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CAPE COD  
COMMISSION

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**Minutes**  
**Meeting of**  
**Cape Cod Commission**

May 8, 2014

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	✓
Chatham	Michael Skelley	✓
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	Absent
Falmouth	Andrew Putnam	✓
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	✓
Orleans	Len Short	✓
Provincetown	Austin Knight	✓
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.	Vacant	Vacant
Governor's Appointee	Vacant	Vacant

The meeting of the Cape Cod Commission was called to order on Thursday, May 8, 2014 at 3:00 p.m. in the Innovation Room of the Strategic Information Office, Barnstable, MA. Roll was called and a quorum established.

## ■ SUMMARY OF ACTIONS TAKEN/VOTES:

### **Chapter H Proposed Revised DRI Thresholds and Map Designations in Bourne, Falmouth, and Sandwich, MA**

After a presentation by Commission staff and public testimony, the Full Commission voted unanimously to adopt the draft written decision on the revised Development of Regional Impact review thresholds appearing in Sections 3(e) and 3(f) of Chapter A, Code of Cape Cod Commission Regulations, as amended, for certain uses in the geographic areas of Jonathan Bourne Drive, Bourne, MA; Sandwich Industrial Park, Sandwich, MA; Falmouth Technology Park, Falmouth, MA; and Edgerton Drive, Falmouth, MA.

### **Nominating Committee Presents the Slate of New Officers**

Ernest Virgilio, Nominating Committee Chair, presented the slate of new officers for the one-year term beginning July 1, 2014 as Dennis Representative Richard Roy as Chair, Falmouth Representative Andrew Putnam as Vice-chair, and Sandwich Representative Harold Mitchell as Secretary. The Commission voted to close the nominations and Chair Jack McCormack noted that the Commission would be voting on the slate of new officers at its next scheduled meeting.

## ■ EXECUTIVE DIRECTOR'S REPORT

Paul Niedzwiecki, Executive Director, said there were citizen initiative petitions in nine of the 15 towns to withdraw from the Cape Cod Commission. He said nine have happened and the Commission prevailed in each of the nine towns. He thanked those Commission members who participated in their Town Meetings. He reported on meetings he has attended and introduced new Commission staff Cally Harper and said her work will focus on energy. Mr. Niedzwiecki said the Smarter Economy Summit will be held on Monday, May 12 at the Wequasset Resort. He said registration is still open and anyone interested in attending can register online.

Chair Jack McCormack said he would encourage those who are interested in the Summit to attend.

## ■ MINUTES

The minutes of the April 10, 2014 Commission meeting were reviewed. Austin Knight moved to approve the minutes. Roger Putnam seconded the motion. The motion passed with one abstention.

## ■ CHAPTER H PROPOSED REVISED DRI THRESHOLDS AND MAP DESIGNATIONS IN BOURNE, FALMOUTH, AND SANDWICH, MA

Chair Jack McCormack noted that this is a continued hearing from April 30, 2014.

Jon Idman, Chief Regulatory Officer at the Commission, said he served as the hearing officer for the April 30, 2014 public hearing and he would be presenting the draft decision to the Commission today. With the use of PowerPoint slides Mr. Idman said a Development of Regional Impact (DRI) requires that a proposal involves 10,000 sf or more of gross floor area for commercial development, change of uses, etc. He said Chapter H which is also part of the Code of Commission Regulations allows for revisions to those DRI thresholds in Chapter A DRI Enabling Regulations within certain targeted areas. He said there were amendments made to Chapter H at the end of 2013 which gave the Commission itself authority to propose revised thresholds. He said in this particular case the Commission is looking at increased thresholds from 10,000 sf to 40,000 sf gross floor area for development, re-development, and changes of use proposing Research and Development and Light Manufacturing uses. He said this is intended to not impose any more regulatory burden on the towns and it gives development in these targeted areas more flexibility. He said the revised threshold uses that were chosen for inclusion in the decision are intended to be low impact, value added and knowledge-based types of uses. He said the Research and Development examples of those things which are intended within the decision are marine technology and software development. He said Light Manufacturing includes navigation equipment manufacturing, computer manufacturing and 3-D printing. He referred to Exhibit Maps A, B, C, D showing the designated areas for the Sandwich Industrial Park, Jonathan Bourne Drive, Falmouth Technology Park, and Edgerton Park in Falmouth. He said

