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CAPE COD
COMMISSION

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OCEAN DCPC OVERVIEW AND DRAFT GUIDING PRINCIPLES

INTRODUCTION TO FIRST MEETING OF THE POLICY COMMITTEE

JULY 29, 2010

INTRODUCTION

Barnstable County is embarking on a year-long planning process to address development potential in Cape Cod's ocean waters. The Cape Cod Commission has convened a Policy Committee for the Ocean Management Planning District of Critical Planning Concern to oversee the process. Enclosed in this document is background information that we hope the Policy Committee will review and be prepared to discuss at the first meeting, scheduled for July 29th, 2010.

BACKGROUND

On December 31, 2009, the Commonwealth of Massachusetts promulgated the Ocean Management Plan (OMP). The OMP sets forth uses and activities allowed within the state's jurisdictional waters, and establishes performance standards for siting and permitting those uses. The OMP also charges the Regional Planning Agencies with determining appropriate scale of renewable energy projects, and with reviewing wind turbines proposed within the OMP planning area.

On December 16, 2009, the Barnstable County Commissioners nominated the Ocean Management Planning area of Cape Cod for designation as a District of Critical Planning Concern to address these tasks. Following an extensive public hearing process in five locations across Cape Cod, the Cape Cod Commission recommended designation of the district to the Assembly of Delegates (AOD). The AOD held a public hearing and voted unanimously to designate the DCPC by ordinance at their April 21, 2010 meeting. Designation of the district starts a 12 month planning period to examine the issues and concerns defined in the designation document, and to develop tools and regulations to address those concerns.

PROCESS

To ensure that each of the Cape's fifteen towns are represented and participate in this important regional planning task, the Cape Cod Commission has established a Policy Committee to oversee the process. The Policy Committee's task is to distill recommendations from a Technical Workgroup, a Stakeholder Committee, and testimony from the general public, in order to make final recommendations to the Cape Cod Commission about the



placement and regulation of wind turbines and other renewable energy facilities, and other allowed uses in the state's ocean waters.

The DCPC designation document (the "ordinance") defines the purposes of the district, and establishes guidelines on which the planning process should focus. Within the framework of the ordinance, the Policy Committee needs to agree to a set of guiding principles on which the work of the committee will focus. Following agreement on guiding principles, the Policy Committee should help define the scope of work that the Technical Advisory Workgroup should report on. As these two tasks are addressed, the Policy Committee should refer to the specific Goals, Interests, and Guidelines found in the ordinance, keeping in mind that the final products or outcomes of the planning process must be adequately informed:

(FROM ORDINANCE 10-03: OCEAN MANAGEMENT PLANNING DCPC)

SECTION 6.3 *Goals and Interests*

Based on concerns articulated in the nomination, the objective of the district is to ensure protection of the following goals and interests through the establishment of implementing regulations by the towns through the Cape Cod Commission:

- *Evaluate and establish criteria for determining appropriate scale for renewable energy projects within Barnstable County, and establish procedures and regulations for the review of wind turbines and other uses and activities allowed under the Oceans Act of 2008;*
- *Protection of unique natural, cultural and other values and balanced economic development;*
- *Plan for development to consider impacts to the natural resources and ecosystems in the district;*
- *Plan for development to consider impacts to the historic, tribal and community character resources in this area;*
- *Plan for development to consider impacts to the ocean resources that currently, or may in the future, support the regional economy;*
- *Identify means for supporting appropriate use of ocean resources that drive the regional economy;*
- *Involve the community in identifying appropriate locations and scale for such an investment, while defining the regulatory review process for renewable energy or other public investment projects;*
- *Explore and clarify possible hazards, and to develop regulations to address use conflicts.*

SECTION 6.4 *Guidelines*

Based on the concerns and opportunities articulated in the resource sections above, and consistent with the goals and interests, the Commission adopts the following guidelines to serve as the basis for implementing regulations to be forwarded on behalf of the towns and County to the Assembly of Delegates to manage development within the Ocean Management Planning District.

6.4.1 *Implementing regulations should allow for the continuing use of ocean resources for renewable energy generation and other activities which support the*

regional economy, so long as those uses are consistent with the other goals and purposes of this DCPC.

