

The meeting of the Cape Cod Commission was called to order on Thursday, October 1, 2009 at 3:00 p.m. in the Assembly of Delegates Chambers in Barnstable, MA. Roll was called and a quorum established.

Chair John Harris acknowledged Jay Zavala the former Falmouth representative to the Commission who resigned in April of this year. He presented Mr. Zavala with a certificate of service as the Falmouth representative and thanked Mr. Zavala for all his efforts and contributions during his tenure at the Commission. Mr. Harris said Mr. Zavala is greatly missed and it was a pleasure to have had him as a colleague and a friend.

Jay Zavala said it was an honor to have served as the Falmouth representative. He said it was a great experience and a pleasure to have worked with Commission members and staff.

#### ■ EXECUTIVE DIRECTOR'S REPORT

Paul Niedzwiecki introduced Stacey Brudno Drange, a new staff member, and said she will be working in the front office at the Commission. He said Commission staff has been working on a draft comment letter for the Ocean Management Plan. He said he would keep Commission members apprised.

#### ■ BREWSTER WATER PROTECTION DISTRICT OF CRITICAL PLANNING CONCERN IMPLEMENTING REGULATIONS

Elizabeth Taylor read the hearing notice and opened the hearing at 3:10 p.m.

Kristy Senatori, chief regulatory officer at the Commission, said on July 18, 2008 after approval by the Assembly of Delegates and Barnstable County Commissioners the Brewster Water Protection District of Critical Planning Concern (DCPC) was established by Ordinance 08-08. She said because the Town of Brewster's 12-month deadline to propose implementing regulations for the DCPC was set to expire on July 17, 2009, the town requested an extension. She said the Commission approved the 90-day extension on April 2, 2009 and the new deadline for the town to propose implementing regulations for the DCPC expires on October 14, 2009. Ms. Senatori noted guidelines in Section 5.3 of Barnstable County Ordinance 08-08. She said the implementing regulations were sent to the Governor's Committee and approved by the Attorney General's office. Ms. Senatori said Commission staff recommends that Brewster's proposed implementing regulations conform to the Commission's guidelines and may be incorporated by the town of Brewster.

Sue Leven, Brewster Town Planner, said she is here today to discuss the Brewster Water Protection DCPC implementing regulations. She said there are two implementing regulations and one other which is considered to be an implementing regulation by timing that has an impact on the DCPC area. She said first is the Water Quality Protection Bylaw which is actually a revision to an existing Water Quality Bylaw in town zoning. She said it was amended to look at specific uses within the town as a whole and the DCPC area in particular to identify those uses that would be prohibited in the DCPC area and those that would be allowed by special permit. She said it also establishes a 5 parts per million limit for nitrogen loading for new nonresidential construction within the entire town to start with and then have an amendment go to town meeting to have it remain in the DCPC area. She said the Sand and Gravel Bylaw looks at existing sand and gravel operations; prohibits the establishment of new ones; requires existing sand and gravel operations to basically establish a base with the town in terms of where they are, what they're doing, and what they will be doing. She said it makes their uses more accountable where they hadn't been previously. She said the third regulation, Natural Resources Protection Design Bylaw, is not an implementing regulation because it will not go to town meeting until October 19 and the DCPC expires on October 14. She said this was discussed with Commission staff and people in Brewster and it was decided that they would let it go forward on its own and not as an implementing regulation. She said in short it's a conservation subdivision form type of bylaw. She said it applies only in the DCPC area and what it does is it takes cluster subdivisions and makes them into small areas of development and large areas of open space. She said it halves the density and has a bonus provision that allows development to go back to the prior density for low impact development components, nitrogen attenuation through package plants and a variety of other options.

She said the bylaw is a model for Brewster and to a degree the Cape. She said it's the first one of its type and they hope that it's successful in Brewster. She said potentially they would like to help other towns establish similar regulations.

Sue Pommrehn referred to the Natural Resources Protection Design (NRPD) Bylaw and said if you look at the purpose of that Article and the way that it's written she has concerns that it potentially changes the regulations governing the subdivision of land. She said the first sentence of the bylaw says that the subdivision regulations have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of Brewster. She referred to the section regarding setbacks, frontage and road requirements where it says the Planning Board may modify road requirements for new roads and said the language seems vague. She said what's missing is the consideration of the protection of safety and welfare that is inherent in the original subdivision regulations. She said she believes there is a need for the bylaw to limit any changes allowed in the regulations governing the subdivision of land to not only be consistent with the purpose of Article 13 but also re-enforce the level of safety and welfare of the inhabitants that is inherent to the original regulations. She said the way it's written it's silent to the issue of public safety.

Sue Leven said she understands and said all subdivisions are reviewed by the Department of Public Works and she believes that they would have something to say about a road that goes below what is considered a safe width. She said the bylaw refers to the reduction in impervious surface and said if you take a subdivision that has a 200 foot frontage requirement you would probably have a road that is two or three times the length and said that is more what the bylaw refers to rather than an eight, twelve or fifteen-lot subdivision, for example, making a dirt road.

