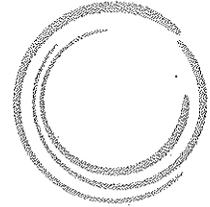


3225 MAIN STREET • P.O. BOX 226  
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD  
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • [www.capecodcommission.org](http://www.capecodcommission.org)

**Minutes**  
**Meeting of**  
**Cape Cod Commission**

June 7, 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	Absent
Chatham	Vacant	Vacant
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Vacant	Vacant
Harwich	Robert Bradley	✓
Mashpee	Ernest Virgilio	Absent
Orleans	Leonard Short	✓
Provincetown	Austin Knight	✓
Sandwich	Joanne O'Keefe	✓
Truro	Peter Graham	Absent
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	✓
Minority Representative	John Harris	✓
Native American Rep.	Vacant	Vacant
Governor's Appointee	Herb Olsen	✓

The meeting of the Cape Cod Commission was called to order on Thursday, June 7, 2012 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 meetings before Boards of Selectmen are underway. He said the Commission has met with 11 out of the 15 towns to date. He said to get the word out to communities on wastewater and watershed issues, he has been meeting with two towns each Saturday and expects to be finished with the Saturday meetings by July 15. He said between himself and Andrew Gottlieb, president of the Cape Cod Water Protection Collaborative, they have visited with towns 45 times over the past three months. He said a few weeks ago at the SmarterCape Summit the Commission unveiled the watershed MVP application software that was developed at the Commission. He said MVP stands for multi variant planner which is a wastewater planning tool that the Commission believes will help expedite discussion of wastewater issues on the local level. He said the Commission met with both the EPA and DEP this past week and said the EPA is working on a model of their own which is at a much higher level and less granular than the Commission's. He said the Commission showed the EPA its model and the EPA showed the Commission their model. He said they have agreed to collaborate with the Commission on the same type of model. He said both of these models will be moving forward on parallel tracks over the next three to six months. Mr. Niedzwiecki said also on wastewater the parties in the lawsuit with the Conservation Law Foundation and the Buzzards Bay Coalition versus the Environmental Protection Agency announced to Judge Wolf several weeks ago that they were unable to reach agreement on a settlement so they have filed notice to the court and will begin formal litigation proceedings soon. He said the Commission will keep an eye on that. Mr. Niedzwiecki said the E-permitting grant that the Commission was awarded in conjunction with 14 or 15 towns is underway. He said the Commission has been granted an extension as the state timeline was somewhat tight. He said with any luck the Commission will have until next April to get the E-permitting program up and running alongside the watershed MVP software. He said applications are being worked on for the Strategic Information Office with the County for its regional information services. He said there will be a lot of information over the next several months and there will be a lot more on wastewater.

Joanne O'Keefe said she has received positive feedback from the Town of Sandwich on Mr. Niedzwiecki's visit to the town. She thanked Mr. Niedzwiecki and Commission staff for attending the Saturday meetings.

Jack McCormack complimented Mr. Niedzwiecki on his meeting with the Yarmouth Selectmen. He said the Yarmouth Selectmen thought the meeting was very productive. He said a few weeks later Mr. Niedzwiecki was in Yarmouth at the Saturday meeting on wastewater as well.

Austin Knight asked if there was a timeline on the lawsuit that Mr. Niedzwiecki previously mentioned.

Paul Niedzwiecki said he believes some of the early responses are due by the end of the month or possibly July. He said he doesn't believe there will be any resolution on this suit short of 12 or 18 months. He said the underlying news is that it's bad news for Cape Cod. He said the settlement carried with it a promise for compromise. He said he sees no action moving forward and that would result in degradation of marine watersheds and embayments on Cape Cod within five or ten years. He said he doesn't see any good news coming out of the lawsuit. He said the best we can do is to continue moving forward with a consensus and try to find a solution that is sensitive to the needs of the Cape by having the right tools to remedy that in a less costly and effective way.

Len Short said last evening the Orleans Water Alliance and the Orleans Taxpayers Association made a presentation to the Selectmen on wastewater. He said the Taxpayers Association is setting up a meeting now to bring in the principal organizations and get them together in an attempt to try to get some sort

of consensus. He said the Orleans Water Alliance is supporting that effort as are a number of other organizations in Orleans.

Michael Blanton said this is an important discussion and it's important to continue the discussion with regard to wastewater as the next most challenging frontier on Cape Cod.

