

CAPE COD COMMISSION REPORTER

June 18, 2009

Volume 19, Number 6

The newsletter of the regional planning and regulatory agency serving Barnstable County since 1990.

CCC Challenges Certificate Issued by Massachusetts Energy Facilities Siting Board

Note: The following commentary from Cape Cod Commission Executive Director Paul Niedzwiecki is the only statement the Commission will make while the matter related to the proposed Cape Wind Energy Project is in litigation.

In late May, the Massachusetts Energy Facilities Siting Board (EFSB), a state agency comprised of nine gubernatorial appointees, issued its final decision to grant a “Certificate of Environmental Impact and Public Interest” for the construction of electric transmission lines by Cape Wind Associates. The decision attempts to override local and regional permitting processes.

On June 12, 2009, the Cape Cod Commission (the Commission) began the process of appeal of that decision to the Supreme Judicial Court of Massachusetts—not to address the merits or demerits of this particular project, but to address the jurisdictional conflicts between the Commission and the EFSB. The Commission’s jurisdiction is as wide as the EFSB’s is deep. Appealing to the highest court in the Commonwealth provides the quickest way to resolve the dispute, and it is our hope that this will be settled in a matter of months.

The fastest way to permit and construct off-shore wind is to participate fully in the local process. The EFSB was created in 1973 to approve projects unduly burdened by local permitting processes. It was designed to prevail over unreasonable burdens masquerading as local interests, not to side step local interests entirely. The EFSB has attempted to expand its jurisdiction to the point where a “good faith” effort at complying with local permitting is evidenced by simply filing an application. Allowing this process to stand would allow any type of future utility project to avoid local review in evaluating and mitigating local impacts, providing an outcome that favors certainty over fairness.

This project has been a popular subject of discussion for some time and in a sense a worst-case outcome has already happened: polarization. Much good work on local and regional renewable energy projects and conservation efforts is often prejudiced by the nature of an organization’s interaction with this one project. “Absolutist” critics on both

sides have created a situation where labels replace the merits of their respective positions. This division threatens to slow the pace of regional progress for renewable energy and hampers real efforts at expedited permitting.

Fast action is necessary on public policy and public initiatives to reduce dependence on fossil fuels. The health of our environment and our economy requires a move to more sustainable use, generation and transmission of energy. We need it all and we need it now. There is no one alternative or single action that can slow the course of global warming. As a coastal region

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EFSB challenge, from page 1...

most at risk from rising sea levels, we understand that off-shore wind is an important part of a strategy for sustainable energy independence.

The energy policy of the Cape Cod Regional Policy Plan states:

"The United States' dependence on fossil fuels has a variety of adverse environmental, economic, and social impacts, and contributes to worldwide greenhouse gas emissions and global climate change. Continued reliance on this resource leaves the Cape's economy vulnerable to global market forces. Energy conservation, energy efficiency, and the use of the Cape's abundant clean renewable energy resources are ways to reduce greenhouse gas emissions, manage energy costs, and decrease reliance on fossil fuel imports for homeowners and businesses. Harnessing these resources in conjunction with energy efficiency and conservation practices will help create a stable, sustainable energy future for Cape Cod."

The Cape Cod Commission and Barnstable County are moving aggressively in support of this policy. The Commission and other county entities provide a synergy for renewable energy progress unmatched in the Commonwealth:

- a new Regional Policy Plan with one of the most progressive energy requirements for new commercial construction in the country,
- an updated Hazard Mitigation Plan that includes climate adaptation strategies,
- implementation of a regional approach to the Green Communities Act, mapping with local towns for expedited permitting of land-based renewable projects,
- participating in the Ocean Advisory Commission, zoning the ocean for off-shore renewable projects,
- participating in the Climate Change Adaptation Advisory Council,
- supporting bio-fuel pilot projects, and
- developing workforce training opportunities in "green building" trades.