Sue Pommrehn said that's clear but she's not sure that is spelled out in the regulations.

Elizabeth Taylor said she hopes everyone will support and approve this. She said in regard to the NRPD the first two bylaws—Water Quality Protection Bylaw and the Sand and Gravel Bylaw—did not deal with residential subdivisions at all and that's why they decided to do the NRPD. She said the Planning Board who will be the reviewer of any applicant would make sure the roads are the correct widths. She said she believes it's a magnificent article to go before town meeting.

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

Elizabeth Taylor moved to accept the implementing regulations for the Brewster Water Protection DCPC as presented. Roy Richardson seconded the motion. The motion passed with a unanimous vote.

#### ■ CRAIGVILLE BEACH DISTRICT OF CRITICAL PLANNING CONCERN NOMINATION

Elizabeth Taylor read the hearing notice and opened the hearing at 3:20 p.m.

Kristy Senatori, chief regulatory officer at the Commission, provided background information and said after adoption by the Assembly of Delegates, the Craigville Beach area DCPC was established by Barnstable County Ordinance 08-06. As the 12-month period was set to expire on June 12, 2009, the town of Barnstable requested an extension. On April 30, 2009 the Commission granted a 90-day extension to propose implementing regulations and the new deadline expired on September 11, 2009. She said on August 6, 2009 the Commission approved proposed implementing regulations for the Centerville Village District. She said the town of Barnstable did not provide the Commission with proposed implementing regulations for the Craigville Beach District but instead through a resolution of the Barnstable Town Council on September 3, 2009, re-nominated the Craigville Beach District as a DCPC. She said that re-nomination is the subject of the decision before the Commission today. She said Commission staff recommends acceptance of the nomination for consideration as a DCPC.

Jo Anne Miller Buntich, Interim Director of Barnstable's Growth Management Department, distributed color maps of the nominated Craigville Beach area as a DCPC. She said the re-nomination is primarily a procedural matter. She said the town has gone through an extensive process with the planning board and the town council and during the town council vote a charter objection was lodged. She said what that does is to postpone the issue until the next town council meeting and said that would have taken place after the deadline of September 10 for the Craigville Beach DCPC implementing regulations. She said for that reason, a re-nomination of the Craigville Beach area was submitted to the Commission on September 4<sup>th</sup>. She said the town is prepared to go through a speedy process and said she is here today to explain why the re-nomination was submitted and to answer any questions people may have. She said she thought it would be helpful especially to new Commission members to explain the process and why it was re-nominated.

Roger Putnam said he was curious why Ms. Buntich had not attended the Commission meeting a month and a half ago to comment on the DCPC and the Haseotes project. He asked why the DCPC is being re-nominated now when no one from the town was present at the hearing to support the DCPC or the Haseotes project that was heard the same day.

Jo Anne Miller Buntich said she was unable to attend the Commission meeting that day because of another commitment and had she known that her absence would jeopardize today's hearing she would have tried to make other arrangements. She said her absence from that meeting did not mean that she didn't support the DCPC or the Haseotes project. She apologized for any misunderstandings that may have resulted from her not attending that particular Commission meeting.

Joy Brookshire said she attended the Commission meeting on February 21, 2008 when this DCPC was first discussed. She said it was very apparent that Ms. Buntich supports the DCPC. She said as far as the Haseotes project, Ms. Buntich attended subcommittee hearings and meetings and expressed her support of the project. Ms. Brookshire asked Ms. Buntich if the town was given enough time to complete the implementing regulations for the DCPC.

Jo Anne Miller Buntich said what she has learned through this process is that towns would like the Commission to get involved earlier in the process. She said there needs to be more of a collaborative process between the town and the Commission and said the town doesn't come back to the Commission until the end of the process. She said that's what she has learned through this process and she would make that recommendation to the Commission.

Chair John Harris called for public comment.

Fred Chirigotis, Barnstable town councilor from precinct 4, said this area of Centerville is unique. He noted its barrier beach, Centerville River and Herring Run and said it's important to protect this area. He said the reality is no one would ever suggest that this isn't a sensitive ecological area. He said we're here today to do something about this and asked the Commission to accept the nomination.

Jim Lange, resident of the Craigville Beach area, said all the neighbors are in consensus that this is the right thing to do. He asked that the Commission support the nomination.

Steve Brown, president of the Red Lily Pond Association, asked the Commission to accept the nomination.

Peter Fisher, past president of the Centerville Civic Association, said this DCPC has had wide community support. He said it started with a village plan that asked for a DCPC. He said the number one recommendation

was that they needed a DCPC in the Craigville Beach area. He said the reality is that they just ran out of time. He urged the Commission to support the nomination.

