Minutes

Meeting of
Cape Cod Commission

October 16, 2014

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

<table>
<thead>
<tr>
<th>Town</th>
<th>Member</th>
<th>Present</th>
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<tbody>
<tr>
<td>Barnstable</td>
<td>Royden Richardson</td>
<td>√ (arrived at 3:40 pm)</td>
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<tr>
<td>Bourne</td>
<td>Michael Blanton</td>
<td>Absent</td>
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<tr>
<td>Brewster</td>
<td>Elizabeth Taylor</td>
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<tr>
<td>Chatham</td>
<td>Michael Skelley</td>
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<tr>
<td>Dennis</td>
<td>Richard Roy</td>
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<td>Eastham</td>
<td>Joy Brookshire</td>
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<tr>
<td>Falmouth</td>
<td>Andrew Putnam</td>
<td>√</td>
</tr>
<tr>
<td>Harwich</td>
<td>Jacqueline Etsten</td>
<td>√</td>
</tr>
<tr>
<td>Mashpee</td>
<td>Ernest Virgilio</td>
<td>√</td>
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<td>Orleans</td>
<td>Len Short</td>
<td>√</td>
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<tr>
<td>Provincetown</td>
<td>Austin Knight</td>
<td>√</td>
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<td>Sandwich</td>
<td>Harold Mitchell</td>
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<td>Truro</td>
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<td>Wellfleet</td>
<td>Roger Putnam</td>
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<td>Yarmouth</td>
<td>John McCormack, Jr.</td>
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<td>County Commissioner</td>
<td>Mary Pat Flynn</td>
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<td>Minority Representative</td>
<td>John Harris</td>
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<td>Native American Rep.</td>
<td>Vacant</td>
<td>Vacant</td>
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<tr>
<td>Governor's Appointee</td>
<td>Vacant</td>
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The meeting of the Cape Cod Commission was called to order on Thursday, October 16, 2014 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers, Barnstable, MA. Roll was called and a quorum established.

■ SUMMARY OF ACTIONS TAKEN/VOTES:

Public Hearing: Bourne Solar Project—53 MacArthur Boulevard, Bourne, MA
Following the presentations and discussion, the Full Commission voted unanimously to adopt the draft written Limited Development of Regional Impact (DRI) decision as written and approved the Bourne Solar Project with conditions set out in the draft Limited DRI decision.

Section 208 Draft Area-wide Water Quality Management Plan
Executive Director Paul Niedzwiecki gave a presentation and provided an update on the Section 208 Draft Area-wide Water Quality Management Plan.

■ EXECUTIVE DIRECTOR’S REPORT

Paul Niedzwiecki said the Commission’s communications team is putting together a training presentation for Commission members. He said they are trying to do it on-line as a curriculum and said it will be available to members. He said the Attorney General’s office is hosting two webinars on the Open Meeting Law and it can be accessed from home computers. He said it will be aired in the Commission’s large conference room on October 21 for anyone interested in attending and asked members to contact Jessica Wielgus, Commission Counsel, if they want more information. He said the Commission has been interviewing for a Regulatory Officer II position and a Hydrologist position and said they have had good candidates for both positions. He said he was invited to sit on the Cape Cod Canal Transportation Study Committee and he will report back to the Commission after their meeting in November. He said Hydro, Inc. was recently recognized and named Southeast Division Gold Winner in the 11th Annual Massachusetts Economic Impact Awards. He congratulated Hydro and said the Commission recommended Hydro for the award and he is happy that the Commission was part of that story. He said the regional-wide network is up and running, many towns have already connected to that network, and e-Permitting is part of that regional connection. He said the Commission was recognized by the Association to Preserve Cape Cod (APCC) last week for the Commission’s work on the Section 208 Plan and said APCC presented the Commission with the Paul Tsongas Award for Excellence.

■ MINUTES

The minutes of the October 2, 2014 Commission Meeting were reviewed. Austin Knight moved to approve the minutes. Roger Putnam seconded the motion. The motion passed with a unanimous vote.

■ BOURNE SOLAR PROJECT

Chair Richard Roy noted that this is a continued hearing from October 2, 2014.

Ernest Virgilio, subcommittee chair, called for a motion by the subcommittee to approve the minutes of the October 2, 2014 public hearing. John Harris moved to approve the minutes. Harold Mitchell seconded the motion. The minutes were unanimously approved by the subcommittee.