6.4.2 *Development of thresholds should be considered and established as appropriate for the regional regulatory review of renewable energy projects. Factors to consider should include but are not limited to height, energy generation, or number of individual turbine supports within a project.*

6.4.3 *Implementing regulations should be developed which determine appropriate scale for renewable energy projects. Factors to consider in defining appropriate scale include, but are not limited to the factors identified in the Ocean Management Plan; 1) protection of the public trust, 2) public safety, 3) compatibility with existing uses, 4) proximity to the shoreline, 5) environmental protection, 6) community benefit, and 7) appropriateness of technology and scale.*

6.4.4 *Prior to submission of implementing regulations to the Commission the following issues should be considered:*

- a. the protection of SSU's (special, sensitive, unique resources), commercially and recreationally important fishery resources, and general ecosystem health over the long term;*
- b. the impacts of seafloor disturbances from development resulting in storm, wave or tidal impacts to the shore, or which result in changes in sediment transport, or which impact significant benthic habitat;*
- c. water quality protection from wastewater discharges from allowed uses in the district;*
- d. offshore dumping, or use of the seafloor for burial of waste;*
- e. the protection of habitat provided above the water surface, specifically for waterfowl, shorebirds, bats, and other avian wildlife that utilize the air for fishing/hunting, mating, and migration, from potential development within the district;*
- f. the protection of historic districts and historic resources whose setting and historic integrity would be impacted by above-water structures within the Ocean DCPC;*
- g. viewsheds from significant cultural landscapes, wild or natural areas, including federal and state owned parks and wildlife refuges, and traditional cultural properties that would be impacted by above-water structures within the Ocean DCPC;*
- h. the protection of underwater archaeological resources from ground-disturbing activities;*
- i. possible use conflicts between allowed uses that may pose hazards;*
- j. potential cumulative impacts of renewable energy on resources;*
- k. co-location of technologies or multiple uses of sites; and*
- l. decommissioning of renewable energy structures.*

PRINCIPLES

As discussed, the purpose of the district is to establish criteria for determining the appropriate scale of renewable energy projects within the waters around Cape Cod, and for establishing procedures and regulations for the review of allowable development in the ocean. The following *draft* guiding principles are proposed to the Policy Committee to guide the development of these new regulations:

- The goal of the DCPC planning process is to achieve consensus on the appropriate location and scale of development in Cape Cod ocean waters.

- The planning process will include participation by all interested parties and should serve as a Cape Cod model for community-level planning.
- Cumulative environmental impacts should be considered in making decisions about future uses.
- Economic impacts should be considered in evaluating proposed uses.
- At a minimum, the Massachusetts Ocean Management Plan, the Barnstable County Regional Policy Plan and Local Comprehensive Plans should be used as guides in the planning process.
- The resulting plan and regulations should allow for renewable, ocean-based energy development that does not conflict with existing activities that support the regional economy.
- Resource management should have priority in the planning process.
- The plan and regulations should protect Special, Sensitive, or Unique (SSU, as defined in the Massachusetts Ocean Management Plan) resources.
- The plan and regulations should consider protecting natural resources and ecosystems in the district from actions that may compromise their natural functions and viability.
- The plan and regulations should consider protecting historic, tribal and community character resources in the district from actions or activities that may compromise or adversely impact their integrity.
- The plan and regulations should consider the protection of existing and future economic benefits from the ocean.
- The plan and regulations should consider the prevention of conflicts between new activities in ocean waters and existing uses.
- The plan and regulations should consider the maintenance of public safety.
- The plan and regulations should consider accommodating activities that may enhance economic opportunities from wind/tidal/current resources existing within the district.
- The plan should recognize the importance of renewable energy development to our region and nation, and should seek to successfully balance renewable energy development with environmental protection.
- Proposed uses should demonstrate that adequate shore-side infrastructure exists or can be provided to serve the proposed use while minimizing impacts to natural resources or community character.

We hope that during our initial meeting the Policy Committee will be prepared to discuss these principles and vote to endorse them, as may be reasonably amended.

TECHNICAL ADVISORY WORKGROUP TASKS

Cape Cod Commission staff has begun to compile a list of tasks to address the purposes of the district. This task list should be reviewed by the Policy Committee and the Technical Advisory Workgroup and amended as necessary to ensure that the interests of the district will be adequately addressed. We have attached this Draft list of tasks for the Policy Committee's consideration and comment.