



**Minutes
Cape Cod Commission (CCC)
July 23, 2020**

ROLL CALL

The Chair, Harold Mitchell, called the Virtual Cape Cod Commission meeting to order on Thursday, July 23, 2020, at 3:00 p.m. using zoom and asked that all members turn the video on if available. The chair announced that all votes will be taken and all members participating remotely would be announced as roll call was taken. The Clerk called the roll and a quorum of members was established as follows:

Town	Member	Attendance
Barnstable	Fred Chirigotis	Present
Bourne	Stephen Mealy	Present
Brewster	Elizabeth Taylor	Present
Chatham	Tom Wilson	Present
Dennis	Richard Roy	Present
Eastham	Joy Brookshire	Present
Falmouth	Charles McCaffrey	Present (arrived @ 4:15)
Harwich	Jacqueline Etsten	Present
Mashpee	Ernest Virgilio	Present
Orleans	Douglas Fromm	Absent
Provincetown	Dr. Cheryl Andrews	Present
Sandwich	Harold Mitchell	Present
Truro	Kevin Grunwald	Present
Wellfleet	Richard Elkin	Present
Yarmouth	John McCormack, Jr.	Present
County Commissioner	Ronald Bergstrom	Present
Minority Representative	John Harris	Present
Native American Rep.	David Weeden	Present
Governor's Appointee	Michael Maxim	Present

Summary of Actions Taken/Votes at Meeting:

- **Approval of Minutes 6/11/20 & 6/25/20:** The minutes of the June 11, 2020 and June 25, 2020 meetings were approved
- **Petition to Focus the Cape Cod Regional Policy Plan on Addressing Climate Change:** A vote passed that a Cape Cod Commission Subcommittee be formed to recommend amendments to the 2018 Regional Policy Plan by developing a Greenhouse Gas Emission reduction goal, objectives with corresponding technical guidance and guide a regional Climate Action Plan process that considers both climate change mitigation and adaptation on Cape Cod within 180 days or January 19, 2021. The Commission voted to continue the hearing and action on the proposed petitioner amendments within the Citizens Petition



titled "Petition to Focus the Cape Cod RPP on Addressing Climate Change" to a date no later than January 19, 2021.

Public Comment:

The Chairman offered an opportunity for public comment on matters not otherwise on the agenda.

There was no public comment.

Executive Directors Report – Kristy Senatori

General Updates:

- Continuing to participate in weekly Covid-19 department manager meetings, and the reopening task force.
- Cape Cod Bridges virtual event was held on 7/7
- Cape Cod and Islands Water Protection Fund Bylaws and Regulations Committee meeting held on 7/7
- SNEP Network Advisory Committee Meeting was held on 7/9
- Cape Manager’s Virtual Meeting was held on 7/9
- ESRI Virtual User Conference was held virtually on 7/13-7/15
 - A live recorded CCC presentation was given virtually on 7/14
- Barnstable County Coastal Management Meeting was held on 7/22
- Blueprint planning meeting was held on 7/22
- Received \$400k grant from the United States Economic Development Administration (EDA) CARES Act funding to provide technical assistance to municipalities and other partners, and develop resiliency and recovery strategies

The Chair thanked Ms. Senatori for her updates.

Minutes of 6/11/20

Upon a motion to approve the minutes of 6/11/20 by Jack McCormack, Jr., seconded by Elizabeth Taylor, the motion carried. Roll call was taken as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Charles McCaffrey, Absent; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Douglas Fromm, Absent; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Jack McCormack, Jr., Ron Bergstrom, Yes; John Harris, Yes; David Weeden, Yes

Upon a motion to approve the minutes of 6/25/20 by Jack McCormack, Jr., seconded by Elizabeth Taylor, the motion carried. Roll call was taken as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Charles McCaffrey, Absent; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Douglas Fromm, Absent; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Jack McCormack, Jr., Ron Bergstrom, Yes; John Harris, Yes; David Weeden, Yes



Public Hearing

The Chair read the hearing notice as follows:

Public Hearing: Pursuant to Chapter C of the Code of Cape Cod Commission regulations, the Cape Cod Commission will conduct a continued public hearing on Thursday, July 23, 2020 on a citizen's petition entitled "Petition to Focus the Cape Cod Regional Policy Plan on Addressing Climate Change" which proposes to amend the 2018 Regional Policy Plan. At this hearing, the Commission may vote to approve, approve with modifications, or deny the proposed amendments from the citizen's petition. Anyone wishing to provide oral testimony will have the opportunity to do so. The Chair repeated directions on how to participate.