Brian Madden, LEC Environmental Consultants, representing the applicant described the project as the installation of a 7.85-acre, 2-MW solar field on a 25.14-acre site. He said the project has gone through extensive review with the Massachusetts Natural Heritage and Endangered Species Program (NHESP) and received approval of their Long-Term Habitat Management Plan. He described the existing site topography and said 47,520 square feet of a buffer zone will be protected by a Conservation Restriction that will permanently protect important species and wetland areas. He said a Curb Cut and Traffic Management Plan has been approved by MassDOT. He said the proposed project furthers the goal of Bourne’s Local Comprehensive Plan and the applicant will purchase a Power Purchase Agreement with the Bourne Recreation Authority that will be signed next week.
Jeffrey Ribeiro, Regulatory Officer at the Commission, with the use of PowerPoint slides described the project as a 25.14-acre site of which 7.85-acres will be developed for a 2-MW solar field, there is a .44-acre gravel drive and there are wetlands on the west side of the site. He explained the Commission’s jurisdiction and said the subcommittee approved and adopted the scoping decision for the project on September 4, 2014. He said the scoping decision limits Development of Regional Impact (DRI) review to issue areas for water resources, wetlands, wildlife/plant habitat, open space, and waste management. Mr. Ribeiro then provided an overview of the Limited DRI findings and RPP consistency in each of the issue areas scoped for review. He said the proposed Bourne Solar Project is consistent with local development bylaws provided all local permits are obtained, it is consistent with the Bourne Local Comprehensive Plan (LCP) and there are no Districts of Critical Planning Concern in the project site with the exception of the Cape-wide Fertilizer Management DCPC. He described project benefits as a Conservation Restriction (CR) on 16.79 acres protecting wetland areas, habitat and invasive species management, no wastewater or water withdrawal, a Purchase Power Agreement (PPA) with the Bourne Recreation Authority, and it’s a renewal energy project consistent with state and local goals. He said a project detriment is the loss of 8.38 acres of forested upland. Mr. Ribeiro said with conditions the project complies with Minimum Performance Standards (MPSs) in the applicable issue areas, it complies with local bylaws and the Bourne LCP, and the project benefits outweigh the project detriments. He said as conditioned the project shall be built according to the approved plan set, the DRI Scoping decision terms and conditions have been incorporated into the Limited DRI decision, and the applicant will execute a PPA consistent with LO1 prior to the issuance of a Preliminary Certificate of Compliance (CoC). He said in regard to water resources the applicant must provide certification of a stormwater system after one year; for open space a draft CR must be provided prior to a Final CoC; and for waste management the applicant must comply with the protocol provided.

Mary Pat Flynn inquired about the curb cut and asked if there was a slow-down area as well.

Jeffrey Ribeiro explained that the applicant received approval for the curb cut. He said it does not have a slow-down area. He said there is a wide shoulder in that area of the road where vehicles can safely pull over.

Elizabeth Taylor inquired about habitat management and asked if someone would be going in to inspect the area before any clearing is done. She asked if much clearing would be done or just woody vegetation.

Jeffrey Ribeiro said a turtle sweep is being done today. He said there are exhaustive regulations in the management plan and the Commission would be monitoring that. He said extremely limited work will be done.

Brian Madden said 8.38 acres would be enclosed by turtle barriers and they have been working to sweep the area. He said they would be removing the turtles from harm’s way. He said there is also a time schedule in the management plan for mowing.

Elizabeth Taylor said it’s a good area for turtles laying eggs there.

Jeffrey Ribeiro said they are aware of that.

Ernest Virgilio said he appreciates Ms. Taylor’s concern and said in construction today protective measures are taken and something will be done that is protective there as well.

Jackie Etsten inquired about the life span of the solar field and asked what measures are in place should it become damaged or obsolete.

Brian Madden said the life span is 20-30 years and the town requires a bond for decommissioning.

Roger Putnam inquired about financial benefits to the town.
Jeffrey Ribeiro said they would receive 11 cents per kW hour and the rate would be locked in for 10 years. He said the Power Purchase Agreement would need to be executed before a preliminary certificate of compliance is issued.

Austin Knight moved to close the public hearing. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

Jack McCormack said he was an alternate on the subcommittee and it’s a great project.

