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CAPE COD  
COMMISSION

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## Minutes

### Meeting

#### Cape Cod Commission

First District Courthouse • Assembly of Delegates Chambers  
3195 Main Street, Barnstable, MA 02630

December 15, 2016

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	Richard Conron	Absent
Brewster	Elizabeth Taylor	✓
Chatham	Michael Skelley	Absent
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Charles McCaffrey	✓
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	Absent
Orleans	Len Short	✓
Provincetown	John Krajovic	Absent
Sandwich	Harold Mitchell	✓
Truro	Kevin Grunwald	Absent
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	Absent
Minority Representative	John Harris	✓
Native American Rep.	David Weeden	✓ (arrived @ 3:10 p.m.)
Governor's Appointee	Vacant	Vacant

The meeting of the Cape Cod Commission was called to order on Thursday, December 15, 2016 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers, 3195 Main Street, Barnstable, MA. Roll was called and a quorum established.

### **SUMMARY OF ACTIONS TAKEN/VOTES:**

**Approval of Minutes:** The minutes of the December 1, 2016 Commission Meeting were approved with 9 votes in favor and one abstention (Joy Brookshire).

### **Cape Crossing/Stinson Street Subdivision Public Meeting**

Following Commission staff comments and discussion the Commission voted unanimously to adopt the draft written Development of Regional Impact (DRI) Procedural Denial Decision for the project.

### **■ MINUTES**

The minutes of the December 1, 2016 Commission Meeting were reviewed. Len Short moved to approve the minutes. Elizabeth Taylor seconded the motion. A vote called on the motion to approve the minutes passed with 9 votes in favor and one abstention (Joy Brookshire).

### **■ EXECUTIVE DIRECTOR'S REPORT**

Executive Director Paul Niedzwiecki said Commission staff has been working on the Hyannis Regional Economic Strategy Executive Team (RESET) project and they will start the stakeholder process in January. The Commission will be convening the subcommittee for the Regional Policy Plan (RPP) in January and the RPP Ad Hoc committee will receive notice of that soon. Commission staff is working on the Fiscal Year 2018 (FY18) budget, they had a discussion on the budget with the Executive Committee earlier and he will be updating the full Commission once he has more to report.

### **■ CAPE CROSSING/STINSON STREET SUBDIVISION #TR16016**

Chair Harold Mitchell said the Commission will discuss and vote on a draft written procedural denial decision for the Cape Crossing Subdivision project. He said the project proposes to subdivide 17.93 acres of land along Route 130 in Sandwich (Forestdale) into a roadway parcel and seven (7) commercial lots each ranging from 25,765 square feet to 86,009 square feet in area. The applicant has not submitted a Development of Regional Impact (DRI) application to the Commission for the project and the DRI public hearing period on the project ended December 7, 2016. The Town of Sandwich referred the project to the Commission as a mandatory DRI.

Jon Idman, Chief Regulatory Officer at the Commission, said the project is a mandatory DRI pursuant to Section 3(c) of the Commission's *Enabling Regulations Governing Review of the Developments of Regional Impact* ("Enabling Regulations"). He said the Commission received a mandatory DRI referral from the Sandwich Planning Board on July 11, 2016, the DRI hearing period was opened for procedural purposes by a Commission hearing officer on September 9, 2016 and the public hearing period lapsed on December 7, 2016. He said the applicant has not submitted an application to the Commission and the project is not exempt from DRI review under provisions of the Cape Cod Commission Act or Code of Commission Regulations. Mr. Idman said without an application the Commission cannot proceed with the substantive statutory DRI review process set out in the Commission's *Enabling Regulations* and the Commission is being asked to support the recommendation for a procedural denial of the project without prejudice and vote to adopt the draft written DRI procedural denial decision.

Jack McCormack moved that the Commission adopt the draft written procedural denial decision for the project. Roger Putnam seconded the motion. A vote called on the motion passed with a unanimous vote.