The Commission will resolve this current conflict with the EFSB without delay. We do this with the understanding that as a nation we are behind the curve in addressing the environmental and economic realities of global warming. We acknowledge that every region has to do its part. We are also tempered by the history of well-intentioned government action that bends too much in the direction of one industry. We are moving forward with steps that are as complete, deliberate and respectful to the basic tenets of community as they are swift. ■

Correction: The May 21, 2009, edition of the *Cape Cod Commission REPORTER* (Volume 19, Number 5) contained an error in the article about the 2008 Cape Cod Second-home Owners Study. A total of 16,000 questionnaires were mailed.



June 26th Workshop on State "Subsidized Housing Inventory"

The Cape Cod Commission, the Barnstable County HOME Consortium, and the Massachusetts Department of Housing and Community Development (DHCD) will sponsor a workshop on the "Subsidized Housing Inventory" on Friday, June 26, 2009, from 9:15 a.m. to 12:30 p.m. at the Cape Cod & Islands Association of Realtors Conference Center on Mid Tech Drive in West Yarmouth.

The workshop will assist communities in the process of adding and maintaining affordable units on the state's Subsidized Housing Inventory.

At the time this newsletter went to press, the agenda was tentatively set to provide an overview that will describe the Local Initiative Program (LIP) and Chapter 40B Comprehensive Permits. The workshop will also focus on local housing projects that don't require 40B permits and how to get those units to count on the state's Subsidized Housing Inventory (SHI). Local Action Units (LAUs) and local programs such as buy-downs will be discussed. Also planned is a session on the step-by-step process for marketing, resales, refinancings, foreclosures, and deed riders. Attendees will have the opportunity to meet one-on-one with DHCD staff to discuss specific projects in their own towns.

For information, contact Commission Affordable Housing Specialist Paul Ruchinkas (508-362-3828 ext. 1225 or pruchinkas@capecodcommission.org.)



No Rest for the RPP

■ Annual Review

A year has not passed since approval of the updated Regional Policy Plan (RPP), but the Cape Cod Commission is already launching a promised annual review of the plan. Executive Director Paul Niedzwiecki announced the start of the review in late May.

Through the summer, staff members will undertake an in-house review of the affordable housing-related elements of the plan. Discussions with Commission members, stakeholder groups, and the public at large will begin in earnest in Fall 2009. Chief Planner Sharon Rooney will manage the process.

■ Technical Bulletins

The Cape Cod Commission voted on May 14, 2009, to approve two technical bulletins that support the newest Regional Policy Plan: a new bulletin (#09-002) to address the energy-related regulatory standards in the plan, and a revised version to an existing bulletin (#94-001) related to the calculation of the open-space mitigation required by the plan. Both are available on the Web site: www.capecodcommission.org/regulatory/guides.htm

■ Revised Maps

The Barnstable County Assembly of Delegates voted June 3, 2009, to approve revisions to Regional Policy Plan maps, including the Regional Land Use Vision Map, the Water Resources Classification Map I, and the Significant Natural Resource Area Map.

The land use map was updated to incorporate the Town of Barnstable's newly approved portion. The water and natural resource maps were revised to reflect data updates from outside sources, such as the Massachusetts Department of Environmental Protection, the Massachusetts Geographic Information System, and the Massachusetts Natural Heritage and Endangered Species Program.

Once the Barnstable County Commissioners sign the relevant ordinance approved by the Assembly, the Cape Cod Commission will record the maps with the ordinance at the Registry of Deeds. The maps will become effective on July 3 or the date of recording, whichever is later.

The current Regional Policy Plan, maps, and related documents are on the Web site: www.capecodcommission.org/RPP



JUNE 23RD PUBLIC MEETING:

Route 6A, Cape Cod's Scenic Byway

Next week planners will host a "conversation" about one of Cape Cod's most beloved roadways, Route 6A, the Old King's Highway, which stretches 34 miles east from Bourne to Orleans. The gathering aims to collect ideas about issues related to the corridor's land uses, historic and scenic resources, and transportation. Potential ways to protect those resources and address traffic and safety concerns will be part of the discussion.

The public meeting will take place on **Tuesday, June 23, 2009, beginning at 5:30 p.m. at the Cape Cod Commission office, itself on Route 6A, in Barnstable village.**

"The Route 6A corridor is a special place not only to Cape Codders but also to visitors from all over the country," notes Commission Planner Martha Hevenor. "Protection of its scenic and historic resources deserves our best efforts."

