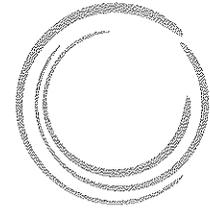


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CAPE COD
COMMISSION

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Minutes
Meeting of
Cape Cod Commission

September 30, 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	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Mario DiGregorio	✓
Harwich	Robert Bradley	Absent
Mashpee	Ernest Virgilio	Absent
Orleans	Peter Monger	✓
Provincetown	Austin Knight	✓
Sandwich	Joanne O'Keefe	✓
Truro	Peter Graham	✓
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Sheila Lyons	✓
Minority Representative	John Harris	✓
Native American Rep.	Mark Harding	Absent
Governor's Appointee	Herb Olsen	Absent



Keeping a Special Place Special

The meeting of the Cape Cod Commission was called to order on Thursday, September 30, 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 the Commission held the first in a series of citizen forums for wastewater planning. He said first watershed tour/forum was of the Three Bays Area held in Barnstable with 40 people in attendance. He said the next tour/forum would be of the Lewis Bay Area on October 7 at 7:00 p.m. at the Mattacheese Middle School. Mr. Niedzwiecki said the first meeting of the county vegetation management committee will be held tomorrow, Friday, October 1 at 9:00 a.m. at the Superior Courthouse.

■ MINUTES

The minutes of the June 24, 2010 Commission meeting were reviewed. Lynne Pleffner moved to approve the minutes. Austin Knight seconded the motion. The motion passed with a unanimous vote.

The minutes of the August 5, 2010 Commission meeting were reviewed. Peter Graham moved to approve the minutes. Michael Blanton seconded the motion. The motion passed with two abstentions.

The minutes of the August 19, 2010 Commission meeting were reviewed. Lynne Pleffner moved to approve the minutes. Peter Monger seconded the motion. The motion passed with one abstention.

■ PROVINCETOWN WASTE TREATMENT TELECOMMUNICATIONS MONOPOLE

Michael Blanton read the hearing notice and opened the hearing at 3:10 p.m.

Austin Knight, a member of the Provincetown Board of Selectmen, recused himself and left the meeting room.

The subcommittee reviewed the minutes of the August 10, 2010 public hearing. Joy Brookshire moved to approve the minutes. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

The subcommittee reviewed the minutes of the August 10, 2010 subcommittee meeting. Joy Brookshire moved to approve the minutes. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

The subcommittee reviewed the minutes of the September 22, 2010 subcommittee meeting. Joy Brookshire moved to approve the minutes. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

Page Czepiga, regulatory officer at the Commission, said the project consists of the construction of a 92-foot, above ground level monopole telecommunications tower that will be situated within a 39 foot by 48 foot fenced compound. She said the site is a disturbed area, previously used as a burn dump and more recently reclaimed to serve as the site of the Provincetown Wastewater Treatment Plant. She said the tower will be a monopole type and will have nine panel antennas attached on it with associated cabling which will run down inside the structure to equipment cabinets or shelters located inside the fenced compound. She said utilities will be installed underground from an existing transformer on the property using an existing underground utility easement. She said the facility as proposed will provide co-location opportunities for up to three additional carriers. Ms. Czepiga provided a procedural history for the project and said the project was reviewed subject to the 2009 Regional Policy Plan (RPP), as amended in May 2010, and the requirements of Technical Bulletin 97-001, Guidelines for DRI Review of Wireless Communication Towers. She described the tower height and Provincetown's Fall Zone Setback requirements. She said the subcommittee found that the project is consistent with the tower height requirements of the Technical Bulletin and complies with the building setback provisions of the zoning district and Provincetown's Wireless Telecommunications Towers and Facilities Fall Zone requirement. Ms. Czepiga explained the Findings and Conditions regarding design; land use; historic districts, archaeological and natural resources; heritage preservation and community character; and solid and hazardous waste. She said the subcommittee is recommending that with the conditions contained in the Draft Decision, the project complies with the Minimum Performance Standards of the RPP, an email from David Gardner, Assistant Town Manager, from July 22, 2010 indicates that the proposed tower complies with both the Local Comprehensive Plan and local zoning bylaws, and the project is not located in a District of Critical Planning Concern. She said the subcommittee found that the probable benefits do outweigh the probable detriments and has unanimously voted to recommend approval of the project with conditions. Ms. Czepiga noted two letters recently received in support of the project and said they were included in Commission member packets.

