



**Minutes
Cape Cod Commission Meeting
October 7, 2021**

Harold Mitchell, Chair called the Cape Cod Commission (CCC) meeting to order on Thursday, October 7, 2021 at 3:00 p.m. He announced that the meeting was being held virtually with all members participating remotely, using the Zoom meeting platform as allowed by Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain Covid-19 Measures Adopted During the State of Emergency, signed into law on June 16, 2021. The Chair announced that all votes and actions at the meeting would be taken by roll call and that the members would be announced as roll call is taken. The Clerk called the roll for attendance and a quorum of members was established as follows:

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|-------------------------------|--------------------------------|
| Harold Mitchell | Present |
| Elizabeth Taylor, (Secretary) | Present (arrived at 3:05 p.m.) |
| Stephen Mealy (Vice Chair) | Present |
| Fred Chirigotis | Present |
| Tom Wilson | Present |
| Richard Roy | Present |
| Joy Brookshire | Present |
| Jacqueline Etsten | Present |
| Ernest Virgilio | Present (arrived at 3:20 p.m.) |
| Douglas Fromm | Present |
| Cheryl Andrews | Present |
| Kevin Grunwald | Absent |
| Richard Elkin | Present |
| Ron Bergstrom | Present (left at 4:15 p.m.) |
| John Harris | Present |
| David Weeden | Absent |
| Michael Maxim | Absent |

Summary of actions/votes taken

- The Cape Cod Commission voted to approve the minutes of the 9/9/21 and 9/23/21 meeting minutes
- Cape Cod Commission (CCC) voted to approve and submit to the Assembly of Delegates for adoption proposed technical amendments to Chapter A of the Code of Cape Cod Commission Regulations of General Application, the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended.

Public Comment

There was no public comment for items not on the agenda.

Cape Cod Commission meeting minutes of the 9/9/21 meeting

Upon a motion to approve the minutes of the 9/9/21 CCC meeting by Cheryl Andrews, seconded by Elizabeth Taylor, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Abstain; Joy Brookshire, Abstain; Jacqueline Etsten, Yes; Ernest Virgilio, late; Douglas Fromm, Abstain, Cheryl Andrews, Yes; Harold Mitchell, Yes; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes

Cape Cod Commission meeting minutes of the 9/23/21 meeting

Upon a motion to approve the minutes of the 9/23/21 CCC meeting by Elizabeth Taylor, seconded by Richard Elkin, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, late; Douglas Fromm, Yes, Cheryl Andrews, Yes; Harold Mitchell, Yes; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes

Executive Directors Report

Kristy Senatori gave the following updates:

Climate Action Plan

- Continuing work on addressing climate change including:
 - Planning to add the Climate Actions Database to the website soon
 - Working with Consensus Building Institute on a framework for Equity Working Group meetings
 - Another Climate Ambassador Program will likely convene after the holidays
 - Working with 10 towns to address low-lying roads through EDA and MVP grants. Low lying roads were identified in nearly every MVP planning process as a critical need.
 - Developed Two model bylaws, Coastal Resiliency and Solar and will be reviewed today.

Meetings/Speaking engagements

- Held two sessions to provide information to the community regarding U.S. EDA's ARPA funding opportunities
- Continuing to meet with County staff on ARPA priorities.
 - Broadband assessment Requests for Proposals (RFP) should be issued soon.
 - Developed comprehensive Freshwater Initiative and Housing Strategy scopes of work, consultant SOWs will be developed soon
- Continuing to meet with County staff on Septic Loan program
- Continuing to meet with CC Climate Change Collaborative as it plans for Net Zero 2021 workshop
- Will be a panelist at NERACOOS webinar on 10/20
- Presenting to the Cape Cod Five board at its strategic planning conference on 10/27

Regulatory - continues to be very busy!

- Technical corrections to Chapter A, Enabling Regulations on today's agenda; these were approved by CPR at their meeting on 9/9

COVID-19

- Continuing to monitor developments related to the pandemic and current variants and any OML updates that may arise.
- Will continue to meet remotely at least through the holidays; staff continues to work primarily remotely. Will be updating Remote Work Agreements following the Commissioners' updated telecommuting policy, that was approved last month

Staff Updates

- Continuing to interview for a Regulatory Planner
- Advertising for a Special Projects Coordinator to work on housing and economic development

Public Hearing: The Commission will conduct a public hearing to consider and potentially vote whether to approve and submit to the Assembly of Delegates (AOD) for adoption proposed technical amendments to Chapter A of the Code of Cape Cod Commission Regulations of General Application, the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended. The purpose of these technical amendments is to correct Scrivener's/clerical errors within the document. Public testimony will be welcome.

Jessica Wielgus, Commission Counsel, explained changes to page numbers and numbering throughout the document as a result of changes made in the past throughout the document. She stated that there are no substantive changes and staff recommends approval of these amendments. Once approved they will be forwarded to the AOD who will go through their hearing process and then to the Barnstable County Commissioners for a final vote.

The Chair asked for comments from the members on the agenda item.

There were none.

The Chair asked for public comments on the agenda item.