Ernest Virgilio moved that the Commission adopt the draft Limited DRI decision as written and approve the Bourne Solar Project with conditions set out in the draft Limited DRI decision. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote.

Ernest Virgilio said he chaired the subcommittee and thought the review process was extremely well done by everyone involved.

 SECTION 208 DRAFT AREA-WIDE WATER QUALITY MANAGEMENT PLAN UPDATE
Paul Niedzwiecki provided an update on the Section 208 Draft Area-wide Water Quality Management Plan with the use of a PowerPoint slide presentation. Mr. Niedzwiecki complimented the Commission on the quality of its staff and said they have done a tremendous amount of work on the 208 Plan. Mr. Niedzwiecki’s PowerPoint presentation is attached to the minutes.

Austin Knight talked about paving that had been done in Provincetown. He said there was a difference between new and old pavement. He said the state and towns can look at that in regard to runoff. He said it does affect runoff and it could help. He said towns could perhaps change policies on paving and upgrade to today’s technologies. He said it’s costly initially but the long term affects are far greater.

Paul Niedzwiecki said Provincetown has piloted several techniques that the Commission is interested in. He said by mid-point in the calendar year the Commission should have a 208 plan, be part way through the review of the Regional Policy Plan, and have a new transportation plan.

Roger Putnam asked how Commission members could receive a copy of the draft 208 Plan. Paul Niedzwiecki said it’s available on the Commission’s website.

Royden Richardson agreed with the quality of the Commission staff. He said he appreciates the work that has been done on this project and today’s presentation. He asked if anyone was thinking about capacity in terms of the population.

Paul Niedzwiecki said as far as nitrogen the Cape is over capacity and they are trying to fix it. He said we are limited in the choices that we have because of the Cape’s geology.

Jack McCormack echoed Mr. Richardson’s comments and said he appreciates the work of Commission staff as well. He inquired about aquaculture.

Paul Niedzwiecki said a lot of pioneering has been done especially in Wellfleet. He said there are different approaches depending on the town. He said it can help but it’s not the only solution.

Len Short expressed concerns about vetting nationally on the alternatives.
Paul Niedzwiecki said sometimes it’s hard to get a two-thirds vote at Town Meeting. He said sometimes people continually question and criticize the science and this process is meant to help. He said a sustained monitoring program is needed and the technologies matrix will only be changed after it has been vetted with experts.

Len Short said more and better marketing should be done and perhaps someone on the Commission staff should be that person to get the word out.

Paul Niedzwiecki said the Commission needs to get better at that and said sometimes it’s hard to do because of criticisms. He said we need the tools first and hopefully it will help the Commission to be better communicators. He said the Commission is committed to finding a better way.

Mary Pat Flynn said she applauds staff for the technical process and the stakeholder process. She said it brought many people together and it helped them to understand the message and that was done through the stakeholder process. She said the most valuable piece to the 208 planning process was the community involvement.

Elizabeth Taylor inquired about meetings with Boards of Selectmen.

Paul Niedzwiecki said he would like all selectmen Cape-wide to meet together in one room to discuss this. He said the responsibility cannot fall on homeowners; homeowners are only doing what the state allows them to do. He said he is not sure Boards of Selectmen understand that and he believes they need to hear that.

Elizabeth Taylor suggested taking today’s presentation to Boards of Selectmen again as new information has been made available since the beginning of this process.

**OTHER BUSINESS**

Richard Roy inquired about the status of the Regional Policy Plan process.

Paul Niedzwiecki said an update will be on a Commission meeting agenda sometime in November or December. He said the process will involve a much deeper analysis of the Cape and how the Commission should move forward.

A motion was made to adjourn at 5:05 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Harold Mitchell, Secretary

**List of Documents Used/Presented at the October 16, 2014 Commission Meeting**

- Minutes of the October 2, 2014 Commission meeting.
- Handout material: October 16, 2014 Commission meeting agenda.
- Material presented: PowerPoint presentation on the Bourne Solar Project presented by Commission staff.
NITROGEN SENSITIVITY

ACTION IS REQUIRED
1 SOLE SOURCE AQUIFER
REGIONAL LAND USE
105 WATERSHEDS
57 EMBAYMENT WATERSHEDS
REGIONAL ISSUE
32 CROSSBOUNDARY WATERSHEDS
REQUIRED
NITROGEN REMOVAL
208 Plan Update
WHAT IS THE 208 PLAN?