Attorney Ed Pare, representing the applicant, said originally the applicant proposed a higher tower height and has lowered it to 92 feet. He said a higher tower would have to be lit and the 92-foot tower does not need to be lit. He said the applicant has received approval for the proposed 92-foot tower height. Attorney Pare described what is being proposed and said the project provides co-location opportunities for other carriers. He complimented Commission staff for their efforts and said they have been very helpful and responsive.

Roger Putnam referred to a letter received from Heath Gatlin, Chairman of the Provincetown Airport Commission, and said Mr. Gatlin indicates there will be coverage at the airport but the presentation just made doesn't show that.

Attorney Ed Pare referred to a map and said the green depictions on the map are for buildings and automobiles. He said they will get coverage to the airport but it will not be as robust as coverage in a building.

David Maxson, Commission consultant with Broadcast Signal Lab, said the applicant originally applied for a higher tower height of 150 feet which would have provided broader coverage. He said the lower tower height has sacrificed stronger signal base and said it doesn't get to Route 6 and the airport. He said when the crane test was conducted they put up an antenna to try it out. He said when you get up toward the airport if driving in a lower area the signal would be lower than the desired threshold. He said signals will be just below and just above desired thresholds when driving in lower areas and higher areas. He said it's not as good as they would like, but it's good enough.

Elizabeth Taylor said people who attended public hearings indicated that this service is much needed in their area as they have very poor coverage in Provincetown.

Michael Blanton inquired about Fall Zones and whether it poses safety issues.

David Maxson said they are called Fall Zones for aesthetics and safety. He said structures do not fall over. He said it's important to owners and they pay attention to construction techniques. He said very few towers have actually toppled over. He said structures are built to TIA standards—steel towers supporting structural engineer standards in which all conditions are factored into the construction of towers.

Joanne O'Keefe said at the public hearings there was no public or town opposition to the project. She said people expressed a need for service.

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

Joy Brookshire moved to approve, with conditions, the application of T-Mobile Northeast LLC. John Harris seconded the motion.

Joanne O'Keefe complimented Commission staff for their work on the project.

A voted called on the motion passed with a unanimous vote.

Austin Knight returned to the meeting.

■ WINDRIFT ACRES PROCEDURAL DENIAL

Michael Blanton read the hearing notice and opened the hearing at 3:45 p.m.

Andrea Adams, senior regulatory planner at the Commission, said the applicant for the Windrift Acres project is requesting a procedural denial without prejudice. She said the Commission received a DRI referral on May 3, 2010 for the proposed 22-lot residential subdivision known as Windrift Acres on 55 acres of land off Slough Road in West Brewster. Ms. Adams said to date the Commission has not received a completed application and the Commission was required to close the statutory 90-day hearing period on September 28, 2010. She said for this reason there is insufficient time to complete a DRI review of the project. Ms. Adams reviewed minor changes to the draft decision and said both Commission staff and the Commission's Regulatory Committee recommend that the Commission grant the applicant a procedural denial without prejudice.

Attorney John Idman, representing the applicant, apologized for coming across in a negative way at the Commission's Regulatory Committee and said it was not his intent to come across that negatively. He said the applicant continues to work with Mark Robinson regarding the possible purchase of the land by the town.

Joy Brookshire said this project had been before the Commission previously and received a procedural denial without prejudice.

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

Austin Knight moved that the application for Windrift Acres be procedurally denied without prejudice. Lynne Pleffner seconded the motion. The motion passed with 14 votes in favor and one abstention.

■ **FORESTDALE VILLAGE PROCEDURAL DENIAL**

Chair Roy Richardson noted that this is a continued hearing from September 16, 2010.

