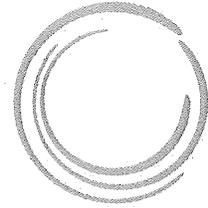


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CAPE COD
COMMISSION

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Minutes
Meeting of
Cape Cod Commission

December 13, 2012

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	Absent
Chatham	Vacant	Vacant
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Andrew Putnam	✓
Harwich	Vacant	Vacant
Mashpee	Ernest Virgilio	✓
Orleans	Leonard Short	✓
Provincetown	Austin Knight	✓ (<i>left meeting at 4:15</i>)
Sandwich	Joanne O'Keefe	✓
Truro	Peter Graham	✓
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	✓
Minority Representative	John Harris	✓
Native American Rep.	Vacant	Vacant
Governor's Appointee	Herb Olsen	Absent

The meeting of the Cape Cod Commission was called to order on Thursday, December 13, 2012 at 3:00 p.m. in the Assembly of Delegates Chambers in Barnstable, MA. Roll was called and a quorum established.

Chair John Harris introduced Andrew Putnam, the new Falmouth Representative to the Cape Cod Commission.

■ PUBLIC COMMENT

Patrick Page said he was the guy who plugged up Route 6A with a log and flooded it on August 1st of this year. He said he has a very interesting situation that everyone is trying to disclaim or disown. He said there is a 1927 easement that goes out to his land and then into federal waters in the Barnstable Harbor; a no discharge area. He said he and his wife have found out a lot of things through pain and suffering. He said to this day Mass DOT owns the easement of 1927 from the intersection of Route 132 that has an outfall pipe to 1780 Main Street, Route 6A, West Barnstable. He said on Button Wood Lane there is a small Cape Cod house with a big outfall pipe going through his land into federal waters into shellfish that people are eating. He said Best Management Practices are not happening. He said he sent a copy of a document to Paul Niedzwiecki that he sent to Rachel Rollins of Mass DOT, the chief attorney for the agency. He said he received a letter back from her this week. He said the easement of 1927 has a small section of Route 6A only and nothing has ever been documented or changed legally to change the conditions of that easement. He said it's an agreement between the landowner and at that time the County and now it's Mass DOT's responsibility concerning the conditions. In said in the 1950s the Town of Barnstable, who owns Oak Street right on that intersection, and Mass DOT, who also owns Route 132, connected those two streets into his legal easement illegally without any documentation or any compensation; they just did it. He said and, furthermore, they did not do an upgrade on the outfall pipe on his land. He said when you overburden an easement obviously you're supposed to upgrade so the piping can take more and more upstream. He said Best Management Practices of the Clean Water Act says you can't do that anymore—you cannot just dump into federal waters without Best Management Practices. He said he has complained about the YMCA property which the Town of Barnstable owns. He said the water flows off that land, goes down the driveway and out onto Route 132, goes into the next driveway and into the first two catch basins of the connection on Route 132. He said he has gone to the Town of Barnstable, he has gone to Mass DOT, he sent a document with exhibits to the Governor and to everyone who should respond to this and nobody has. He said he appreciates the Commission allowing him to explain himself. He said he has been treated very badly. He said everyone is getting federal funds in this state doing Clean Water Act Best Management Practices. He said it not only has more runoff, it has septic waste effluent in it. He said he has looked at the Commission's regulations on stormwater runoff Best Management Practices. He said something should be done and he just wants the Commission to hear him because something is wrong and no one is taking and owning this. He said he has been complaining about this situation and said in the beginning he just wanted to move a house. He said he appreciates the Commission listening to him because no one else will listen to him. He said the facts say that the Clean Water Act has certain stipulations. He said Barnstable Harbor is a no discharge area. He said he has asked why it hasn't been monitored. He said public beaches are monitored and some beaches have been closed because of road runoff. He said he has evidence from the pipe on his property and nobody wants to look at it. He said there are cracks in sections of the pipe and water seeps into the ground. He said the constant pond behind his house is sick. He said he has sacrificed his career and life for this particular pipe and his land. He said he would like someone to tell him he is wrong if he is wrong.

Chair John Harris thanked Mr. Page for his comments and said he would refer it to the Executive Director who would determine what the next steps would be so that Mr. Page can get his problem addressed. He said he is not sure if, in fact, the Commission would be the one to address it. He said it's quite important to know that this is a forum to which you can articulate your issues.

Paul Niedzwiecki said he and Mr. Page met last Friday and said there is an issue around a DRI that the Commission has with the YMCA. He said staff is going to review the pending DRI conditions to make sure that the conditions are being met.

Patrick Page said it's really important to know that on the application when the YMCA and the Town of Barnstable were going to double the size of the YMCA, it was known right then and there that the effluent based on the water consumption in their facility was going to double and the amount of water going into the recharge area of Barnstable Harbor was going to be impacted. He said they got a hardship pass so when the sewer came along in that area they would be put on sewer. He said the Town of Barnstable got some land dollars to take a pipe from the sewer treatment plant out to an area by Burger King. He said he thinks part of the solution temporarily would

be to take the end of the pipe and continue it on the other side of the bridge, connect all the big facilities and take it back to the treatment plant, even if it's temporary. He said something is horribly wrong on that land.