The June 23rd meeting focuses on the ongoing federal- and state-funded update to the Route 6A Corridor Management Plan, first prepared in 1995. Hevenor will briefly review the 1995 plan and what has been accomplished since then. She and other participants will review some initial strategies that may be recommended to address current issues.

The planning study will continue through the summer and conclude with a final plan in the fall. Interested persons are encouraged to complete an online questionnaire to help planners finalize the recommendations to be included in the report. The questionnaire is posted on the Web site: www.gocapecod.org/6Away



JUNE 21 THROUGH JUNE 27, 2009:

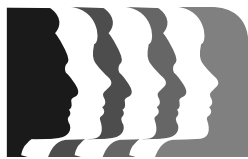
Annual "Smart Transportation" Week

Barnstable County's "Smart Transportation Week" is an annual event to promote smart transportation choices such as public transit, ride sharing, walking, and bicycling, and other alternatives to single-occupant driving on Cape Cod. The week kicks off the summer season with awareness events. This year's Smart Transportation Week begins June 21, 2009.



Smart Transportation Day on Wednesday, June 24, features a "commuter rally" from 12 noon to 1 p.m. in the Barnstable County parking lot in Barnstable village. Several guests (Catherine King from MassRides, Paula George from the Cape Cod Regional Transit Authority, and a representative from MassBike) will be present to distribute information on using good alternatives to cars for meeting transportation needs.

Details about the week are posted on the Cape Cod Commission's online transportation center: www.gocapecod.org/gosmart



CCC Personnel Notes

■ Staff Member Stacey Justus Departs

Coastal Resources Specialist Stacey Justus resigned in April to relocate with her family to Michigan. She joined the Commission staff as Planner I in 2000, was promoted to Planner II in 2004, and was named Coastal Resources Specialist in 2008.



In addition to local comprehensive planning and regional regulatory work for the Commission, Justus collaborated with organizations throughout the region to produce the first (2004) *Cape Cod Emergency Preparedness Handbook* and subsequent revisions, available now only on the Web site www.capecod-commission.org/emergencyprephandbook. She developed Barnstable County's first FEMA-approved Regional Pre-Disaster Mitigation (PDM) Plan and collaborated with coastal experts on a Sea Grant-funded project to develop a model floodplain bylaw for communities to consider adopting. This year, Justus served on the Massachusetts Ocean Advisory Commission to help the state develop the nation's first integrated ocean management plan for state waters, an effort being led by the Executive Office of Energy and Environmental Affairs.

■ CCC Members

On May 28, the Cape Cod Commission elected the following officers, effective immediately and through June 30, 2010: John D. Harris, chair; Royden Richardson, vice chair; and Alan Trebat, secretary.

On June 8, the Harwich Board of Selectmen voted to appoint Robert Bradley as the town's new representative to the Cape Cod Commission. Bradley will fill the spot vacated by Leo Cakounes in January 2009.



July 23rd Meeting for Yarmouth Road Corridor Study

Last month, the Cape Cod Commission launched a series of public meetings to begin to explore possible transportation improvements for the two-lane corridor of Yarmouth Road in the towns of Yarmouth and Barnstable. The event officially initiated a study that will examine options for improving traffic congestion along this major route into and out of downtown Hyannis, including options for walking, biking, driving automobiles, and using transit bus and rail services.

The Commission also launched a web page and online questionnaire (www.gocapecod.org/yarmouthroad) for anyone wishing to express their concerns about traffic congestion and travel on Yarmouth Road.

Next month, planners conducting the study will hold the second public meeting, this time to discuss draft alternatives for the corridor. It will take place on **Thursday, July 23, at 6 p.m. in Barnstable Town Hall.**

A third public meeting is tentatively scheduled for **Thursday, August 20** (time and place the same as above), to present the recommended alternatives. The study will conclude with a draft report in the fall.

Anyone wishing to receive direct notification of future meetings should contact Elizabeth Hude, special projects coordinator for the Commission, at ehude@capecodcommission.org.

