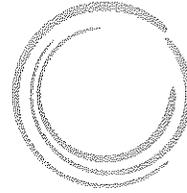


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**Minutes of
Cape Cod Commission
CCC Member Training Session**

June 10, 2010

A CCC member training session of the Cape Cod Commission was held on Thursday, June 10, 2010 at 1:30 pm at the Cape Cod Commission, Conference Room, 3225 Main Street, Barnstable, MA.

Commission Members in attendance: Chair John Harris, Peter Monger, John H. McCormack, Jr., Joy Brookshire, and Mario DiGregorio

■ Districts of Critical Planning Concern (DCPCs)

An overview of the process for nominating and designation of DCPCs was provided using PowerPoint slides.

Kristy Senatori, chief regulatory officer at the Commission, said a DCPC is an area of critical value to Barnstable County that must be preserved and maintained due to the presence of significant natural, coastal, scientific, cultural, architectural, archaeological, historic, economic, or recreational resources, or values of regional, statewide or national significance; or the presence of substantial areas of sensitive ecological conditions which render the area unsuitable for development; or the presence or proposed establishment of major capital public facility or an area of public investment pursuant to Sections 10 and 11 of the Cape Cod Commission Act and Chapter E, DCPC Regulations. She said a proposed DCPC may be nominated by the Cape Cod Commission (CCC), Barnstable County Commissioners, Barnstable County Assembly of Delegates, and local Boards including Boards of Selectmen, Historical Commissions, Planning Boards, Boards of Health, and Conservation Commissions. She explained how an area qualifies for a proposed DCPC and said the CCC must make a determination that the proposed district will preserve or maintain values and resources intended to be protected by the Act and that there are regulatory and planning tools available which are likely to be effective in protecting or otherwise meeting the objectives of the proposed district. Ms. Senatori described the nomination process and said once the CCC receives a nomination application and a public notice of receipt has been published, a full moratorium on building begins. She said within 45 days of receipt of the nomination the full CCC will vote to accept or reject the nomination for consideration. If the full CCC votes to accept the nomination for consideration, the full moratorium ends and a limited moratorium begins. She said within 60 days of acceptance of the nomination, the CCC decides whether to propose designation of the district to the Assembly of Delegates (AOD). If approved and forwarded to the AOD, the AOD has 60 days to consider whether to adopt the DCPC as a district by a County ordinance. She said if the area is adopted and established as a DCPC district by the AOD, a town then has 12 months to propose implementing regulations based on the guidelines contained in the County ordinance for the DCPC district. Once the town has completed the implementing regulations within the 12-month period, the CCC reviews the proposed implementing regulations to determine whether they conform to the

guidelines, and if approved, the town adopts and incorporates the implementing regulations and the limited moratorium ends. Ms. Senatori described what types of development can take place during the full moratorium and limited moratorium periods, the provision for hardship exemptions, and then described the 10 DCPC districts that have been adopted and established to date. Ms. Senatori entertained questions from Commission members.

Chair John Harris inquired about financial hardships and asked if the Commission is obligated to receive information that “stands up” and asked how does the Commission know if a financial hardship really meets the criteria.

Kristy Senatori said the Commission has to consider the information that is provided.

Chair John Harris inquired about people being sworn in when providing testimony on this type of information and questioned certification of the information being provided. He said it sometimes becomes more emotional in nature and questioned how to address that.

Kristy Senatori said the subcommittee could request more information so that the Commission is satisfied with the information that has been presented.

Chair John Harris questioned whether that should be considered as required criteria.

Jessica Wielgus, Commission counsel, said the Commission does have criteria for reviewing hardship exemptions and said it’s possible to have additional information required in a hardship exemption application.

Joy Brookshire said her experience has been that it becomes very emotional. She said attorneys go to hearings and present the applicant’s case. She referred to a previous DCPC hardship exemption project and said as far as a physical hardship, a letter was received from a physician saying that there was a physical hardship and the subcommittee accepted that. She said she believes there should be financial pre-requisites as well and said it would make review of hardship exemption projects easier and would keep emotions out of it.

Peter Monger said the CCC should have standards on that.

Jack McCormack questioned whether people should be sworn in when providing testimony.

Jessica Wielgus said that would have to be incorporated into the Commission’s subcommittee procedures.

■ Development Agreements

An overview of Development Agreements and the regulations governing the provisions for Development Agreements was provided using PowerPoint slides.

Jessica Wielgus, Commission counsel, said a Development Agreement is a voluntary binding contract that provides developers greater flexibility and protection from future local zoning changes and encourages developers to plan comprehensive projects and to provide major infrastructure and public benefits earlier in the project. She said there are two different types of Development Agreements dependent on if the proposed project qualifies as a Development of Regional Impact (DRI). She said if the project is a DRI, the Commission must be a party. If the project is not a DRI then the Commission does not have to be a party. Ms. Wielgus explained the process for when the Commission is a party to a Development Agreement and said the applicant files a Notice of Intent and the Commission’s

Regulatory Committee determines the project's suitability for a Development Agreement based on six criteria. She said if approved and recommended by the Regulatory Committee, the project is forwarded to the full Commission for a vote to enter the process. She said if the full Commission votes to allow the applicant to proceed with the process, the applicant has one year to file a Development Agreement application. She said once the application is complete, a subcommittee is appointed to represent the Commission in negotiating a Development Agreement and noted that the Development Agreement is subject to final approval by the full Commission. She explained the meeting and hearing process, the contents of a draft Development Agreement and finalizing a Development Agreement. Ms. Wielgus explained the process when the Commission is not a party and said the local building official makes a determination on whether the proposed development qualifies as a DRI. She said if it is a DRI it must obtain a DRI approval decision first or go through the process with the Commission as a party. She said if the development is not a DRI then once the Development Agreement is complete, the town holds a public hearing and the town reviews the proposed Development Agreement for consistency with local zoning and its Local Comprehensive Plan. She explained the process for finalizing a Development Agreement and entertained questions from Commission members.

■ Open Meeting Law

An overview of new changes to the Open Meeting Law effective July 1, 2010 was provided using PowerPoint slides.

Jessica Wielgus said the Open Meeting Law is now housed under the Attorney General's office and its purpose is to ensure transparency of public policy deliberations and allows government to efficiently manage its operations. She said the Attorney General's role is to provide training to public officials and members of public bodies, provide guidance on Open Meeting Law requirements, investigate Open Meeting Law complaints and make findings and bring enforcement actions. She said effective July 1, 2010 the Open Meeting Law shifts all enforcement responsibility to the Attorney General, there is new division of open government, creates an Open Meeting Law Advisory Commission, expands notice posting requirements, expands record keeping requirements, requires certification by members of a public body within two weeks of qualification for office, requires presentment of complaints to a public body, and the Attorney General may permit remote participation. She explained each of the new changes as indicated above and entertained questions from Commission members.

The training session adjourned at 2:45 p.m.

Respectfully submitted,

Elizabeth Taylor, Secretary

■ LIST OF DOCUMENTS PRESENTED AT THE JUNE 10, 2010 TRAINING SESSION

- Handout material: Copies of the PowerPoint slide presentation on Districts of Critical Planning Concern prepared by the Cape Cod Commission
- Handout material: Copies of the District of Critical Planning Concern brochure prepared by the Cape Cod Commission
- Handout material: Copies of the PowerPoint slide presentation on Chapter D, Development Agreements prepared by the Cape Cod Commission
- Handout material: Copies of the PowerPoint slide presentation—Open Meeting Law, Balancing Government Transparency with Government Efficiency prepared by the Office of Massachusetts Attorney General Martha Coakley