

3225 MAIN STREET • P.O. BOX 226  
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD  
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • [www.capecodcommission.org](http://www.capecodcommission.org)

## Minutes

### Meeting

### Cape Cod Commission

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

August 18, 2016

The meeting was convened at 3:00 p.m., and the Roll Call was recorded as follows:

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Richard Conron	✓
Brewster	Elizabeth Taylor	✓
Chatham	Michael Skelley	✓
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Charles McCaffrey	Absent
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	Absent
Orleans	Len Short	✓
Provincetown	John Krajovic	Absent
Sandwich	Harold Mitchell	✓
Truro	Kevin Grunwald	✓
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	✓
Minority Representative	John Harris	✓
Native American Rep.	David Weeden	✓ ( <i>arrived at 3:07 p.m.</i> )
Governor's Appointee	Vacant	Vacant

The meeting of the Cape Cod Commission was called to order on Thursday, August 18, 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 July 21, 2016 Commission Workshop Meeting were approved by a unanimous vote.

#### **Harwich Comprehensive Wastewater Management Plan (CWMP) Continued Public Hearing**

The minutes of the July 28, 2016 subcommittee public hearing were approved by a unanimous vote of the subcommittee. Following presentations, testimony and discussion the Commission voted unanimously to adopt the draft written Development of Regional Impact (DRI) decision for the project as recommended by the subcommittee and approved the Harwich CWMP subject to the conditions set out in the DRI decision.

#### ■ **MINUTES**

The minutes of the July 21, 2016 Commission Workshop Meeting were reviewed. Jack McCormack moved to approve the minutes. Roger Putnam seconded the motion. A vote called on the motion to approve the minutes passed with a unanimous vote.

#### ■ **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Paul Niedzwiecki said regarding the Section 208 Plan the Commission received reports from all the Wastewater Management Agencies (WMAs) and they hope to file with the Department of Environmental Protection (DEP) by mid-September. He said in December 2015 the Commission voted to approve an 18-month extension of the Hyannis Growth Incentive Zone's 10-year term and said the Commission will be starting an aggressive stakeholder process in September. He said Commission staff will be meeting with the Town to discuss how to move the project forward.

#### ■ **Harwich Comprehensive Wastewater Management Plan #JR13004**

Chair Harold Mitchell noted that this is a continued public hearing from July 28, 2016. Mr. Mitchell read the hearing notice and opened the hearing at 3:07 p.m.

Subcommittee Chair Richard Roy called for a motion to approve the subcommittee public hearing minutes from July 28, 2016. Elizabeth Taylor moved to approve the minutes and Jack McCormack seconded the motion. A vote called on the motion passed with a unanimous vote by the subcommittee.

David Young, professional engineer with CDM Smith representing the applicant, provided an overview of the Harwich Comprehensive Wastewater Management Plan (CWMP) with the use of PowerPoint slides. He referred to Harwich land use development maps from 1951 and 1999 and said there was a 400% population growth from 1951 to 1999. He highlighted Harwich watersheds and said wastewater is the largest source of nitrogen and phosphorus on the Cape, it threatens the town's future and he then provided examples of water quality issues in both fresh and salt water areas that have been affected. He discussed Harwich wastewater needs and controllable sources of nitrogen and said nutrients from Title 5 septic systems are the town's biggest issue. He discussed existing conditions, drinking water supplies, and impaired fresh water ponds in Harwich. Mr. Young outlined the components of the recommended program and said it's an eight-phase plan that will be implemented over a 40-year period. He said the components include Muddy Creek inlet widening to increase flushing; nitrogen reduction by natural attenuation at Cold Brook bogs; an inter-municipal agreement (IMA) between Harwich and Chatham for treatment; a core system relies on sewers for collection of wastewater with treatment and effluent recharge at two locations; a potential permeable reactive barrier at one recharge site; and stormwater best management practices, fertilizer education, open space acquisition, zoning review, public education, fresh water pond restorations, and a shellfish seeding program. Mr. Young said there are ongoing discussions with Dennis, Harwich and Yarmouth regarding a community partnership option for the construction of one centralized

treatment facility to save on capital and operation and maintenance costs. He said the Harwich Board of Selectmen acting as the Wastewater Management Agency (WMA) for the town submitted a watershed report to the Cape Cod Commission in June 2016 for Pleasant Bay; Herring River watershed; and Allen, Wychmere and Saquatucket watersheds. Mr. Young said the next steps in the process are to complete the DRI review process; complete Chatham IMA negotiations; the wastewater implementation committee is working on public outreach, implementation and monitoring components; participate in community partnership option discussions and potentially bring articles to Spring 2017 Town Meeting.