CEDS Phase 2 Approaches Completion

The Comprehensive Economic Development Strategy (CEDS) five-year update moved through the Barnstable County adoption process in late May and early June on its way to submission to the US Economic Development Administration at month's end.

■ Public Comment and County Agency Reviews

Late last month, the Cape Cod Commission released a draft of the CEDS for a two-week public comment period that ended on June 3. Changes were incorporated where appropriate, and the full text of the comments and the reviewers' responses will be included with the submitted plan.

The Commission's Planning Committee reviewed the draft and recommended on May 26 that it be forwarded to Barnstable County's Cape Cod Economic Development Council (CCEDC) and the full Commission. The CCEDC endorsed the draft on June 4.

Commission Economic Development Officer Leslie Richardson introduced the revised draft to the full Commission on June 11. The board voted unanimously to adopt the plan and submit it to the US Economic Development Administration.

The final CEDS document will be submitted for federal review and certification by June 30.

■ Organization of Plan

The five-year update is organized in several sections. The first

describes the regional planning process.

The second assesses the region's demographic trends, economic strengths and weaknesses, and specific sources of stress on the economy.

The third covers the economic development vision, goals, and objectives identified through the 2009 Regional Policy Plan (RPP) planning process. The RPP established a growth policy and included four economic development goals that form the framework of the CEDS.

The fourth section is the five-year regional action plan for economic development.

The fifth section describes the implementation and annual evaluation measures that will be pursued.

■ Priority Regional Projects

Sixteen regional projects are specifically summarized in the action plan of the draft document, as follows:

Regional Capital Projects:

- Community Green Enterprise Center Design and Construction
- Emerging Sectors Housing Projects
- Homeland Security Technology Testing and Training Center
- Open Cape Telecommunication Infrastructure
- Renewable Energy Generation Program
- Renewable Energy Technology Testing and Training Center
- Wastewater Infrastructure in Economic Centers and Villages

Regional Planning Projects:

- Coastal Development/Ocean Economy Options Analysis
- Development in Economic Centers Costs Analysis
- Redevelopment Authority Feasibility Analysis
- Specialized Four-year College (Fine Arts and Engineering) Feasibility Analysis

Regional Technical Assistance Projects:

- ADA and Building Compliance Loan Program
- "Buy Local" Infrastructure Development Projects
- Capitalize the Cape Cod Fisheries Trust
- Energy Demand Reduction Program: Greening Existing Buildings
- Entrepreneurship Capital Access and Training Program

Descriptions of local planning activities and local capital projects received during the CEDS process are included at the end of the draft report.

More information is available on the Web site:
www.capecodcommission.org/econdev/CEDS



Cape Cod Commission • DRI Decisions

This newsletter publishes summaries of decisions on projects reviewed by the Cape Cod Commission as Developments of Regional Impact (DRIs). To download PDF versions of the DRI decisions, visit the Regulatory section of the Commission's Web site (www.capecodcommission.org/regulatory/).

BARNSTABLE

F.W. Webb

Project #TR08025

On May 14, 2009, the Cape Cod Commission, with 11 voting members present, voted unanimously to approve with conditions the Development of Regional Impact (DRI) application of F.W. Webb for the proposed renovation and expansion of a two-story, 29,017-square-foot existing building and the construction of a new two-story 33,750-square-foot addition, for a total building of approximately 62,767 square feet. The property, located at 108 Breeds Hill Road in the vicinity of Independence Park in Hyannis, Massachusetts, is made up of two lots totalling 4.132 acres. The site was formerly used by the Mill Store as a warehouse and distribution facility for unfinished furniture. The redevelopment will serve as a warehouse and distribution facility for F.W. Webb's plumbing and HVAC business, which sells and distributes materials to contractors.

The Cape Cod Commission received the referral from the Barnstable Town Manager on October 30, 2008, and deemed the DRI application to be substantially complete on March 4, 2009, to proceed to a public hearing. The Commission's subcommittee reviewing the proposal held a public hearing on March 30 and held public meetings on April 22 and May 1.

