involved in the process.

Joanne O'Keefe said the reason the Commission responded so quickly was to have regulations in place for future development and asked if that was correct.

Heather McElroy said, yes, that is correct.

Joanne O'Keefe said the document is to ensure that Cape Cod's landscape doesn't change. She said this is new ground and the document was well written and all those who participated needed to be involved.

Jack McCormack said the document lists certain species and asked if the Commission would mitigate or minimize any changes to the ecosystem.

Heather McElroy said she believes the goal will get to that. She said some species have been listed but it's not meant to be an exhaustive list and said it provides examples. She said the MPSs would address that more extensively.

Elizabeth Taylor questioned whether Chambers of Commerce had been involved in the whole process. She said this involves the economy.

Sharon Rooney said perhaps indirectly through the OMP and DCPC process. She said they were invited to participate but she doesn't recall input from the Chambers of Commerce.

Elizabeth Taylor questioned whether the Wampanoag and Aquinnah tribes were involved in the process.

Sharon Rooney said Sarah Korjeff, historic preservation planner at the Commission, worked on it. She said she is not sure if the tribes were contacted directly.

Heather McElroy said Mark Harding was a Commission member at that time. She said some contact was made to the tribes to no avail.

Joanne Murimoto, senior scientist at the Association to Preserve Cape Cod (APCC) and staff member of Barnstable County Coastal Resources Committee (CRC), submitted into the record a comment letter from the CRC concerning proposed policies for the Cape Cod OMP DCPC. She said the CRC is the County's technical advisory committee on coastal issues and members include representatives from all 15 towns on the Cape as well as local, regional, state, and federal agencies involved in coastal management. She said the comments in the letter relate primarily to the proposed policies and conceptual regulations concerning offshore sand and gravel mining for beach nourishment as well as comments regarding implementation of regulations and regulatory processes. She addressed each of the comments in the letter from the CRC. She said the CRC will offer assistance to the Commission in the development of a regional sediment plan and urges the Commission to use adaptive measures for natural sediment control as we learn more about this.

Leslie Fields, coastal geologist with the Woods Hole Group, said the Woods Hole Group is extremely interested in the development of policies for beach re-nourishment. She said they support the Commission's efforts in developing processes from all the stakeholders and said they are strongly in favor of regional sediment activities and management. She said they have worked with the Army Corps of Engineers in other states and she would strongly urge the Commission to form a partnership with the Army Corps of Engineers. She said the Woods Hole Group would be happy to assist the Commission with that. She submitted into the record a comment letter from the Woods Hole Group.

Joanne O'Keefe asked Ms. Fields if water temperature and global warming would change anything in the Commission's OMP DCPC.

Leslie Fields said we are embarking on new territory and this is something that needs to be addressed. She said the Commission is moving in the right direction.

Elizabeth Taylor moved to close the hearings and the records. Jack McCormack seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to approve the proposed amendment to the RPP with the addition of a Marine Resources Section as written and forward to the Assembly of Delegates for adoption and incorporation into the RPP. Austin Knight seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to approve the proposed amendment to the RPP Coastal Resources Section as written and forward to the Assembly of Delegates for adoption and incorporation into the RPP. Austin Knight seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to approve Technical Bulletin 12-001, Visual Impact Assessment Methodology for Offshore Development. Austin Knight seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to approve the proposed amendment to MPS HPCC2.3 of the Heritage Preservation and Community Character Section of the RPP as written and forward to the Assembly of Delegates for adoption and incorporation into the RPP. Austin Knight seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor moved to consolidate the previously approved RPP amendments and forward them as one ordinance to the Assembly of Delegates for adoption and incorporation into the RPP. Austin Knight seconded the motion. The motion passed with a unanimous vote.

■ **NOMINATING COMMITTEE PRESENTS THE SLATE OF NEW OFFICERS**

Ernest Virgilio said the Nominating Committee met on April 26, 2012 to review and recommend the candidates list. He said members of the Nominating Committee were Ernest Virgilio, Jack McCormack and Len Short. Mr. Virgilio said the candidates recommended by the Nominating Committee are John D. Harris as Chair, Jack McCormack as Vice-chair, and Richard Roy as Secretary. Mr. Virgilio said the full Commission would be voting on the slate of new officers at its next Commission meeting.

■ **OTHER BUSINESS**

John Harris complimented Commission staff for all their efforts and involvement in the RPP changes that have been made.

Joanne O'Keefe reminded everyone that Bay State Bike Week begins next week. She referred to the bike map/brochure that she distributed to Commission members at a previous Commission meeting and said it contains useful information on the upcoming Bike Week.

A motion was made to adjourn at 4:10 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Elizabeth Taylor, Secretary

LIST OF DOCUMENTS PRESENTED AT THE MAY 10, 2012 COMMISSION MEETING

- Handout material: May 10, 2012 meeting agenda.
- Handout material: Proposed 2009 RPP Amendments for the addition of a new Marine Resources Section, amendment to the Coastal Resources Section and amendment to MPS HPCC2.3 in the Heritage Preservation and Community Character Section.
- Handout material: Proposed Draft Technical Bulletin 12-001, Visual Impact Assessment Methodology for Offshore Development.
- Materials presented: PowerPoint slide presentation on the proposed RPP Amendments for Marine and Coastal Resources prepared by the Cape Cod Commission.
- Materials presented: PowerPoint slide presentation on the proposed Draft Technical Bulletin 12-001, Visual Impact Assessment Methodology for Offshore Development prepared by the Cape Cod Commission.
- Materials presented: PowerPoint slide presentation on the proposed RPP Amendment to MPS HPCC2.3 in the Heritage Preservation and Community Character Section prepared by the Cape Cod Commission.
- Comment letter on the proposed Cape Cod Ocean Management Plan District of Critical Planning Concern submitted by Robert Duncanson, Ph.D. and Stephen P. McKenna, Barnstable County's Coastal Resources Committee.
- Comment letter on the proposed 2009 Regional Policy Plan Amendments submitted by Robert P. Hamilton, Jr. of the Woods Hole Group.