

The meeting of the Cape Cod Commission was called to order on Thursday, May 14, 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 he and Frank Hogan, the Orleans representative to the Commission, recently met with the Board of Selectmen in Orleans. He said he met with the Yarmouth Board of Selectmen last week regarding zoning issues and noted that the ballot petition in Yarmouth to withdraw from the Cape Cod Commission failed. Mr. Niedzwiecki said he would apprise Commission members about the Cape Wind decision by the Energy Facilities Siting Board once he knows more. He said there is a lot going on with the Ocean's Management Plan. He said a meeting was held last week at the Commission where Greg Bialecki spoke about land use legislation. He said the Comprehensive Economic Development Strategy (CEDS) process has been a great process to date. He noted that the focus group meetings have ended and said a report would be available soon. He said the Commission would be starting up with the review of the Regional Policy Plan and said the first issue area to be reviewed would be affordable housing. He said throughout the summer there would be staff discussions and after the summer the public process would begin. Mr. Niedzwiecki said both Chapter A Enabling Regulations and Chapter D Development Agreement Regulations are before the Assembly of Delegates. He said the Commission's Regulatory Committee took up Chapter H and said it would be coming to the full Commission soon and if approved, it would be forwarded to the Assembly of Delegates.

■ MINUTES

The minutes of the March 30, 2009 Commission meeting were reviewed. Roger Putnam moved to approve the minutes. Alan Trebat seconded the motion. The motion passed with two abstentions.

The minutes of the April 2, 2009 Commission meeting were reviewed. Roy Richardson moved to approve the minutes. Peter Graham seconded the motion. The motion passed with one abstention.

■ NOMINATING COMMITTEE PRESENTS SLATE OF NEW OFFICERS

Ernest Virgilio, as Chairman of the Nominating Committee and on behalf of Committee members Joy Brookshire and Florence Seldin, presented the slate of new Commission officers to the Commission. He said the nominees are John Harris as Chair, Roy Richardson as Vice-chair, and Alan Trebat as Secretary. Mr. Virgilio noted that Mr. Harris had been nominated for a second term because special circumstances warranted the continuity, specifically, his involvement in the RPP process. He said the Committee felt it would be beneficial during the new RPP transition. Mr. Virgilio said the full Commission would be voting on the slate of officers at the next Commission meeting scheduled for May 28, 2009.

Roger Putnam moved that the nominations had been presented. Sheila Lyons seconded the motion. The motion passed with a unanimous vote.

Chair John Harris said he is humbled and said he appreciates working with an excellent staff.

Paul Niedzwiecki said once the nominations have been voted on by the full Commission on May 28th, the vice-chair and secretary should be effective immediately rather than July 1st since both seats are presently vacant.

■ F.W. WEBB

Chair John Harris noted that this is a continued hearing from March 30, 2009.

The subcommittee reviewed the minutes of the May 1, 2009 subcommittee meeting. Elizabeth Taylor moved to approve the minutes. Frank Hogan seconded the motion. The motion passed with a unanimous vote.

Page Czepiga, regulatory officer at the Commission, referred to PowerPoint slides and described the existing setting as a 29,017 s.f. two-story building and associated parking, landscaping and drainage. She said the site was formerly used by The Mill Store as a warehouse and distribution facility for unfinished furniture. She said access to the site is via two

entrances off Breeds Hill Road. She said the site abuts Independence Drive but there is no direct access to or from the site via Independence Drive. Ms. Czepiga said the proposed project involves renovation and expansion of the existing building and the construction of a new two-story 33,750 s.f. addition to the existing building which together would be a new F.W. Webb warehouse and distribution facility. She said with the addition the building would total approximately 62,767 s.f. of gross floor area. She said the project also includes changes to the associated parking areas, loading dock, stormwater drainage system, exterior lighting, and landscaped areas. She said on October 30, 2008 the project was referred to the Commission as a mandatory referral by the Barnstable Town Manager. She provided a procedural history for the project and said on May 1, 2009 the subcommittee voted unanimously to forward the draft decision to the full Commission. Ms. Czepiga reviewed key findings and conditions in the draft decision regarding energy; land use, open space and community character; water resources/hazardous materials; affordable housing and transportation. She said in regard to transportation three areas were reviewed for impacts and noted those areas as safety, congestion mitigation and trip reduction. Ms. Czepiga said for the Commission to approve the project it must be consistent with the Minimum Performance Standards of the RPP, it must be consistent with local zoning bylaws, it must be consistent with the certified Local Comprehensive Plan, it must be consistent with Districts of Critical Planning Concern, and the probable benefits of the project must outweigh the probable detriments of the project. Ms. Czepiga said Jo Anne Miller Buntich, Interim Director of Barnstable's Growth Management Department, was unable to attend today's hearing but she wanted the Commission to know that the Town supports the project. Ms. Czepiga said the subcommittee has unanimously recommended approval of the project with conditions.