John Harris said he had the opportunity to attend a wastewater presentation that was held in Sandwich. He said he thinks there should be a combination of resources on the Cape to talk about wastewater and present it to the public almost on a continuous loop. He said people need to see and hear what's in it for me whether or not they agree with it. He said this information needs to be put out there to make people stop and pay attention. He said the information is very effective and if as many people attended the wastewater presentation as they did the town meeting, there would be a lot of informed people because the presentation was very clear. He said the Commission is working very hard at this but he believes the media is not doing a good job. He said Mr. Niedzwiecki talks about what has to be done and we need to do as much as we can to make people aware of what's coming down the road. He said we need to do something about this now or else someday people will wake up and find out it's too late.

Michael Blanton said as Commission members they are in the nexus of that conversation and have been for some time and it's sometimes amazing to them to know there are people who live on the Cape who have not heard the message or haven't quite gathered the substance of the information yet. He said it's a wakeup call and they have to continue to spread that particular message around the Cape because it's extraordinarily significant to our quality of life, our economic development and our environmental protection going forward.

#### ■ MINUTES

The minutes of the April 12, 2012 Commission meeting were reviewed. John Harris moved to approve the minutes. Len Short seconded the motion. The motion passed with two abstentions.

The minutes of the April 26, 2012 Commission meeting were reviewed. Jack McCormack moved to approve the minutes. Austin Knight seconded the motion. The motion passed with two abstentions.

#### ■ DUPONT HISTORIC RESIDENCE—3 MAIN STREET, CHATHAM

Vice-chair Michael Blanton noted that this is a continued hearing from May 17, 2012.

The subcommittee reviewed the minutes of the May 31, 2012 subcommittee meeting. Austin Knight moved to approve the minutes. Len Short seconded the motion. The motion passed with a unanimous vote.

Elizabeth Enos, regulatory officer at the Commission, said the DuPont Residence is located at 3 Main Street, Chatham within Chatham's Old Village Historic District that was listed on the National Register of Historic Places in December 2001. She said the district encompasses approximately 95 acres east and southeast of Chatham's Main Street commercial area, framed by the Mill Ponds and the Atlantic coastline. She said the District's period of growth and development was during the mid-1800s, when it served as the commercial center of town and reflected the economic prosperity and population growth that followed the area's success in maritime industries. She said the house is a three-quarter Cape house built circa 1815 and was located across the street from its current location where a tennis club now stands. She said the house was moved in 1892 to its present site but oriented towards Silverleaf Avenue. She said in 1938 the house was placed onto a new foundation at its current location, re-oriented to face Main Street and the Atlantic beyond, and a rear ell was added to the house. She said in 1970 the current owner's family added the garage and breezeway to the house. Ms. Enos said proposed changes to the historic Cape involve replacing the picture window on the front façade with a bay

window and removing the 20<sup>th</sup> century chimney on the west side; the existing side ell will be enlarged by approximately 4 feet in the rear extending the existing roof pitch several feet higher; replace and expand the rear ell, adding a new master bathroom and kitchen as one-story elements on the west side of the house, and adding a new one-story sitting room on the east side. She said the existing breezeway and attached garage will be demolished and replaced with a new attached two-car garage, entry hall, a playroom addition on the east side and a new deck is proposed between the new playroom and sitting room. She provided a procedural history on the project and said the subcommittee recommends approval of the proposed project with conditions.

Sarah Korjeff, historic preservation planner at the Commission, explained the Community Character Findings in the draft decision regarding HPCCF1, HPCCF2, HPCCF3, HPCCF4, HPCCF5, and HPCCF7. Ms. Korjeff said prior to issuance of a building permit for development, the applicant shall seek and obtain a special permit from the Chatham Zoning Board of Appeals. She said any deviation to the proposed project from the approved plans shall require approval by the Cape Cod Commission through its modification process pursuant to the Commission's Enabling Regulations.

Elizabeth Enos explained the criteria for DRI approval by the Cape Cod Commission and said written correspondence from Terrance Whalen, principal planner for the Town of Chatham, dated May 10, 2012 notes that in order to comply with local zoning the applicant will need a special permit for the Zoning Board of Appeals. Ms. Enos said the subcommittee recommends approval of the proposed project with conditions.

Jonathan Idman, attorney for James and Andrea DuPont, thanked Ms. Enos and Ms. Korjeff for their thorough presentation. Attorney Idman said the goal of the DuPonts is to preserve the original part of the house and alter the later part of the house. He said the changes are reasonable and this is a visible and important project property. He said the DuPonts plan to spend more time on the property with their extended family. He said right now the house is unsafe and the project is designed for the significant 1850 portion of the house to be preserved while also having a functional part of the house to live in. He said the project meets the terms of the Cape Cod Commission Act and meets Commission regulations and local regulations. He said the project's benefits outweigh the detriments and the project allows the 1850 portion of the house to remain the same. He said the alterations do not jeopardize the property's listing as a contributing structure in Chatham's Old Village Historic District. He said part of the charm in the area is the alterations that fit into a Historic District. Attorney Idman said he would ask the Commission to approve the recommendation of the subcommittee.