■ EXECUTIVE DIRECTOR'S REPORT

Executive Director Paul Niedzwiecki said the Commission has been working on the FY14 budget. He said staff continues to work on E-Permitting and the MVP tool and they plan to make a presentation to the Commission soon. He said at the November Commission staff meeting Michael Lauf of Cape Cod Healthcare gave a presentation. He said in December there was some staff turnover and a new regulatory officer has been hired to fill the vacancy. He said staff has been working on the systems analyst product; Kristy Senatori has been talking to people at UMASS Amherst, Rhode Island School of Design and MIT and said they are interested in what the Commission is doing. Mr. Niedzwiecki said he presented at the "Going it Together" WBNERR Workshop yesterday at the Yarmouth Cultural Center and said he would be showing the presentation from the WBNERR Workshop to the Commission today.

■ UPDATE ON THE REGIONAL WASTEWATER MANAGEMENT PLAN

With the use of PowerPoint slides Paul Niedzwiecki presented Cape-Wide Wastewater Planning: Goals, Strategies, Measures, and a Path Forward that he presented at the "Going it Together" WBNERR Workshop on December 12, 2012. He said the problem begins with population growth, changes in development, nitrogen in wastewater, and on-site septic systems. He said the average three-bedroom home produces about 8.5 pounds of nitrogen per year and most of the nitrogen that enters the groundwater, on average Cape-wide, is from wastewater. He said Title 5 septic systems are not designed to remove nitrogen. He said Regional Wastewater Management Planning (RWMP) would restore degraded water bodies through regional nutrient management policy promoting appropriate infrastructure and growth management mechanisms while protecting taxpayers from unnecessary costs. He said the RWMP includes a series of policies that integrate four major goals—environment, affordability, suitable infrastructure, and growth management—and he explained the strategies and measures for each of the four goals. He said the RWMP would provide the tools necessary to promote public discussion and involvement in watershed planning. He said the RWMP is the framework for providing technical assistance to communities for watershed planning and implementation; facilitating dialogue between communities that share a watershed; educating communities about their options; and advocating for financial resources and regulatory flexibility. He explained the approaches prepared to utilize traditional infrastructure in the most cost effective way for individual, cluster, satellite, and centralized systems. He explained the cost analysis using two scenarios—the optimized approach and individual town approach and said the factors that most influence cost are extent of infrastructure, growth, location of effluent disposal sites, and economies of scale. He said there is no one "silver bullet" to fit the multiple needs of the region in a cost effective and efficient way. He said a mix of solutions using traditional gray infrastructure and green infrastructure and alternatives including phytoremediation, ecotoilets, constructed wetlands, stormwater management, and permeable barriers should be considered. He noted those tools and resources necessary to promote public discussion and involvement in watershed planning as the: Watershed MVP, Rate Model, Systems Dynamics Model, Green Infrastructure Siting Criteria and Community PlanIt. He said the RWMP will be available online for people to visit and the Commission will take it on the road with a third party facilitator at meetings. He said we need to advocate for additional resources that don't come from Cape Cod homeowners but rather state and federal resources. He said the state has to step up and help the Cape. Mr. Niedzwiecki said this is the greatest environmental issue the Cape faces and the MWRA is not a model for what the Cape needs to do.

Chair John Harris said we have a lot of information to digest.

Joanne O'Keefe complimented Mr. Niedzwiecki on the presentation. She said earlier in the year the Commission saw a skeleton version of the RWMP and said more information and clarification has been provided. She asked if the end result with the tools being provided by the Commission and those areas considered to be "hot spots" if a priority list would be created for towns to use.

Paul Niedzwiecki said it varies from town to town and every town has its own issues. He said we all have a stake in what happens on the Cape. He said collective resources have to be put where the "hot spots" are first and then branch out from there. He said he is not sure all 15 towns are going to handle it the same way. He said the Commission wants to support towns' efforts with these new tools and said they will continue to have discussions on this.

Austin Knight thanked Mr. Niedzwiecki and asked if he would be going to all Cape towns with this presentation. He said he would support that dialogue with towns and said it's an important discussion to have with selectmen. He asked if he could receive a copy of the presentation.

Paul Niedzwiecki said the conversation is ongoing and the Commission will continue to meet with boards of selectmen. He said the Commission will be developing the specifics of the outreach plan.

Austin Knight left the meeting at 4:15 p.m.

Mary Pat Flynn referred to the tools that will be available and said when it comes to setting priorities we all know each of the towns have an acute need. She said some towns may need it more or less than other towns. She asked if the data would be stored in the Strategic Information Office (SIO).