Clean Water Act Section 208

The Cape Cod Commission was directed to update the 1978 Plan

The Commonwealth provided $3 million to complete the plan
WHAT IS THE 208 PLAN?

Focus on 21st Century Problems

Nitrogen: Saline waters

Phosphorus: Fresh Waters

Growth and Title Five Limitations
208 PLAN
APPROACH

- Diverse Technology + Multiple Solutions
- High Stakeholder Engagement
- Watershed Based
- Adaptive Management, Pilot Projects, Progress Monitoring
208 PLAN

APPROACH

Coordinate with MassDEP & US EPA

Maximize Benefits of Previous Town Plans

Support and Expedite Targeted Watershed Solutions Under Existing Plans
# TABLE OF CONTENTS

## INTRODUCTION

## EXECUTIVE SUMMARY

### CHAPTER 1: THE CAPE COD MODEL – COMMUNITY ENGAGEMENT
- Legislative/Regulatory Authority
- Purpose and Goals
- The 1978 §208 Plan
- Conditions Requiring an Update
- Public Participation

### CHAPTER 2: CAPE COD BASELINE - THE PEOPLE AND THE PLACE
- Physical Setting and Environmental Assessment
- Marine Water
- Freshwater Ponds
- Groundwater/Drinking Water
- Other Considerations

### CHAPTER 3: NUTRIENT MITIGATION TECHNOLOGIES AND POLICIES
- Water Quality Technologies Matrix
- Technology Descriptions
- Sea Level Rise and Storm Surge Risks to Technology Options

### CHAPTER 4: THE CAPE COD MODEL - TECHNICAL REVIEW
- Watershed Approach
- Cape Cod Commission Technical Support
- Economies of Scale and Centralized Wastewater Facilities

### CHAPTER 5: REGULATIONS
- Federal, State and County Requirements and Goals
- State and County Activities
- Review and Assessment of Local Controls and Regulations
- Feasibility of Permitting
- Tools for Collaboration

### CHAPTER 6: PLANNING AND GROWTH MANAGEMENT
- Town Water Quality Restoration and Protection, Planning and Existing Infrastructure
- Planning Partnerships
- Managing Growth

### CHAPTER 7: COST AND FINANCIAL AFFORDABILITY
- Introduction to the Model
- Cost Module
- Financing Module
- Affordability Module
- Revenue Module
- Financial Assistance
- Environmental Justice

### CHAPTER 8: RECOMMENDATIONS AND IMPLEMENTATION
- Information
- Regulatory Reform
- Support
- Cost

## GLOSSARY

## REFERENCES
THE CAPE COD MODEL: COMMUNITY ENGAGEMENT
2013 Stakeholder Engagement

Public Meetings
- Goals, Work Plan & Roles
- Affordability, Financing

Watershed Working Groups
- Baseline Conditions
- Technology Options Review
- Watershed Scenarios

- Advisory Board
- RLI
- TAC
- Finance
- Tech Panel

July
- Regulatory, Legal & Institutional Work Group

August

September

October

December

Technical Advisory Committee of Cape Cod Water Protection Collaborative
2014 Stakeholder Engagement

208 Summit
- Review & Regional Outlook

Subregional Working Groups
- Scenario Planning
- Regulatory, Legal, & Institutional Issues
- Implementation Issues

Drafting
- 208 Plan

Advisory Board
- RLI
- Finance
- Governance

Monitoring Subcommittee
- Monitor

Governance Committee of Cape Cod Water Protection Collaborative
- Governance

Timeline:
- January
- February
- March
- April
- May
- June
- July
- August
CAPE COD BASELINE: PEOPLE AND PLACE
NUTRIENT MITIGATION TECHNOLOGIES & POLICIES
# TECHNOLOGY MATRIX

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<td>Toilets: Packaging</td>
<td>Stormwater: Bioretention / Soil Media Filters</td>
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<td>Inlet / Culvert Widening</td>
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<td>Pond and Estuary Dredging</td>
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<td>Constr. Wetlands - Groundwater, Salt Water, Floating</td>
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- **Wastewater**
- **Existing Water Bodies**
- **Stormwater**
- **Phytoirrigation**
- **Regulatory**
THE CAPE MODEL:
TECHNICAL REVIEW
Problem Solving Approach