Janet Joakim, Barnstable town councilor, said the town has put a lot of work in this. She said zoning is never easy and this final product is a result of compromise. She said many people support the DCPC.

Roger Putnam said he would like to ask all those who just spoke in favor of the nomination to explain why they didn't attend the Haseotes hearing.

Fred Chirigotis said the Haseotes project was a hardship exemption and he understands how that works. He said the town understood the hardship the family was going through.

Roy Richardson referred to the Haseotes project and said there is a provision for a hardship exemption in the DCPC process. He said he was on the subcommittee and he believes the subcommittee acted appropriately. He said a good thing that resulted from the project was the installation of a water-filtering device by the applicant. He said that would not have been done if it were not a project.

Joy Brookshire said it's time to move on and asked for a motion.

Roy Richardson moved to close the hearing and the record. Elizabeth Taylor seconded the motion.

Michael Blanton said for the purpose of providing balance, he asked if there was anyone in the audience representing opposition to the DCPC nomination who would like to speak.

There was no response to Mr. Blanton's request.

A vote called on the motion to close the hearing and the record passed with a unanimous vote.

Roy Richardson moved to accept for consideration the nomination of the Craigville Beach area DCPC. Lynne Pleffner seconded the motion. The motion passed with 14 votes in favor and one vote opposed.

**■ TECHNICAL BULLETIN 96-001, DRAFT CONTEXTUAL DESIGN ON CAPE COD:  
ADDENDUM TO DESIGNING THE FUTURE TO HONOR THE PAST**

Elizabeth Taylor read the hearing notice and opened the hearing at 3:55 p.m.

Phil Dascombe, senior community design planner at the Commission, said he would be presenting to the Commission a proposed addendum to the Commission's Design Guidelines called "Contextual Design on Cape Cod"—Design Guidelines for Large Scale Development. Mr. Dascombe said although he was presenting the addendum it was very much a team effort and he acknowledged the efforts of Sarah Korjeff and Sharon Rooney as well as many others who contributed to it. He referred to PowerPoint slides and said the process started with the late architect Chance Powers who developed the initial sketches and ideas and then Commission staff developed and expanded on those ideas. He said they took the initial draft of the addendum to a peer group who were selected either because they were familiar with the Cape and/or they had been through DRI review and said they also had an extended public comment period. He said they took the draft guidelines and updated photographs, added further illustrations and laid it out in a format that was more user-friendly. Mr. Dascombe said the draft addendum went to the Commission's Planning Committee twice. He said the first draft was well received but more public comment was requested and the second draft received a recommendation for approval. He said the guidelines follow the Regional Policy Plan (RPP) font and design guidelines format and three sections are color coded in grey, green, and blue. He explained the section of the addendum regarding Siting Strategies, Building Strategies and said there is also a section that provides specific guidance on industrial/warehouse design.

Mr. Dascombe said in summary the document is intended to be an addendum and said it's not meant to replace "Designing the Future to Honor the Past." He said the draft version has already been adopted in Yarmouth as part of their design review, and developers have been designing to these guidelines on an informal basis. He said the Commission's Planning Committee voted on August 31, 2009 to forward the draft to the full Commission with a recommendation to approve the draft as an addendum to Technical Bulletin 96-001.

Sheila Lyons left the meeting at 4:10 p.m.

Brad Crowell thanked Mr. Dascombe for his presentation. He said he likes the addendum a lot but one disappointment to him is that we presume large buildings need to be pushed away. He said there is a definite string of large buildings on the Cape that the Commission can tap into for this. He said he would ask that more thinking be done in that regard and to not assume that large buildings need to be pushed away.

Phil Dascombe said the purpose is that people should think about what's going on around a site. He said it doesn't say that large buildings can't be built; they just want people to think about what's around them.

Roy Richardson said he has a lot of interest in this and he doesn't see that large buildings are being penalized in this presentation. He said he likes the connection of a building to where it's located. He said they're good guidelines for all buildings, not just large buildings.

John McCormack said he believes it's a good addendum to what is already in place. He said Yarmouth incorporated "Designing the Future to Honor the Past" into their guidelines when Yarmouth moved forward with their zoning and imposed architectural standards in areas that needed relief from other standards.

Elizabeth Taylor thanked Mr. Dascombe and Commission staff for all their hard work. She said it's an excellent addition to the technical bulletin and she's glad to hear that Yarmouth has been using this.

John McCormack said it's not being used in the town of Yarmouth as a whole but it has been used in certain areas of Yarmouth.

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

Roy Richardson moved that the Commission adopt the addendum to Technical Bulletin 96-001 as presented. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

Chair John Harris said the document has merit as it's already being used.

#### ■ OTHER BUSINESS

Michael Blanton thanked all who attended the Bourne Scallop Festival.

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

Respectfully submitted,

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Elizabeth Taylor, Secretary