

The meeting of the Cape Cod Commission was called to order on Thursday, October 15, 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

Paul Niedzwiecki announced that a kickoff meeting for the Comprehensive Economic Development Strategy (CEDS), which was approved in July, has been scheduled for October 27, 2009. He said during the CEDS process 16 projects were identified and on October 27 they will be meeting with the working groups to discuss implementation of those 16 projects.

■ MINUTES

The minutes of the September 17, 2009 Commission training session were reviewed. Roger Putnam moved to approve the minutes. Frank Hogan seconded the motion. The motion passed with a unanimous vote.

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■ CRAIGVILLE BEACH DISTRICT OF CRITICAL PLANNING CONCERN (DCPC)

Elizabeth Taylor read the hearing notice and opened the hearing at 3:05 p.m.

Kristy Senatori, chief regulatory officer at the Commission, provided background information and said the Commission voted on April 3, 2008 to designate the area as a DCPC and Barnstable County Ordinance 08-06 establishing the DCPC was adopted by the Assembly of Delegates, approved by the County Commissioners, and recorded at the Barnstable County Registry of Deeds on June 13, 2008. She said as the 12-month deadline for Barnstable to propose implementing regulations was due to expire on June 12, 2009, the town requested a 90-day extension. She said on April 30, 2009 the Commission granted the town an additional 90 days to propose implementing regulations and the new deadline expired on September 11, 2009. She said at the time the town submitted their proposed implementing regulations for the Centerville Village District, which were approved by the Commission on August 6, 2009, the town did not provide the Commission with proposed implementing regulations for the Craigville Beach District. Ms. Senatori said instead through a resolution by the Barnstable Town Council on September 3, 2009, the town began the process of re-nominating the Craigville Beach District as a DCPC and the re-nomination was submitted to the Commission on September 4, 2009. Ms. Senatori said if the Commission approves today to forward the Craigville Beach DCPC to the Assembly of Delegates for designation as a district, and if designated as a DCPC district by the Assembly, the town will have one year to complete and submit their proposed implementing regulations to the Commission. She said the primary implementing regulations focus for the DCPC area would be on redevelopment of existing structures. Ms. Senatori then outlined each of the guidelines followed by the existing regulatory framework as it currently exists in the DCPC.

Jo Anne Miller Buntich, Interim Director Barnstable Growth Management Department, said the Craigville Beach DCPC is here today through a resolution by the Barnstable Town Council to re-nominate the DCPC. She said if approved by the Assembly of Delegates, the town is ready to go through the process quickly. She said the DCPC boundaries have not changed; everything is the same. She urged the Commission's approval.

Chair John Harris called for public comment and there was none.

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

Roy Richardson moved to accept the Craigville Beach proposed DCPC designation decision as written. Elizabeth Taylor seconded the motion. A vote called on the motion passed with nine votes in favor and one vote opposed.

■ REVIEW OF COMMENT LETTER OF DRAFT OCEAN MANAGEMENT PLAN

Heather McElroy, natural resources specialist at the Commission, using PowerPoint slides, provided a brief overview of the Massachusetts Ocean Management Plan (OMP) and summarized the Planning Committee's draft letter. She said the draft plan was filed with the Secretary of Energy and Environmental Affairs (EEA) for review and public comment on June 30th. She said the EEA held public hearings on the draft plan in September and will take comments until November 23, 2009 prior to promulgating the final plan by December 31, 2009. She said the Commission's Planning Committee has reviewed the plan and has prepared a draft comment letter for the Commission to review today. Ms. McElroy said the Massachusetts Ocean Act of 2008 was signed into law on May 28, 2008. She said the Act directs EEA to develop a comprehensive management plan to serve as the basis for the protection and sustainable use of our ocean and coastal waters. She said an Ocean Advisory Commission (OAC) was appointed and she noted that Stacey Justus, the Commission's former coastal resource specialist, was the Commission's representative on the OAC. She said the OAC held several public meetings starting in August 2008 and continuing through the fall to receive public comment and provide guidance into the formation of the plan. She said several other workgroups provided guidance into the formation of the plan as well as a Science Advisory Council. She highlighted the different components of the plan and outlined the five main points of the draft comment letter regarding jurisdictional concerns, potential changes to state environmental regulations, new siting standards for environmental impact reports, scenic and cultural resources not addressed in the OMP and trust fund administration. She said the Commission supports many aspects of the OMP but feels it should go further in identifying prohibited areas, more is needed to protect ecosystem health, and they need to ensure stakeholder involvement in revisions. She said the Commission would like the planners to discuss wind turbine cap and the Commission's concern about cables crossing the Cape Cod Ocean Sanctuary. She said the plan should address decommissioning development and encourage energy conservation. Ms. McElroy noted a minor revision to the draft letter. She referred to page 2 of the draft letter under item 2 "Potential Changes to MEPA Regulations" and said the language has been changed to say "Environmental Regulations" instead of "MEPA Regulations." She said the revision was made because the Commission believes it should go beyond just MEPA regulations.