Andrea Adams, senior regulatory planner, said the Forestdale Village project was referred to the Commission for the second time on May 28, 2010. She said since the submission of the original DRI application and attachments in February 2010, the applicant's project team has supplemented the application with additional information that the Commission received in March, May, July and August 2010. She said in late July, the applicant notified Commission staff of a desire to include new development proposals into the DRI project that had not been part of the previous application materials. The application and additional materials were deemed complete and a public hearing was noticed for August 26, 2010. She said the applicant continued providing additional application materials for the record to Commission staff up to August 16, 2010. She said in the process of preparing a staff report, staff determined that the information in the application was inconsistent with subsequent materials provided by the applicant making it impossible for Commission staff to adequately analyze the additional new information without significant clarification and further information. She said for that reason a hearing officer opened the August 26 hearing for procedural purposes. She said Commission staff informed the applicant in a meeting on September 8 that the DRI application could not be deemed substantively complete to proceed with a public hearing. In a letter to the applicant, Commission staff informed the applicant that if sufficient material was not made available to hold a substantive hearing then the applicant could either withdraw the project on the local level and from Commission review or the project would be procedurally denied without prejudice. She said on September 16 the applicant contacted Commission staff by email requesting a procedural denial without prejudice. Ms. Adams said Commission staff believes the application can be procedurally denied without prejudice.

Attorney Jonathan Fitch, representing the applicant, said the applicant had already received a procedural denial without prejudice from the Commission previously. He said this is a commercial project with a housing component and said a change in personnel caused a delay of material being provided to the Commission. He said the project has received a lot of support and the applicant is moving forward with plans to come back to the Commission.

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

Lynne Pleffner moved that the application for Forestdale Village be procedurally denied without prejudice. Austin Knight seconded the motion. The motion passed with a unanimous vote.

■ **AMENDMENT TO TECHNICAL BULLETIN 97-001, GUIDELINES FOR DRI REVIEW OF WIRELESS COMMUNICATION TOWERS**

Michael Blanton read the hearing notice and opened the hearing at 4:00 p.m.

Kristy Senatori, chief regulatory officer at the Commission, said Technical Bulletin 97-001 provides guidelines for DRI review of wireless communication towers. She said the change to the Technical Bulletin allows the Commission to retain an outside consultant and it would be the applicant's responsibility to pay for the services. She said the existing regulations say the fee is included with DRI fees. She said the Technical Bulletin is being

changed to conform with Chapter A, Enabling Regulations. Ms. Senatori said only this minor change is being proposed and staff is asking for approval to change the language in the Technical Bulletin.

Jack McCormack moved to close the hearing and the record. John Harris seconded the motion. The motion passed with a unanimous vote.

Austin Knight moved to approve the amendment to Technical Bulletin 97-001 as presented. Peter Monger seconded the motion. The motion passed with a unanimous vote.

■ COMMISSION MEMBER COMMENTS

John Harris said at the Commission's Executive Committee meeting staff presented a watershed slide presentation. He said the slide presentation was outstanding and it should be made available for the public to see. He said wastewater is a serious issue and the problem continues to grow.

Chair Roy Richardson concurred and said water is not just a local problem or a national problem; it's a global problem. He said we are all in this together.

Sheila Lyons said the Town of Falmouth is trying to provide outreach to citizens and said the Town has held "sewer socials" to address the issue of wastewater. She said it would be a good idea to think of ways for Commission members to reach out to their communities. She said more education and exposure to the watershed presentation as well as individual ways for Commission members to assist would help this effort to move forward.

Joy Brookshire said she attended the Executive Committee that Mr. Harris referred to and said the presentation was very good. She said a regional approach is the way to go. She said the Commission should think about taking the presentation to all Cape towns.

Jack McCormack said he recently saw a show on bottled water and said the price goes up 400 times.

John Harris said he hopes they can come up with an action plan to address the wastewater issue.

A motion was made to adjourn at 4:15 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Michael Blanton, Secretary

LIST OF DOCUMENTS PRESENTED AT THE SEPTEMBER 30, 2010 COMMISSION MEETING

- PowerPoint slide presentation on the Provincetown Waste Treatment Telecommunications Monopole project prepared by the Cape Cod Commission.
- Handout material: September 30, 2010 meeting agenda.
- Handout material: Draft Decision for Provincetown Waste Treatment Telecommunications Monopole project.
- Handout material: Draft Decision for Windrift Acres Procedural Denial.
- Handout material: Draft Decision for Forestdale Village Procedural Denial.
- Handout material: Draft Proposed Amendment to Technical Bulletin 97-001, Guidelines for DRI Review of Wireless Communications Towers.