Kristy Senatori stated that she appreciates the opportunity to address questions from the Members at the last hearing. She referred to as memorandum from Gareth Orsmond, from Pierce Atwood, which provided an overview of the legal challenges and unintended consequences of the petition amendments which are reviewed in detail. She added that the Commission Staff also put together a Memorandum highlighting staff's recommendations. The Cape Cod Commission is working on a Climate Action Plan for Cape Cod and the plan is critical in addressing the region's adaptation, mitigation strategies and action plans and stated we are committed to working collaboratively with stakeholders from all sectors. The data collection on greenhouse gas inventory will be completed this month and we can now work with the baseline to measure our progress. The Climate Action Plan will be a comprehensive plan with components that work with the RPP. Since members have expressed interest in the process, we would like to convene a subcommittee, which will guide the climate action plan, and recommend amendments to the Regional Policy Plan (RPP) to establish a new greenhouse gas emissions goal and objectives and technical guidance.

Attorney Gareth Orsmond from Pierce Atwood presented a power point which summarized his memorandum. The presentation included recent events such as the Attorney General striking down the Town of Brookline's "on-site fossil fuel infrastructure" bylaw, functions served by the Regional Policy Plan, institutional concerns and reviewed in detail each of the proposed amendments outlined in the power point and memorandum.

Ms. Senatori thanked Mr. Orsmond for his presentation and stated that the staff recommendation on the Petition has been consistent. We wanted to present the legal implications of the petition language as requested at the last hearing. Today, there is the opportunity to take up the amendments as a package, individually or as proposed in comments received, to postpone the vote on the petition and extend the public hearing for a period of 180 days while the CCC works on an expedited Climate Action Plan. The last approach would allow the CCC to come up with language that is more appropriate to the RPP which would be based on data established in the baseline inventory being developed. Ms. Senatori recommended that the best course of action is to proceed with an expedited Climate Action Plan and recommendations for RPP Amendments and then deny the petition or delay the vote on the petition for 180 days. Through the Climate Action Plan, we can work collaboratively with the petitioners and all interested parties in the region to work on a coordinated approach to addressing climate adaptation and mitigation.



Chris Powicki thanked everyone for the process as well as acknowledge those directly involved. He stated the both Climate Change and Housing are issues that need to be addressed. He feels that those concerned about housing have given misleading information in opposition to the petition amendments. Adding the objective promote net zero construction to 4 other RPP housing objectives would not represent a cost prohibitive and exclusionary mandate or halt progress in increasing house availability and affordability. He added that the citizens launched the campaign to sharpen the RPP's focus on climate mitigation 3 years ago. The petition amendments were intentional in calling for alignment with the Global Solutions Act which sets our greenhouse gas emission targets by advancing a goal of 100% renewable energy that has been adopted in other states and introducing climate mitigation solutions such as net zero construction and electrification. The amendments were drafted and reviewed by advocates aware that plans policies and regulations are best written by planners, policy makers and regulators. He feels that sometimes a push is necessary. On the basis of the CCC staff memo, he would like to make recommendations on motions that may be advanced today. A motion to hold the amendments on a temporary basis for reconsideration according to a specified timeline would not be objectionable under 2 conditions. First the CCC should simultaneously commit to immediately launch a limited duration Commission lead process to develop mitigation focused RPP Amendments that include a greenhouse gas emission mitigation goal supporting objectives and related regional performance action and measures. Citizens asked for that during the RPP update and review process and it is consistent with Commission staff's recommendation. The second condition relates to timing and the order of tasks. He requested that Commission staff should be ready within 90 days with a hearing to address pending RPP amendments. He supports development of the Climate Action Plan. He reviewed the timeline of past RPP's. It is now 2020 and we need dramatic action. The Commission has useful information to get this done. He asked that we take action today to ensure mitigation focused RPP amendments can be approved.

Commission Member Comments:

Tom Wilson thanked outside counsel for a thorough fair assessment of the citizens petition as well as thanked the petitioners and their supporters for bringing this forward. He has reservations about the amendment being incorporated into the RPP. It is a general plan and should include extensive community engagement before making any changes. CCC Staff feels that the issues presented would be better addressed in a Regional Climate Action Plan and he agrees.

Dick Roy agrees with Mr. Wilson. A lot of effort and collaboration went into the development of the RPP and same process needs to happen in developing a Climate Action Plan.

Ron Bergstrom commented that it is his understanding that the process for a citizen's petition is written into the Cape Cod Commission Act. He feels that it is unrealistic to redo the RPP. He added that we are public servants and need to respond to the people of Cape Cod.