## ■ DEVELOPMENT OF REGIONAL IMPACT MITIGATION FUNDS

Gail Coyne, Chief Fiscal Manager at the Commission, gave a brief update on mitigation funds collected by the Commission since its inception. She referred to the summary of mitigation funds distributed to Commission members and said it is updated regularly on the Commission's website in both the administration/finance section and in the regulatory DRI section. She said to date the Commission has received just under \$9.9 million in mitigation and they have also received an additional \$668,000 in interest on that fund that is maintained by the County Treasurer leaving the Commission a total of \$10.5 million to towns for mitigation projects. She said there is currently \$2.95 million available in various categories for transportation improvements, transportation planning, open space, affordable housing, water resources and economic development. She said in the past funds have also been made available for hazardous materials. She said several towns have agreements in place and are using this mitigation. She said they have agreements in Bourne for a \$110,000 wastewater project in Buzzards Bay; Barnstable has projects in Marstons Mills for \$500,000 for transportation improvements, on Bearse's Way they have a multimodal plan, in Hyannis they are working on parking management implementation strategies and a design concept project on Putnam Avenue; Falmouth is currently using \$586,000 for intersection improvement projects for the Worcester Court and Jones Road intersections and also for Davisville Road and Route 28; and in Yarmouth the Commission is currently providing displaced tenants with relocation assistance and the Parkers River bridge utilized \$6,000 of those funds.

Ms. Coyne explained the process for accessing the funds and said they have used roughly \$7.6 million, towns know that these funds exist and many are very familiar with how much is available to them. She said generally town staff will reach out to Commission staff either to herself, one of the directors or technical staff if they have a question about a project that they would like to have funded. She said Commission staff confirms that the project meets the conditions, stated in the DRI project decision issued by the Commission, for the purposes for which those funds can be used; written requests and scopes of work are generally submitted to the Commission; and the Commission executes a Memorandum of Agreement (MOA) with each town that wants to use these funds which is signed by the Commission, the County and the town. The summary of mitigation funds is attached hereto.

David Weeden asked if funds were accessible to the Wampanoag Tribe. Gail Coyne said working through the Town of Mashpee, yes, they would be available to the Tribe as well.

Elizabeth Taylor asked when a Memorandum of Agreement is done does the Commission need to know what the funds will be used for or is it just an agreement to actually be able to access it. Gail Coyne said the town will typically give the Commission the parameters of the project and that agreement would be signed with the town. Elizabeth Taylor asked if it's a reimbursement process. Gail Coyne said it is and the reimbursement is processed quickly.

Jackie Etsten said she asked that this item be put on today's meeting agenda. She said when she went to the Harwich Board of Selectmen for an update she did not know these funds existed nor did they or the Town Manager. She asked that twice a year towns—the Board of Selectmen, Town Manager and Commission representative—be formally notified of the existence of the funds. Ms. Etsten said notification to towns is important because town boards change and new members may not know.

Ms. Etsten said she would like to make a motion that the Board of Selectmen, Town Manager and Commission representative be notified twice year on the existence and balance of the funds.

Elizabeth Taylor said she would add an amendment to the motion that the notification include the whole process to access the funds and the parameters for what the money is being used for.

Len Short seconded the motion, as amended. A vote called on the motion passed with a unanimous vote.

Gail Coyne said in the past the Commission has typically provided notification to towns annually and going forward she would provide notification to towns and Commission representatives twice a year.

David Weeden inquired about a line item for mitigation for historical preservation.

Jon Idman said the funds originate from DRI decisions that have been issued by the Commission. He said the four main categories for mitigation that are collected through the Regional Policy Play (RPP) are water resources mitigation, open space, affordable housing, and transportation. He said there really is no specific vehicle through the RPP to collect funds for archaeological or historic preservation. He said for the Bridges project in Mashpee in order to meet one economic development standard there was a specific payment that the applicant had to make to the Mashpee Historical Commission. He said it didn't go into escrow as it was a direct payment to the Mashpee Historical Commission because they were doing photographic preservation work in town. He said it's not to say that the Commission is unable to collect mitigation funds for historic preservation/heritage preservation, but it's typically not done given the RPP that the Commission has.