Peter Graham complimented Ms. McElroy on her presentation and the draft letter. He said he applauds the Commission for establishing its jurisdiction in firm terms but vacillates between soft language and hard language in the letter. He said he would recommend stronger language. He referred to sections of the letter where the word "should" is used and said he would insert harder language there. He also referred to the use of the word "can" and said maybe "need" would be stronger. He said the use of the word "ought" could also be stiffened up a bit. He said the language that is being used is fine but he believes the letter needs more backbone.

Elizabeth Taylor said her concern is that when we start mapping things that are subject to change we will be locked into what has been mapped. She said the areas that are being mapped are subject to change due to changes in current and wind for example.

Heather McElroy said the planners were very well aware of that. She said they realized that they had inadequate data but they were given a mandate to complete the plan. She said the inadequacy of much of the data probably caused them to soft peddle. She said there would be an opportunity to make revisions.

Elizabeth Taylor said since change is inevitable and by not saying that all maps and data are carved in stone, she asked if this document would be flexible.

Paul Niedzwiecki said the simple answer is that we don't know. He said this is a state document and the first of its kind. He said we can only continue to push to make sure that it's as flexible as possible. He said Ms. Taylor has good comments and we need to be vigilant about the plan going forward.

Roy Richardson asked if the person receiving the comment letter has the final say in the document.

Heather McElroy said, yes, he has been working with the EEA.

Roy Richardson said “should” is a better word than “shall.” He said perhaps we should have a separate letter firmly stating certain things that we think are extremely important.

Paul Niedzwiecki said the Planning Committee spent a lot of time trying to stiffen the letter. He said we hope the letter is appropriate in tone. He said hopefully they can tighten the letter up more and focus more on tone and less on tense.

John McCormack asked when they might see another draft of the plan.

Heather McElroy said they would not see an immediate version of the plan as the final plan needs to be promulgated by December 31, 2009.

Paul Niedzwiecki said they would not see the plan again as the final decision must be made by December 31st. He said the comment letter is clear what the Commission’s position is on this.

John Harris said it’s important that this be addressed by all Commission members.

Paul Niedzwiecki said it’s important that the Commission get on record as soon as possible. He said the Commission would have an opportunity to act quickly to make its intentions known.

John Harris asked how soon the letter could be made available for endorsement.

Heather McElroy said it could be made available today.

Roger Putnam said perhaps the best thing to do is to authorize Commission staff to re-word the letter to conform with suggestions made by Mr. Graham.

Heather McElroy said she could work on it further with a re-write if that’s what Commission members decide.

John McCormack moved that the letter be redrafted and authorize Chair John Harris to endorse and forward the comment letter. Frank Hogan seconded the motion. The motion passed with a unanimous vote.

Roger Putnam moved that the comment letter be accepted and endorsed by Chair John Harris. Peter Graham seconded the motion. The motion passed with a unanimous vote.

■ **OTHER BUSINESS**

Sheila Lyons announced that a training session on the Americans with Disabilities Act has been scheduled for Friday, October 23rd and all are invited to attend. She said changes have been made to the State Ethics Commission regulations and said Steve Giannotti of the State Ethics Commission will be giving an updated training session on Friday, October 30th and all are invited to attend.

A motion was made to adjourn at 4:00 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Elizabeth Taylor, Secretary