Kevin Grunwald wanted to acknowledge comments received that raise concern over the adoption of the amendments and the impact they may have to Housing. Attorney Orsmond pointed out the problem of adopting the amendments as it related to balancing the RPP. He is in favor of a Commission led initiative that looks at these issues in the larger context of the RPP.



Jessica Wielgus clarified Mr. Bergstrom's comment about the process for a citizen's petition being written into the CCC Act. She stated that this is not in the CCC Act, but rather a Barnstable County Ordinance.

John Harris stated he had listened to all parties, and read the materials distributed. He doesn't agree with the Amendments.

Richard Elkin would like to see more on the Climate Action Plan proposal. He would like to know today if there are any surprises on the greenhouse gas inventory data that will be coming out soon. He has heard today on affordable housing and energy reduction and stated that he does not think they are not in conflict. He also heard comments on the Global Warming Solutions Act of 2008 which is a law mandating that we reach the goal of 80% of levels and the Governor has extended it to 100% for no greenhouse gas emissions. He feels that we need to adopt goals to get us there. He likes the idea of forming a subcommittee to work on a Climate Action Plan, and the idea of the staff rewriting the energy goals to work with other elements of the RPP. He also agrees with Mr. Powicki that 3 months is enough time.

Elizabeth Taylor stated that she agrees with other Commission Members who agree with putting together a Subcommittee that will allow for a stakeholder process. We all agree that Climate Change is a problem, but by making changes in the way that we have been asked doesn't provide for a balanced review. She would like to see changes addressed in the Technical Bulletins. She said what the petitioners are asking for needs to come from State and Federal Government and the Towns. She also said discussion needs to be had about any changes to the RPP as it also affects the Local Comprehensive Plans of each town. Making changes would shortcut a process we worked with for many years.

Joy Brookshire stated she would like to see a subcommittee set up allowing for a stakeholder process. She thanked the petitioners and CCC staff for the work on this petition.

David Weeden stated that he appreciates all presentations given. He disagrees with concerns raised by outside counsel. There is room for discretion in the wording that the petitioner's amendments. Due to the urgency in the climate change concerns, he feels that it is critical that we take drastic action. He encouraged members to offer guidance and feels that what is being proposed is consistent with state policies and initiative that the administration has put forward. He encouraged the option of putting together a Commission led Subcommittee.

Jack McCormack, Jr. agreed with the presentation given by Attorney Orsmond and that the RPP needs to be a broad plan and we can't add language to certain sections from time to time. He is in favor of forming a new Subcommittee.

Ernest Virgilio has always supported the Subcommittee process. It allows the year-round residents of Cape Cod to participate in the process.

Dr. Cheryl Andrews questioned Mr. Orsmond's memo on page 2 where there was no process or policy to look at to understand how a petition from the citizens should be dealt with. When the petition came in CCC staff stated that it was late, and she was under the impression that there must be a process. It would be helpful for everyone to understand how the petition was addressed and



whether there is a process need. She understands that the RPP cannot be amended piece meal but had hoped staff would bring something forward to address the citizens concerns. She will support staff's proposal to convene a Subcommittee.

The Chair stated that this was the first time something like this has been brought forth to the Commission. He added that he was on the Subcommittee for the RPP and he was very impressed with the process. Many people that are here today were at the meeting and their input was considered in the development of the RPP. He will not vote for the amendments but will recommend that we convene a Subcommittee.

Public Testimony:

Stephanie Coxe appreciates the work that has gone into the petition by the petitioners, staff and members. She believes that extending the process and coming up with language that achieves balance is critical. We need to consider the people that live here and the need for housing that is affordable for residents.

Neal Ahern, a lifelong resident of Cape Cod on and off, asked if any of the decision makers live in affordable housing. He has concerns about affordable housing for young people that grew up on Cape Cod. He hopes that the Commission will be give 180 days to consider the impacts of the petitioner's amendments as they relate to housing.

Alisa Magnotta spoke at the last meeting and officially submitted a comment letter coauthored by Andrew Gottlieb. She is hoping that we hit pause to have a constructive collaborative process to understand outcomes for the entire region.

Andrew Gottlieb stated that both the Housing Assistance Corporation (HAC) and the Association to Preserve Cape Cod (APCC) are asking the commission to vote to put this on hold for 180 days, establish a subcommittee which will allow for a collaborative process. He said we can address both the needs of Climate Change and Housing.