1. Identify Current N Removal Needs (Targets/Reduction Goals)
   - Present Load: X kg/day
   - Target: Y kg/day
   - Reduction Required: N kg/day

2. Non-Nitrogen Collection Needs
   - A. Village Centers/Economic Centers
   - B. Title 5 Problem Areas
   - C. Growth Incentive Zones
   - D. Pond Recharge Areas

3. Nonpoint Source Management
   - A. Fertilizer Management
   - B. Stormwater Mitigation

4. Watershed Alternative Technologies
   - A. Permeable Reactive Barriers
   - B. Inlet/Culvert Openings
   - C. Constructed Wetlands
   - D. Aquaculture

5. On-Site Alternative Technologies
   - A. Eco-toilets (UD & Compost)
   - B. I/A Technologies
   - C. Enhanced I/A Technologies
   - D. Shared Systems

6. Supplemental Collection Areas
WATERSHED EVALUATION TOOLS

- Watershed MVP
- TBL Model
Of the 57 watersheds that flow into embayments, 35 were the subject of MEP reports, allowing us to project effects of N loading on water quality indicators.

3VS model quantifies and reports effects of N loading by watershed.
## EXISTING REGULATORY FRAMEWORK

### Existing Permitting for Non-Traditional Technologies

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<tr>
<th>Technology/Approach</th>
<th>EPA</th>
<th>ACOE</th>
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*Additional permits may apply. Other agencies involved could include:*
- MassDOT
- MA Historical Commission
- MA Natural Heritage and Endangered Species Program
- US Fish & Wildlife Service/MA Division of Marine Fisheries

- Permit likely required
- Permit may be required, depending on location
PLANNING & GROWTH
MANAGEMENT
GROWTH MANAGEMENT

• Sewer-induced Growth, Smart Growth
• Long-term Planning
• Zoning
• Paying for New Growth
Planning Partnerships

JOINT BASE CAPE COD
Planning Partnerships

MASS. DEPARTMENT OF TRANSPORTATION

PHOTO: MASSDOT
Planning Partnerships
SOUTHEAST NEW ENGLAND COASTAL WATERSHED RESTORATION PROJECT

Existing and Proposed Regional Frameworks for Addressing Coastal and Marine Issues:
Proposed Council for Coastal Watershed Restoration

- LISS = existing Long Island Sound Study (NY, CT)
- GOMC = existing Gulf of Maine Council on the Marine Environment (ME, NH, ME, ME, NS)
- NROG = Northeast Regional Ocean Council (ME, NH, MA, RI, CT, EPA, DOI, DSH, ACE, USDA, NOAA)
- CCWR = Proposed Council for Coastal Watershed Restoration (RI, MA)

Note: all boundaries are approximate

Created by the US EPA, Region 1, Sea Grant on 6/22/2012.
Sources: Basemap from ESRI.
COST & FINANCIAL AFFORDABILITY
A FINANCIAL MODEL developed by the Cape Cod Commission helps estimate the total cost to build, finance, and operate a proposed set of wastewater solutions and determine if, on average, it is affordable to households.
RECOMMENDATIONS & IMPLEMENTATION
• Regional Monitoring Program
• Water Quality Data Center
• Publicly available information
• Special Review Procedure
• Capital Developments of Regional Impact
• Targeted Nutrient Management Plans
• 208 Plan Consistency Review
• Watershed Permitting
• Nitrogen Sensitive Areas
• Waste Management Agencies
• Water Pollution Abatement Districts
• NPDES delegation
• Watershed Teams
• Hybrid Watershed Planning Approach
• Adaptive Management
• Pilot Projects
• Planning Partners
• Cape Cod Capital Trust Fund
• Water Infrastructure Bill: MassDEP 25% principal forgiveness
• Environmental Bond Bill
WHERE WE ARE TODAY
208 Plan Update Status

- Completed 70 meetings soliciting stakeholder input
- Submitted draft 208 plan to DEP and EPA
- Released public draft 8/20/2014
208 Plan Update Status

- 90 day public comment period open
- Four Subregional Public Hearings Sept./Oct.
- Continue to fine tune decision support tools
- Final plan to be released in January