Alan Trebat expressed appreciation for the project going forward and thanked Commission staff and subcommittee members for their hard work. He inquired about the methodology used for affordable housing and transportation and said it appears that it was based on current staffing as opposed to projected staffing.

Paul Ruchinkas, affordable housing specialist at the Commission, said the technical bulletin bases it on current staffing. He said it's consistent with the way the technical bulletin is set up.

Alan Trebat inquired about expansion of staff and types of jobs with redevelopment.

Paul Ruchinkas said future job predictions would be the same percentage going forward. He said the future is mimicked by the past.

Alan Trebat inquired about the methodology used for transportation mitigation.

Glenn Cannon, transportation engineer at the Commission, said it's based on the present number of employees but that could be revised and said staff could talk to the applicant about that. He said it's based on full build of the employees—current head counts.

Elizabeth Taylor said this was a good application to work with. She said the applicant was ahead of the curve on this project. Ms. Taylor thanked F.W. Webb and said she appreciates the project and the fact that it's redevelopment.

Michael Blanton inquired about projected hires with a larger facility.

Marc Natel, company manager, said there have been no staff layoffs and that says something in these economic times. He said business is steady and adjustments have been made internally. He said the company would be adding possibly two or three people to the staff. He said it's a great company. He said it's a family business and their employees are important to their company.

Royden Richardson said F.W. Webb is one of the most appreciated businesses in Barnstable.

Sheila Lyons asked for clarification regarding transportation numbers and asked how many more new employees would trip concerns.

Glenn Cannon said there would be no concerns and said trip generation is based on ITE. He said employees fluctuate and it wouldn't skew transportation numbers.

Herb Olsen asked that a minor editorial change be made to EF5.1 and said the word should be "compliant" not "complaint."

Page Czepiga noted Mr. Olsen's change.

Paul Niedzwiecki thanked the applicant as the first applicant to come under the Commission's new RPP. He said the applicant met thresholds and it shows that the RPP works. He thanked F.W. Webb for having a good project.

Elizabeth Taylor moved to close the hearing and the record. Frank Hogan seconded the motion. The motion passed with a unanimous vote.

Royden Richardson moved to approve the decision with conditions for F.W. Webb as submitted. Frank Hogan seconded the motion. The motion passed with a unanimous vote.

■ REVISIONS TO TECHNICAL BULLETIN 94-001, CALCULATION AND PROVISION OF OPEN SPACE IN DEVELOPMENTS OF REGIONAL IMPACT

Chair John Harris noted that this is a continued hearing from April 30, 2009.

Heather McElroy, natural resources specialist at the Commission, said the technical bulletin had been reviewed by the Commission's Planning Committee and voted on at their March 16, 2009 meeting. Ms. McElroy referred to PowerPoint slides and said the revised technical bulletin reflects changes to the 2009 Regional Policy Plan (RPP), it has been restructured for clarity, and it addresses public comments. She said a **Table of Contents** has been added and the **Introduction** has been revised to address site selection and design, it highlights section headings and provides a reference to the Commission's website for maps. She said **Section 1, Site Selection** is a new section that has been added to highlight open space requirements affected by project location in relation to the Land Use Vision Map and Significant Natural Resource Area Map and wetlands and rare species habitat. **Section 2, Developing an Open Space Proposal** has been restructured and highlights nine concepts to keep in mind when developing an open space proposal. She said the concepts are derived from Minimum Performance Standards (MPSs) in the Wildlife and Plant Habitat and Open Space section of the RPP. She said these were covered in the prior technical bulletin but have been refined and reorganized under this section. She said the section provides guidelines for maintaining natural vegetation consistent with definitions of the Land Use Vision Map categories. **Section 3, Site Design** combines concepts in the prior technical bulletin with a reminder to consider site design to minimize impacts to sensitive resources, and thereby reduce the open space requirement. **Section 4, Calculating Required Open Space** has been revised to reflect changes in the RPP. She said locating a project in an Economic Center may reduce the open space requirement and redevelopment projects need only mitigate new greenfield disturbance. She referred to an illustration of a development area and said the description has been revised and this addition to the technical bulletin acknowledges that defining the development area may not always be clear-cut. She said a new sub-section explains the requirements for open space for redevelopment projects. She said this section addresses previously permitted DRIs and makes a distinction between projects having complied with the open space requirements of the 1996 RPP and those meeting the requirements of the 2009 RPP giving the Commission the ability to waive additional open space requirements for previously permitted DRIs returning for additional DRI review. Ms. McElroy said the remainder of the document has not changed substantially and **Section 5, Ownership and Restriction of Open Space** has been restructured for clarity and updating references. **Section 6, Activities in the Open Space** provides references and supports policies in the RPP that promote agricultural activities. **Section 9, Cash Contributions in Lieu of Open Space** addresses the method of calculating the cash contribution and inflation factor and

the language is consistent with the 2009 RPP. Ms. McElroy noted that she had received an email from the Association to Preserve to Cape Cod (APCC). She said in the email APCC indicated that the draft technical bulletin provides guidance to the 2009 RPP and they support its adoption.