Matt Teague, a builder in the Town of Dennis, would like to comment on the intent to insert additional regulations into the building industry. Since 2010, the government has been changing regulations in building increasing the cost of home construction. He has served on planning boards and they always discuss how to balance environmental concerns with the need for affordable housing. He would like to see a more sensible proposal to keep building housing on the Cape by not adding another layer of regulation to builders.

Samuel Alexander Bahtold, resident of Cape Cod, commented on a quote regarding reducing emissions. He feels that it's the least that we can do is add the amendments and we need the language now.

Mary Waygan sits on the Mashpee Planning Board and works for the Town of Yarmouth, Affordable Housing and they have created affordable housing units over the past 15 years. Her comments have never heard that net zero creates a barrier to affordable housing. Information she has researched indicated that net zero construction is a benefit to the housing market. Most towns on



Cape Cod have a housing production plan, the most commonly identified barriers are environmental conditions, environmental constraints, protected zoning, limited infrastructure, limited buildable land, limited subsidies, community opposition and market conditions. Energy efficiency or net zero has not been identified as a barrier. The cost of building a net zero home is recuperated over the years of savings. She supports an RPP objective to promote net zero construction.

Susan Rohrback, Centerville resident, feels that there are some important goals and ideas in the petition however there are some legal and policy implications. She supports the goals of the HAC/APCC letter and the idea of creating a subcommittee within 180 days. She added that looking at one section of the plan without looking at implications of other sections would be counterproductive.

Rosemary Carey, Falmouth resident, has been part of the process for the past 18 months. She feels that this is a climate emergency and people are demanding immediate action. The language and the spirit of the amendment's petitioners proposed needs to be in the RPP.

Rob Brennan, Barnstable resident, said he serves on the Cape Cod Climate Change Collaborative Board as well as other boards. There are overlapping concerns on Cape Cod of climate change, housing and economic development. These discussions need to focus on the intersection of all concerns. He is urging the body to accept a motion to hit pause for 180 days bringing together all the groups.

Muska Yousut, West Yarmouth resident, stated that she fully supports the climate initiative and the effort to product a climate action plan. It is clear that we need more time and there are significant concerns on the implementation of the plan and its effects.

Christopher Flanagan, Executive Officer of the Home Builders and Remodelers Association of Cape Cod, stated that Climate Change and Coastal resiliency are issues impacting Cape Cod and appreciates the work gone into the citizens petition. There are legal complications with implication to business on Cape Cod. For these reasons he asks that consideration be given to postpone and take the 180 days recommended by staff to enable a public process.

Shauna Moose from Housing Assistance read statements from Peter Freeman stating he supports and joint HAC/APCC recommendation to postpone the vote for 180 days. She also had a comment from Tony Shepley, Shepley Wood Products, who is in total support of postponing the vote on the amendments without understanding the impacts on housing affordability on Cape Cod.

Mariane MacDougall, resident of Dennisport, would like to concur with others and like to vote to hold for now to allow considerations to all parties. She agrees with slowing the climate change process down but doesn't want to see an ineffective roll out based on comments from outside counsel. The language needs to be considered by everyone.

Keith Lewison, resident of Sandwich, is a volunteer with the Sierra Club has been involved with the petition process since the beginning. He commented that the process has been long, and time is of the essence. He feels that climate mitigation needs to be in the RPP and feels that 90 days is reasonable for a subcommittee to make recommendations on the amendments.



George Oleyer submitted written comments. He is concerned by reluctances of staff and feels that the citizens petitioner is needed asap. He is hoping that staff will start to refine the language submitted by the petitioners take it to the subcommittee and bring it back in 90 days.

Lee Burns resident of Sandwich discussed the complication of implementing laws. He feels that the CCC is not addressing the climate emergency successfully.

The chair closed the public comment period.

Ms. Senatori stated that there is nothing to be reframed at this time, unless there is a request to do so.

The Chair recognized Stephen Mealy of Bourne.

Mr. Mealy moved that a Commission Subcommittee be formed and recommend amendments to the 2018 Regional Policy Plan by developing a Greenhouse Gas Emissions reduction goal, objectives with corresponding technical guidance, and guide a regional Climate Action Plan process that considers both climate change mitigation and adaptation on Cape Cod within 180 days or January 19, 2021, and direct staff to prepare a report for the Assembly of Delegates.

Mr. Mealy stated that his motion requests amendments to the RPP in the same method that has been used successfully in the establishment of the CCC. The petitioners have valid concerns, however the RPP is more than a planning document but serves also as a regulatory document. He said we must determine the impacts of each amendment for all functions as well as consistency with the CCC Act.