Paul Niedzwiecki said, yes, the data will be housed at the SIO. He said this is how the Commission would promote public planning.

Roger Putnam thanked Mr. Niedzwiecki for his presentation. He said salt marshes are a major factor and anything the Commission can do to improve the Herring River project would be appreciated and of help.

Paul Niedzwiecki said they have had a lot of discussions on the salt marsh systems and they will continue to work on that.

Michael Blanton thanked Mr. Niedzwiecki for his presentation. He said this has been a product in the making for many years and he is happy it's going to be available to towns. He referred to setting priorities and asked if they would be established and determined in terms of population, etc. and said every town will think their town is more important.

Paul Niedzwiecki said there are models they can look to. He said on the wastewater side he is not sure and said they need more resources and monitoring. He said if the state provides resources, perhaps priorities would be the first in line. He said he doesn't presuppose any particular method for prioritizing which projects get done first unless they are under some consent order by a state or federal agency.

Jack McCormack complimented Mr. Niedzwiecki on his presentation both yesterday and today. He said he attended the WBNERR Conference yesterday. He said it was well represented by the Commission and Mr. Niedzwiecki's presentation was well received. He said when we talk about regionalization we should be talking about not a regional solution but a solution of regions. He said we have a model for that on Cape Cod in that we have many regional school systems. He said if we have a regional school system in an area we should have a regional approach to the problem in that same area. He said he thinks it would be wise for some towns to get together to form watershed committees with representatives from towns with abutting watersheds.

Len Short said in 1956 he had a summer internship and spent the entire summer identifying pollutants that were being dumped into the Charles River. He said beaches were closed as a result of pollutants in the Charles River. He said this has been happening for a long time. He said from 1956 to the present is a long time and the problem still hasn't been taken care of. He said what the Commission is doing is good. He said it's a very important issue and said it's the life line of the Cape and we need to move fast on this.

Joy Brookshire said the Cape has been trying to regionalize fire and police departments. She said towns fear losing their autonomy and the Commission needs to educate towns that they will not lose their identity.

Paul Niedzwiecki said having worked for a town previously he knows that. He said the Commission is trying to use the resources it has to knit this together. He said the Commission's agenda is the same as town agendas. He said he is still trying to get information to people that they can understand.

Royden Richardson said he is impressed with today's presentation. He asked if the Commission is the one carrying the ball to get the information out.

Paul Niedzwiecki said he feels the Commission has been carrying the ball for a long time. He said he hopes the Commission can provide leadership on getting the work out. He said a lot of people are interested in getting this problem solved.

Ernest Virgilio praised Mr. Niedzwiecki for his energy. He said he appreciates his energy and knowledge. He said he supports Mr. Niedzwiecki and Commission staff.

Joanne O'Keefe said she agrees with everything that has been said and she appreciates the efforts of the Commission. She said the biggest challenge will be where the money will come from. She said we need to unite together to find the funding.

Patrick Page asked if he could go to the podium and respond to Mr. Niedzwiecki's presentation. He said he has a "hot potato" on his property.

Roger Putnam asked for a point of order.

Chair John Harris said the Commission heard Mr. Page's comments earlier and Mr. Niedzwiecki said that he would assist Mr. Page.

Paul Niedzwiecki said he will be walking the property with Mr. Page.

■ COMMISSION PROCESS UPDATE

Paul Niedzwiecki said this agenda item will be postponed to a later date.

■ OTHER BUSINESS

NOTIFICATION OF WITHDRAWAL OF COMCAST HYBRID CABLE PROJECT

Andrea Adams, senior regulatory planner at the Commission, said on December 12, 2012 the Commission received an email from Lester B. Smith, Principal and Coastal Geologist with Epsilon Associates, Inc., requesting a withdrawal of the Comcast Hybrid Cable project from Development of Regional Impact (DRI) review. Ms. Adams said the project was undergoing DRI review because the project required the preparation of an Environmental Impact Report. She said the Commission received a copy of a letter from Mr. Smith to Jennifer McKay, Falmouth's Conservation Administrator, requesting that the project also be withdrawn from review by the Falmouth Conservation Commission. Ms. Adams said Jennifer McKay has confirmed in an email to the Commission that the Conservation Commission considers the project withdrawn at the local level. Ms. Adams said based on this, Commission staff suggests that the Commission vote to accept the withdrawal of the Comcast Hybrid Cable project from DRI review.

Joy Brookshire moved to accept the withdrawal of the Comcast Hybrid Cable project from DRI review. Michael Blanton seconded the motion. The motion passed with a unanimous vote.

A motion was made to adjourn at 4:50 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Richard Roy, Secretary

LIST OF DOCUMENTS PRESENTED AT THE DECEMBER 13, 2012 COMMISSION MEETING

- Handout material: December 13, 2012 meeting agenda.
- Materials presented: PowerPoint slide presentation on Cape-Wide Wastewater Planning prepared by the Cape Cod Commission.