Jon Idman, Chief Regulatory Officer at the Commission, said the Comprehensive Wastewater Management Plan (CWMP) was subject to joint review with the Commission through the Massachusetts Environmental Policy Act (MEPA) and the Secretary of the Executive Office of Energy and Environmental Affairs (EOEEA) issued a Certificate on the Single Environmental Impact Report (SEIR) on May 13, 2016 determining that the Plan complies with MEPA regulations. Mr. Idman provided a procedural history and background information on the project and said the Commission's subcommittee heard testimony, reviewed the draft written decision, and approves the project as a Development of Regional Impact (DRI). He said the CWMP is a town-wide, long-term, multi-phased plan that will be implemented over a 40-year period. He said the Plan looks at a high level approach to wastewater planning and the conditions laid out in the draft decision and the Certificate of Compliance process allows the Commission to review the Plan over the 40-year period. Mr. Idman summarized the phases of the Plan and said Phase 1 has been completed and Certificates of Compliance will begin with Phase 2. He said an Adaptive Management Plan is attached as an exhibit to the decision. Mr. Idman said consistency with the Section 208 Plan is important, many aspects of the 208 Plan are found in the Harwich CWMP, and the Commission's decision asks for continued 208 consistency. He said Phase 4 represents the time in which the Town may construct a new treatment facility and represents a time when other watersheds will be worked on. Mr. Idman said Commission staff suggests that the Plan meets the standards for DRI approval and suggests adoption of the project as recommended by the subcommittee.

Richard Conron referred to residents targeted for sewer and asked if that is voluntary or required.

David Young said the Town will have to have regulations in place to meet total maximum daily loads (TMDLs).

Michael Skelley said the Town of Chatham requires hookup within a year and that is very common.

Jack McCormack asked if the Conservation Law Foundation (CLF) has had any reaction regarding the length of time of these Plans.

David Young said time has been dictated by the high cost of the Plans.

Mary Pat Flynn inquired about cost allocation and asked if there has been any discussion on the percentage to the Town and the percentage to homeowners.

David Young said the Town has adopted a policy that will use three components—tax rate, finance funds, user rates—but no percentage has been set.

Paul Niedzwiecki said this process doesn't really fit to what we are trying to do. He said the Commission will start a discussion on how to regulate large town plans. He said the Commission needs to provide more specific guidelines to towns regarding watershed reports and they want to look at regulations for a more flexible review. He said the Harwich CWMP is consistent with the 208 Plan and he thanked the Town for bringing forward the Plan in a progressive way and consistent with the 208 Plan. He said the Commission has to review the project because it's under the MEPA threshold and as a DRI it's really about benefits versus detriments. He said he is not sure the process the Commission has in place fits and they need to deal with changing the regulations.

Chair Harold Mitchell called for comments by federal, state, and local officials.

Charleen Greenhalgh, Assistant Town Administrator and interim Town Planner in Harwich, said both Christopher Clarke, Harwich Town Administrator, and the Harwich Board of Selectmen expressed their support of the project in letters that they previously sent to the Commission. She said she is here today to reiterate Mr. Clarke's strong support of the Harwich CWMP moving forward and the Harwich Board of Selectmen and Wastewater Implementing Committee strongly support the CWMP as well.

Chair Mitchell called for comments by the public. No public comments were given.

Chair Mitchell called for a motion to close the public hearing period on the project. A motion was moved by Elizabeth Taylor and seconded by Richard Roy. A vote called on the motion passed with a unanimous vote.

Chair Mitchell called for a motion to adopt the draft written DRI decision for the project as recommended by the subcommittee and approve the Harwich CWMP subject to the conditions set out in the DRI decision. A motion was moved by Len Short and seconded by Elizabeth Taylor. A vote called on the motion passed with a unanimous vote.

#### ■ **NEW BUSINESS**

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

No topics were presented or taken up.

A motion was made to adjourn at 3:55 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

---

Roger Putnam, Secretary

#### **List of Documents Used/Presented at the August 18, 2016 Commission Meeting**

- Minutes of the July 21, 2016 Commission Workshop Meeting.
- Handout material: August 18, 2016 Commission meeting agenda.
- Handout material: Harwich Comprehensive Wastewater Management Plan Development of Regional Impact Draft Decision
- Material presented: Overview of Harwich Final CWMP PowerPoint prepared and presented by David Young of CDM Smith.