A point of clarification by Commission Counsel, Jessica Wielgus stated that the report that is required for the Assembly of Delegates is corresponding only to the action you would take on the citizens petition amendments. If those are to be postponed then no report would be needed to the Assembly.

Mr. Mealy modified his motion to remove the direction to prepare a report to the Assembly.

Mr. Wilson stated that he supports the motion.

Mr. Bergstrom questioned why amendments couldn't be included in the previous motion and the Chair explained that they were two separate issues and would like to proceed with one motion at a time.

Mr. Elkin stated that he supports the motion. As part of this vote the CCC has committed to tackling the issue of climate change.

Dr. Andrews stated that she is prepared to support the motion and hopes that we can consider the work from the subcommittee before we comment on the petition.



Mr. Virgilio stated that he supports the motion.

Mr. McCormack stated that he supports the motion.

Upon a motion by Stephen Mealy to move that a Commission Subcommittee be formed and recommend amendments to the 2018 Regional Policy Plan by developing a Greenhouse Gas Emission reduction goal, objectives with corresponding technical guidance and guide a regional Climate Action Plan process that considers both climate change mitigation and adaptation on Cape Cod within 180 days or January 19, 2021 seconded by Elizabeth Taylor, the motion carried.

Roll call vote was taken as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Charles McCaffrey, Yes; Ernest Virgilio, Yes; Douglas Fromm, Absent; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Jack McCormack, Jr., Ron Bergstrom, Yes; John Harris, Yes; David Weeden, Yes

Mr. Grunwald stated that he is confused as to why would delay action on the amendments. Attorney Orsmond did a great job identifying that while they are well intended, they are significantly flawed. He supported the previous motion and feels that it is important to form a subcommittee but feels that the amendments should be denied at this time.

Mr. Elkin needs to see the work product of the subcommittee and what the alternatives will be.

Ms. Taylor stated that if we have a subcommittee that comes up with actions, in 180 days will we have to bring up each amendment and vote then the same process with the subcommittee recommendations.

Ms. Senatori stated that we are committed to completing the Climate Action Plan. The work that will be done is going to inform amendment to the RPP.

Mr. Bergstrom stated that he would like to vote for something in 180 days. He would like a recommendation from the CCC that the petitioners agree with.

Mr. McCormack is in favor of postponement. Hopefully the intention of the petitioners will be encompassed in the language.

Mr. Mealy would like to recognize the work done by all parties.

Upon a motion to postpone the hearing and vote on the proposed petitioner amendments to a RPP within a Citizens Petition titled "Petition to Focus the Cape Cod Regional Policy Plan on Addressing Climate Change" to no later than January 19, 2021 by Stephen Mealy, seconded by Dr. Cheryl Andrews, the motion carried.

Roll call vote was taken as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Charles McCaffrey, Yes; Ernest Virgilio, Yes; Douglas Fromm, Absent; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, No; Richard Elkin, Yes; Jack McCormack, Jr. Yes; Ron Bergstrom, Yes; John Harris, Yes; David Weeden, Yes



NEW Business: Topics not reasonably anticipated by the Chair more than 48 hours before the meeting.

Mr. Virgilio referenced comments made regarding the Town of Mashpee should be made during the Public Hearing portion of the meeting.

ADJOURN

Upon a motion to adjourn the meeting at 5:37 pm by Dr. Cheryl Andrews, seconded by Elizabeth Taylor, the motion carried.

Roll call vote was taken as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Charles McCaffrey, Yes; Ernest Virgilio, Yes; Douglas Fromm, Absent; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Jack McCormack, Jr., Ron Bergstrom, Yes; John Harris, Yes; David Weeden, Yes

List of Documents Used/Presented/Submitted at the May 14, 2020 Cape Cod Commission Meeting

Agenda, 7/23/20 Meeting

Draft Meeting Minutes 6/11/20 & 6/25/20

Memorandum from Gareth Orsmond of Pierce Atwood dated 7/13/20 RE: Petition to Focus the Cape Cod Regional Policy Plan on Addressing Climate Change

Memorandum from Cape Cod Commission dated 7/16/20 RE: Regional Policy Plan Petition Response Updated

7/23/20 Power Point prepared by the Cape Cod Commission which included: Legal Analysis from Gareth Orsmond, Pierce Atwood LLP

Comment Letter to the CCC from Alisa Magnotta of HAC and Andrew Gottlieb of APCC

Written Comments from George Oleyer

Written Comment from Peter Freeman

Elizabeth Taylor, Secretary

Date