in order to approve revisions to Chapter H they must be consistent with the goals and purposes of Chapter H itself, the Cape Cod Commission Act, the Regional Policy Plan (RPP) and Local Comprehensive Plan (LCP). He said the purpose of Chapter H is to locate development in areas with adequate infrastructure and consider impacts on sensitive resources in the area. He said one of the things considered in this decision in relation to adequate infrastructure was whether there were sufficiently protective state and local regulations in existence to assist in protecting those sensitive resources. He said there are sufficiently protective state and local regulations in place, the designated areas are close to the bridges and other transportation infrastructure and transit, OpenCape telecommunications are available, they are close to knowledge centers—WHOI and MBL in Falmouth, they involve existing developed areas, there is proximity to major regional roadways, and they are appropriately zoned. He said Commission staff did a build-out analysis under proposed conditions and a Level of Service C or better is maintained at all the intersections that would be impacted by proposed development in these areas. He said a level C is an accepted level in transportation engineering. He explained the anticipated positive economic and fiscal impacts that both of these uses will create in the designated areas for the towns in general. He said Discretionary Referrals will always still be available to towns and there will be mandatory DRI review for all other thresholds for uses other than eligible uses in excess of 10,000 sf. He said there is some land within these designated areas for which CCC decisions and Development Agreements apply and those would continue to apply, however, new projects would be able to go forward under this designation with the benefit of the revised thresholds. He said administratively on the town level the building commissioner would make the determination about whether any use that is being proposed between 10,000 sf and 40,000 sf is eligible and meets the definition of these uses within the designated areas. He said the town would then provide the building plans to Commission staff. He said alternatively there is also the opportunity for a town to seek the binding opinion of the Commission's Chief Regulatory Officer about whether a project is eligible for the benefit of the revised threshold in the designated areas. He said the Commission has received letters of support from all the towns involved, the Sandwich EDIC, Cape Cod Chamber of Commerce and the Cape Cod EDIC. He said the action that Commission staff recommends today is to approve the proposed revised DRI thresholds in the designated areas in Bourne, Falmouth, and Sandwich and to adopt the draft decision as written.

Harold Mitchell asked if it would be better to have the town planner or town engineer decide instead of the building commissioner. He asked why the building commissioner.

Jon Idman said building permits are issued by the building commissioner. He said when we have a discretionary permit there are always conditions precedent to the building permit. He said even with a DRI review we have a certificate of compliance so it's always related to the building permit. He said it is best that it's related to the building commissioner but there is an alternative to that in that the town can request the Commission's Chief Regulatory Officer to make the determination. He said there is flexibility involved.

John Harris said it was mentioned previously that Chapter H was approved but none of the towns did anything with it. He said changes have been made here and he asked if it would be in the Commission's interest to send to all the town planners and town managers a copy this decision once it's finally approved and highlight the things that are being offered. He said if other towns are looking to do something like this they could see that it would actually be working in their favor and it would show that the Commission can help the towns with this.

Chair Jack McCormack said he informed the Yarmouth town planner and director of community development on what was being proposed. He said it's a good idea to get this before the towns so they know what is available. He said he has already been asked by Yarmouth as to when they are getting a Chapter H area.

Jon Idman said towns do have that authority, and as Mr. Harris noted, towns did not take advantage of their authority under Chapter H. He said this was done as a planning exercise where the County was looked at as a whole and the outcome could have been any particular town. He said it was driven by the planning exercise with economic development and the Market Assessment.

John Harris said this is an opportunity to show people what has happened here. He said this is really significant and he is interested in making people aware of this and showing what the Commission is doing for towns.

Paul Niedzwiecki agreed with Mr. Harris and said the Commission is saying today that there are four areas that show why towns might want to do this. He said it does set an example and the Commission will follow up on that.

Royden Richardson said he supports what Mr. Harris said. He said it's a good example.

Michael Blanton said this plan has changed things quite a bit especially for a town like Bourne.

Paul Niedzwiecki said this represents his confidence in the Commission staff's ability to vet appropriate places.

Mary Pat Flynn said in Falmouth when the town manager received it the town had questions. She said they met with Commission staff and sorted it out. She said the town was pleased to have had the resource to talk to Commission staff.

Richard Roy asked if anything other than research and development or light manufacturing could apply if it were considered "green industry."