Bob Oliver, Chair Chatham Historical Commission, said he was attending the meeting on behalf of the Commission to answer any questions regarding the draft decision. He thanked Commission staff, the subcommittee and the full Commission for their assistance with the application. He said this has been one of the most difficult applications they have had and he thanked the Commission for its participation and help in that regard.

Joy Brookshire asked what affect Chatham not having a certified Local Comprehensive Plan had on this project. She asked what might have been different.

Jessica Wielgus, Commission counsel, said because Chatham does not have a Cape Cod Commission certified LCP, the net effect of that is simply not something that you have to examine to determine compliance in making your decision.

Joy Brookshire asked what affect the Zoning Board of Appeals would have on the project; best case or worst case scenarios.

Sarah Korjeff said her understanding is that the Zoning Board of Appeals is reviewing the project in terms of the size and scale of the proposed addition. She said they will not be questioning the direct

impact on historic structure. She said based on the underlying zoning they could determine that the proposed addition to the building exceeds a scale that they are comfortable having in that neighborhood so they could actually require that the addition be redesigned at a smaller scale. Richard Roy said the footprint of the building shows that it's intruding in the setback.

Attorney Idman said that is one of the things that is allowed. He said it would be approved up to the 75-foot setback. He said most properties in Chatham would go before the Zoning Board of Appeals.

Austin Knight said that was not in the Commission's purview. He said the Town will take care of that. He said he believes the Commission did a good job in reviewing the historic preservation aspect of the project.

Joanne O'Keefe said the subcommittee worked within the criteria of the DRI and did a good job. She said there will be safety in the dwelling. She said while walking the site she noticed that other homes in the area had similar architectural changes. She said the changes would not alter the view. She said the staircase is very narrow and causes a safety issue.

Michael Blanton said the subcommittee heard testimony from an abutter who explained a situation years ago when someone needed to be transported from the building and the narrow stairways did not allow emergency workers to remove the person down the stairway. He said other measures had to be taken.

Len Short said he can't understand how the DuPonts could have lived there so long. He said the house definitely needs alteration for safety purposes and livability. He said he supports the Commission's review of historic preservation and said the project would need to go to the Zoning Board of Appeals.

Austin Knight moved to close the hearing and the record. Len Short seconded the motion. The motion passed with a unanimous vote.

Richard Roy moved to approve the Development of Regional Impact, with conditions, for the proposed alteration of the residential structure located at 3 Main Street in Chatham. Len Short seconded the motion. The motion passed with a unanimous vote.

Austin Knight moved to approve the draft DRI decision for 3 Main Street in Chatham as submitted. Len Short seconded the motion. The motion passed with a unanimous vote.

#### ■ ELECTION OF NEW OFFICERS

Len Short, on behalf of the Nominating Committee, presented the slate of new officers. He said the committee nominated John D. Harris as Chair, Jack McCormack as Vice-chair, and Richard Roy as Secretary.

Roger Putnam moved to close the nominations. Austin Knight seconded the motion. The motion passed with a unanimous vote.

Len Short moved to accept the slate of new officers. Roger Putnam seconded the motion. The motion passed with a unanimous vote.

#### ■ OTHER BUSINESS

##### **Withdrawal of Provincetown Municipal Airport Capital Improvements Plan**

Kristy Senatori, chief regulatory officer at the Commission, said the project was undergoing DRI review because it required the preparation of an Environmental Impact Report. She said since the applicant

needs more time to go through the MEPA process, Michael Garrity, the project manager, has requested a withdrawal of the Provincetown Municipal Airport Capital Improvements Plan from DRI review. She said the Commission is being asked to vote to accept the applicant's withdrawal of the project from Commission review.

Austin Knight moved to accept the withdrawal of the Provincetown Municipal Airport Capital Improvements Plan from DRI review. Len Short seconded the motion. The motion passed with a unanimous vote.

■ **CCC MEMBER COMMENTS**

Joanne O'Keefe acknowledged the amount of time and work that has been put in by Commission officers and members of the Commission as an entire board.

Austin Knight thanked Michael Blanton for serving as Vice-chair for the past year.

Michael Blanton thanked Chair Peter Graham and Secretary Elizabeth Taylor for also serving as Commission officers for the past year.

A motion was made to adjourn at 3:55 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

---

Elizabeth Taylor, Secretary

**LIST OF DOCUMENTS PRESENTED AT THE JUNE 7, 2012 COMMISSION MEETING**

- Handout material: June 7, 2012 meeting agenda.
- Handout material: DuPont Residence Draft Development of Regional Impact Decision
- Materials presented: PowerPoint slide presentation on the DuPont Residence project prepared by the Cape Cod Commission.