Elizabeth Taylor thanked staff for adding the section addressing agriculture. She said she is hoping it can be used as new distinguishing qualifications of open space.

Heather McElroy said each case is different and it would have to be taken into consideration.

Elizabeth Taylor referred to the Site Design section and asked about a site being cleared before it comes to the Commission and asked if the Commission could preclude that from happening or would that be a state issue.

Heather McElroy said when an applicant comes through the Commission staff advises preservation of natural resources. She said an applicant would need to go through the Natural Heritage Program first. She said the Commission would work with Natural Heritage but Natural Heritage would oversee enforcement of clearing.

Elizabeth Taylor referred to Section 5 regarding Conservation Restrictions and said the list of town agencies receiving notification seems short. She asked if agencies other those listed should receive notification as well.

Heather McElroy said the list is not a complete list. She said more agencies could be added to the list.

Elizabeth Taylor referred to page 11 and questioned the provision for individual residential lots. She also referred to page 16 regarding OS1.4, Sensitive Natural Resources and asked if vernal pools should be listed as well.

Heather McElroy said regarding individual residential lots it's a useful provision to have. She said in rare instances the Commission needs that flexibility and it's a matter of doing it carefully. She said regarding OS1.4, Sensitive Natural Resources she would revisit that area/section.

Elizabeth Taylor thanked Ms. McElroy for her time and effort. Ms. Taylor moved to close the hearing and the record. Alan Trebat seconded the motion. The motion passed with a unanimous vote.

Ms. Taylor moved to approve Revised Technical Bulletin 94-001, Guidelines for Calculation and Provision of Open Space, as amended, and with the noted revision to the Conservation Restriction section. Frank Hogan seconded the motion. The motion passed with a unanimous vote.

■ TECHNICAL BULLETIN 09-002, DRI GUIDELINES FOR ENERGY COMPLIANCE

Chair John Harris noted that this is a continued hearing from April 30, 2009.

Ryan Christenberry, planner at the Commission, said the Commission began developing the Energy Technical Bulletin in October 2008. She said the Commission's Planning Committee reviewed the draft Technical Bulletin in February 2009 and on March 4, 2009 the Planning Committee and Commission staff hosted a peer review workshop to comment on the draft. She said staff incorporated many of the comments and suggestions from that workshop as well as the comments from the February 17, 2009 Planning Committee meeting. She said on March 30th the Planning Committee recommended that the draft be forwarded to the full Commission. Ms. Christenberry said the RPP contains seven Minimum Performance Standards (MPS), one of which is optional E1.7, for Energy. She said the purpose of the Technical Bulletin is to provide applicants with guidance in the preparation and submittal of data required to evaluate compliance with the 2009 RPP regulatory section for energy. She said submittal requirements may range from 9 or less to a maximum of 12 depending on the applicability of the standard to the proposed project. She said where industry standards are referenced, web links are included and corresponding documentation have been provided in the Appendices. Ms. Christenberry

referred to PowerPoint slides and provided an overview of the different elements of the Technical Bulletin. She explained timeline, MPSs for Energy, application requirements, energy compliance and provided scenarios of sample projects.

Elizabeth Taylor referred to the Commonwealth Capital Point System that towns work with and asked if the Commission was working toward a regional “green” setup that would give credit to towns. She asked if towns would receive any bonuses for building “green.”

Ryan Christenberry said any bonuses would come through the Green Communities Act. She said towns must meet certain requirements to receive credit. She said once a community qualifies as a green community, funds are available to communities through the Green Communities Act.

Paul Niedzwiecki said Ms. Taylor made a good point. He said the Commission would follow up on regionalization of the green community concept.

Elizabeth Taylor said it would be good to have someone come and speak to the Commission on the Green Communities Act and possible regionalization of green community.

Paul Niedzwiecki said the Commission would have opportunities to discuss this concept with communities.

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

Elizabeth Taylor moved to approve Technical Bulletin 09-002, Development of Regional Impact Guidelines for Energy Compliance as presented. Roy Richardson seconded the motion. The motion passed with a unanimous vote.

Elizabeth Taylor thanked Ms. Christenberry and Commission staff for their work on the technical bulletin.

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

Respectfully submitted,

John D. Harris, Chair