Jon Idman said a designation would start discussions for where other uses could apply.

Paul Niedzwiecki said this is a result of a comprehensive planning process to identify specific areas on the Cape. He said this is not an option with the regular DRI review process.

Chair Jack McCormack said perhaps in the future it could be expanded to another industry.

Paul Niedzwiecki said today is just a start. He said it's the first approach to land use management on the Cape.

Chair Jack McCormack inquired about a food processing business and asked if that would be considered an "incubator."

Jon Idman said yes. He referred to a letter from Leslie Milsted in which she asks how these areas were chosen and Mr. Idman said during the planning process the Commission looked at certain criteria.

Austin Knight inquired about the process for amending thresholds and said it's an advantage for future growth.

Paul Niedzwiecki said people can go through the town as the town has the local ability to raise thresholds. He said secondly people can talk to Commission staff. He said they now have a dual track; through the town and through the Commission.

Austin Knight said this will make it easier for business on the Cape.

Chair Jack McCormack said this is a giant step.

Leslie Milsted, said her family are first and second generation business owners in the Town of Bourne. She said regionally speaking they need to look at Wareham and Middleboro as both towns have an impact on Bourne that other towns on the Cape don't have. She said she appreciates trying to raise thresholds but in Bourne potential redevelopment and new people coming in are not just research and development and light manufacturing. She said her concern for the current proposal in Bourne is a single road rather than an area as in Falmouth and Sandwich. She said Bourne has prize properties and they don't want to be held down to just Jonathan Bourne Drive. She said they would like to see the Commerce Park Industrial area included in the proposed designated area and said only one of their buildings is in the designated area. She said Bourne has a lot of issues and she hopes the Commission can help. She asked that Bourne be given more than just one road; Bourne doesn't want to be the pass through town.

Paul Niedzwiecki said the step today is a first step but it's not the first step in Bourne. He said Bourne has a Growth Incentive Zone (GIZ). He said the Commission has been engaged with Bourne for a long time and he hopes to continue this conversation with Bourne.

Michael Blanton said as the Bourne Representative he has seen a lot of change in eight years. He said this is another step in the journey that started a few years ago. He said Bourne is different from other Cape towns but he has seen a lot of progressive movement in the right direction.

Michael Blanton moved to approve the revised DRI thresholds in the designated areas in Sandwich, Bourne, and Falmouth and to adopt the draft written decision. Harold Mitchell seconded the motion. The motion passed with a unanimous vote.

Harold Mitchell asked if he could provide a copy of the decision to the Sandwich Town Planner.

Jon Idman said copies of the decision would be sent to town planners.

#### ■ **NOMINATING COMMITTEE PRESENTS THE SLATE OF NEW OFFICERS**

Ernest Virgilio said the Nominating Committee consisted of Mr. Virgilio serving as Chair, Len Short and Royden Richardson. He said the Committee received requests from three candidates who were interested in serving as a Commission Officer for the one year term beginning July 1, 2014. He said the Committee nominated Dennis Representative Richard Roy as Chair, Falmouth Representative Andrew Putnam as Vice-chair, and Sandwich Representative Harold Mitchell as Secretary.

Chair Jack McCormack asked if there were any other nominations on the floor. Seeing none Roger Putnam moved to close the nominations. John Harris seconded the motion. The motion passed with a unanimous vote.

Mr. McCormack said the Commission would be voting on the slate of new officers at its next scheduled meeting.

#### ■ **OTHER BUSINESS**

Jackie Etsten asked if the Smarter Economy Summit would be videotaped.

Paul Niedzwiecki said, yes, it will be live-streamed.

A motion was made to adjourn at 3:50 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

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Andrew Putnam, Secretary

#### **List of Documents Presented at the May 8, 2014 Commission Meeting**

- Minutes of April 10, 2014 Commission meeting.
- Handout material: May 8, 2014 Commission meeting agenda.
- Handout material: Draft written decision on Chapter H Revised Mandatory Thresholds and Map Designations in Bourne, Falmouth, and Sandwich, MA.
- Handout material: Exhibit Maps A, B, C, D of the designated geographic areas in Bourne, Falmouth, and Sandwich, MA.
- Materials presented: PowerPoint slide presentation on Chapter H Cape Cod Commission Revised DRI Thresholds and Map Designations in Bourne, Falmouth and Sandwich prepared and presented by Commission staff.