The project is the first to be reviewed under the 2009 Cape Cod Regional Policy Plan (RPP), making it the first DRI application to meet the standards related to the Regional Land Use Vision Map that accompanies the RPP, and the first to meet the new energy and affordable housing requirements of the plan. The project is located in an "Industrial and Service Trade Area" of the Regional Land Use Vision Map. No open-space is required to be protected because it is a redevelopment project in that category of land use.

The development will connect to the Barnstable municipal sewer system for its wastewater management needs and will use bioretention methods to handle stormwater. Because the project is within a wellhead protection area, the amount of on-site hazardous materials is normally limited to household quantities; however, because it is a redevelopment project, the RPP allows for increased quantities on site if adequate documentation of quantities from the previous use is provided and if the proposed quantity is less than the previous quantity.

The project meets applicable transportation safety standards. Mitigation for traffic congestion, however, would normally amount to \$110,000

toward the maintenance of transportation infrastructure. The applicant will improve the timing of the traffic signal at the intersection of Route 132, Independence Drive, and Enterprise Road, which reduces the required contribution to \$100,307. The company will also pursue an employee trip-reduction program and will contribute \$36,453 toward the purchase of vacant developable land to offset vehicle trips.

The project will meet the energy standards of the Regional Policy Plan by having an energy-efficiency audit performed and by achieving an EnergyStar® certification rating of 94 within the year (75 is the minimum required rating). The company will also install a hybrid solar/geothermal heating system (projected to use 58 percent less total energy than the ASHRAE standard), an energy-compliant roof, and energy-conserving landscaping.

As a redevelopment, the project is credited for the amount of affordable housing mitigation based upon the existing use and the existing square footage. The required affordable housing mitigation relates to the new construction only. By that standard alone, the affordable housing mitigation would be \$79,988. The mitigation is reduced further, however, because the company will provide higher-wage jobs than the previous use. The company has stated that 83 percent of its employees earn wages above the region's median income level. The total affordable housing contribution will be \$13,500.

Cape Cod Commission • DRI Status Report

Developments of Regional Impact (DRIs) currently under consideration by the Cape Cod Commission are listed below. A check mark (✓) in front of a project's name indicates that Commission regulatory activity is scheduled for that project in the next month. Details about those activities are listed in the calendar on the back cover and as hearing notices in the Regulatory section of the Web site: www.capecodcommission.org

DRI Projects in the CCC Regulatory Queue

BARNSTABLE

- ✓ • **Dalby ANR**—proposed division of land in excess of 30 acres to split an existing lot into two lots.
- ✓ • **Haseotes Addition**—proposed construction of a 2,900-sq.ft. three-bedroom addition to a dwelling within the Craigville Beach/Centerville Village Center DCPC.
- **Mystic River Realty Trust**—proposed Approval Not Required (ANR) plan dividing a 60-acre tract of land into two lots (one 49 acres and one 11 acres).

BOURNE

No DRI projects at this time.

BREWSTER

- ✓ • **Brewster VFW Pavilion**—proposed construction of a steel-framed roof over an existing picnic area on a 4.28-acre site within the Brewster Water Protection District of Critical Planning Concern (DCPC).

CHATHAM

- ✓ • **Chatham Wastewater Plan**—wastewater study and implementation plan. Joint MEPA/CCC review. Extension agreement to 6/18/10.

DENNIS

No DRI projects at this time.

EASTHAM

No DRI projects at this time.

FALMOUTH

- **South Coast Watersheds Comprehensive Wastewater Management Plan**—proposed Comprehensive Wastewater Management Plan to address water quality problems of Little, Great, Green, Bourne, and Eel ponds, and Waquoit Bay. Joint MEPA/CCC review.



- **The Golf Club at Cape Cod/Ballymeade**—proposed construction of an 18-hole golf course on approximately 183.41 acres within Ballymeade Estates. Extension agreement to 9/29/13.

HARWICH

No DRI projects at this time.