Elizabeth Taylor asked if during the RPP update process that could be changed or whether more flexibility could be added for mitigation funds such as for community character, energy or for any number of things.

Jon Idman said that would have to be looked at carefully and said the community character section is about site and building design and the question would be why would we be collecting financial mitigation for that. He said for heritage preservation the section is about avoiding areas with sensitive historical or archaeological resources. He said mitigation has to be tied specifically to the impact and said there has to be a nexus between them.

David Weeden said his question was not for archaeological resources but more for preservation of historic architectural resources in regard to the character of Cape Cod. He said sometimes people are not aware of the criteria of getting a house on the National Register list or how one becomes eligible to get on the list.

Jon Idman said those are good comments and perhaps would be better made at a meeting on the RPP update rather than a discussion on the mitigation that we already have and the decisions that the Commission has already issued.

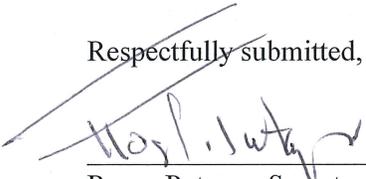
#### ■ NEW BUSINESS

*Topics not reasonably anticipated by the Chair more than 48 hours before the meeting.*

No new business was taken up.

A motion was made to adjourn at 3:25 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

  
\_\_\_\_\_  
Roger Putnam, Secretary

#### **List of Documents Used/Presented at the December 15, 2016 Commission Meeting**

- Minutes of the December 1, 2016 Commission Meeting.
- Handout material: December 15, 2016 Commission meeting agenda.
- Handout material: Cape Crossing Commercial Subdivision Development of Regional Impact Procedural Denial Decision.
- Handout material: Information on Development of Regional Impact Mitigation Funds.

Mitigation Funds

Available 12/13/16							
	Transportation	Open Space	Affordable Housing	Water Resources	Economic Development	Hazardous Materials	Total
Barnstable*	\$908,069		\$54,570	\$4,795	\$40,507		\$1,007,941
Bourne*	\$115,795		\$71,611	\$579			\$187,985
Brewster	\$57,111						\$57,111
Chatham							\$0
Dennis							\$0
Falmouth*	\$255,182	\$28,043		\$5,008			\$288,233
Harwich	\$175,667	\$167,082		\$5,576			\$348,325
Mashpee	\$218,736		\$221,756	\$466,578			\$907,070
Orleans				\$2,525			\$2,525
Sandwich	\$85,278	\$15,670		\$16,084			\$117,032
Yarmouth**	\$582	\$36,487	\$4,487				\$41,557
Sub-Total	\$1,816,421	\$247,282	\$352,424	\$501,145	\$40,507	\$0	\$2,957,780

\*current agreements obligate some available funds

Previously Provided							
	Transportation	Open Space	Affordable Housing	Water Resources	Hazardous Materials	Economic Development	Total
Barnstable*	\$1,117,967	\$388,160	\$45,093		\$95,122	\$52,500	\$1,698,842
Bourne*	\$180,201		\$469,407				\$649,608
Brewster	\$2,250						\$2,250
Chatham	\$6,138						\$6,138
Dennis	\$23,652						\$23,652
Falmouth*	\$520,204	\$109,201		\$133,108			\$762,513
Harwich	\$143,627	\$75,962		\$9,712			\$229,301
Mashpee	\$1,324,293		\$60,389	\$38,667			\$1,423,349
Orleans	\$70,932	\$564,647	\$108,601				\$744,180
Sandwich	\$295,868	\$26,272	\$1,264,298				\$1,586,438
Yarmouth**	\$442,298		\$12,950	\$16,000			\$471,248
Sub-Total	\$4,127,430	\$1,164,242	\$1,960,738	\$197,487	\$95,122	\$52,500	\$7,597,518

\*\* A portion of the expenditures for affordable housing were made directly to displaced tenants, not the town.