MASHPEE

- **Holland Mills Well and Pumping Station**—proposed installation of new public water supply well/pump station. Joint MEPA/CCC review.
- **Mashpee Commons**—proposed master plan. Extension agreement to 2/1/10.
- **Mashpee Watershed Plan**—proposed watershed nitrogen management plan.
- **Mashpee Woods ANR Plan**—proposed Approval Not Required (ANR) subdivision plan with two commercial lots and seven industrial lots. Extension agreement to 9/18/09.

ORLEANS

- **Daniels C&D Facility Expansion**—proposed expansion of a construction and demolition debris-processing facility. Formal withdrawal anticipated.
- **Orleans Comprehensive Wastewater Management Plan**—proposed draft Comprehensive Wastewater Management Plan that identifies and evaluates three alternative plans for wastewater treatment and disposal. Joint MEPA/CCC review.

PROVINCETOWN

- **Provincetown Airport Capital Improvements Plan**—proposed safety and facility improvements to the Provincetown Municipal Airport. Joint MEPA/CCC review.

SANDWICH

- **Sandwich Beach Nourishment and Dredging**—proposed beach nourishment and maintenance dredging. Joint MEPA/CCC review.

TRURO

No DRI projects at this time.

WELLFLEET

- **Herring River Tidal Restoration Project**—proposed reestablishment of tidal flow to the 1,100-acre Herring River estuary and floodplain. Joint MEPA/CCC review.

YARMOUTH

- **Cape Wind Energy Project**—proposed wind energy facility in Nantucket Sound, with 130 wind towers transmitting power via an underground cable with a proposed Yarmouth landfall. Joint MEPA/CCC review. MEPA issued FEIR certificate on 3/29/07. CCC denied the project without prejudice on procedural grounds on 10/18/07. Cape Wind Associates petitioned the state Energy Facilities Siting Board (EFSB) for a "Certificate of Environmental Impact and Public Interest" on 11/21/07. EFSB held a hearing in mid November 2008 and issued a final decision to grant the certificate on 5/27/09. CCC filed a petition to appeal that decision on 6/12/09.
- **Parker's River Marine Park**—proposed marine park on the 22-acre site of the former Yarmouth drive-in theater. Joint MEPA/CCC review.

Commission Meetings and Events

Cape Cod Commission meetings and hearings are open to the public. Call (508) 362-3828 to confirm times and check for last-minute changes.

Standing Committees

Regulatory, Planning, and Executive committee meetings held at the Commission offices. Call for times.

Monday, June 22
Monday, July 6

Regulatory Calendar

- **June 22:** HEARING OFFICER: Dalby ANR (Barnstable project), 10 a.m., CCC
- **June 25:** CCC MEETING: 3 p.m., Assembly of Delegates Chamber, Barnstable. Agenda tentative; please call to confirm:
 - Sandwich LCP Final Certification
- **June 30:** HEARING: Chatham Waste-water Management Plan, 7 p.m., Chatham Town Hall
- **July 9:** CCC MEETING: 3 p.m., Assembly of Delegates Chamber, Barnstable. Agenda tentative; please call to confirm.
- **July 23:** CCC MEETING: 3 p.m., Assembly of Delegates Chamber, Barnstable. Agenda tentative; please call to confirm:
 - Haseotes Addition (Barnstable project)

Full Commission Meetings

Held at the Barnstable County Assembly of Delegates Chamber at 3 p.m., unless otherwise noted.

Thursday, June 25
Thursday, July 9

Other Events

- **Smart Transportation Week:** Beginning Sunday, June 21. Smart Transportation Day, Wednesday, June 24, with a commuter rally at noon at the Barnstable County parking lot. See story, page 4.
- **Route 6A Corridor Management Plan Public Meeting:** Tuesday, June 23, beginning at 5:30 p.m. at CCC. See story, page 3.
- **Subsidized Housing Inventory Workshop:** Friday, June 26, beginning at 9:15 a.m. at the Cape Cod & Islands Association of Realtors Conference Center, West Yarmouth. See story, page 2.
- **Yarmouth Road Corridor Study Public Meeting:** Thursday, July 23, beginning at 6 p.m. at Barnstable Town Hall. See story, page 4.



Cape Cod Commission

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