There were none.

The Chair asked for a motion to closing the public hearing.

Upon a motion by Elizabeth Taylor to close the public hearing, seconded by Stephen Mealy, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, late; Douglas Fromm, Yes, Cheryl Andrews, Yes; Harold Mitchell, Yes; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes

The Chair asked for a motion.

Upon a motion to approve and submit the technical amendments to Chapter A of the Cod of Cape Cod Commission Regulations of General Application, the Enabling Regulations Governing Developments of Regional Impact to the Assembly of Delegates for adoption as an ordinance by John Harris, seconded by Joy Brookshire, the motion carried. Roll call vote was as follows: Fred

Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, late; Douglas Fromm, Yes, Cheryl Andrews, Yes; Harold Mitchell, Yes; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes

Model Bylaws for Climate Resilience: Commission staff will review two new model bylaws developed for towns to support implementation of the Cape Cod Climate Action Plan, including a model coastal resiliency bylaw and a model bylaw for large-scale ground-mounted solar photovoltaic installations. Commission members will have an opportunity to ask questions.

The Chair asked for the staff's presentation.

Using the power point presentation, Heather McElroy, Natural Resources Program Manager provided a project overview of the Model Coastal Resilience Bylaw. She explained that the purpose of the bylaw is to provide a resource for municipalities seeking to reduce risks in floodplains and facilitating natural resource migration. She reviewed flood protection under the Wetlands Act, the purpose of the Model Coastal Resiliency Bylaw, Massachusetts Building Code and Flood Protection and explained that local wetlands bylaws can have broader scope than DEP Regulation. She reviewed the Massachusetts Coastal Flood Risk Model. She described the sub-areas of the land subject to coastal storm flowage (LSCSF), and the coast resiliency zone (CRZ) along with general performance standards and more specific performance standards for the velocity zone (V Zone) and the Moderate Wave Action Area (MoWA), the CRZ special transition area and the optional performance standards for the towns.

Mr. Elkin asked if a town was interested in starting the process, how long will it taking for planning and other relevant boards to study the issues before going to town meeting? Ms. McElroy stated that it will vary by town and that there are some communities that want to take it up now to get on a spring town meeting which would be an aggressive schedule, noting it could be prudent to spend time building support within the community. She added that as part of the project accompanying the model bylaw, a communications framework was developed for the 4 partner towns. The communications framework is a tool that could be translated to other communities to help target specific groups in each town that to help improve dialogue before adopting the bylaw.

Ms. Taylor asked if this information has been sent to the towns, businesses, and the public for review and comment. Ms. McElroy stated that the Commission partnered with 4 communities for the project: Bourne, Sandwich, Brewster and Eastham. She stated that the CCC developed the communication framework for these communities and delivered the bylaws and other material and offered to work with the towns to provide technical assistance as they take the next steps. The CCC has been in touch with the Massachusetts Association of Conservation Commissions to discuss presenting at the annual spring conference.

Ms. Taylor stated that she heard that the state had become more lenient allowing armoring of banks. She asked if that has stopped because it disrupts sediment transport. Ms. McElroy does not have direct knowledge of that. Ms. Taylor added that as buildings must move away from the coast or go up on stilts, and asked what happens to the properties if you can't get to them? She also asked if the State or Federal Government has been involved? Ms. Taylor also asked if the state is considering purchasing coastal properties or if the towns have thought about that, whether it be private or municipal property when the land isn't useable anymore? Ms. McElroy stated that there are not good answers for these problems, yet, and that we will have to address them step by step. She

noted that there was \$10 million set aside in state funding to acquire vulnerable properties, but that won't go far and therefore is not a good long-term strategy.

Dr. Andrews stated the word coastal predominates the title of the bylaw and we are also dealing with flooding from rain. She asked if we are dealing with the freshwater flooding in a different section of our framework? Are we separating the two issues because of the granting source or the fact that it is sea water? Ms. McElroy stated that this project focused on development impacts in the coastal floodplains specifically. The Woods Hole Group developed the MC FRM (Massachusetts Coast Flood Risk Model) that does not include freshwater sources of flooding. This is something that could come later. As we move forward there will be better integration. The state put together an RMAT (Resilient Massachusetts Action Team) team and issued guidelines on how to better design infrastructure to address these changes in our climate. Dr. Andrews added that the primary impact is on infrastructure.

Ms. Brookshire recalled the updates to flood maps and that people were upset because Insurance went up considerably. How do you not separate the economy from the environment, because as good as the plans are, they will have an adverse effect on the economy? Ms. McElroy stated that if Ms. Brookshire's question relates to insurance, this new bylaw does not affect insurance rates. FEMA determines that based on their own modeling. The regulations would affect property owner's ability to expand activities on their own property. This is where the communications framework may be helpful.

The Chair thanked Ms. McElroy for her presentation reminding everyone that this information is available on the Cape Cod Commission website. He asked Ms. Rempel for her presentation.

Using the power point presentation, Jessica Rempel, Natural Resources Analyst provided an overview of the Model Solar Bylaw. She reviewed renewable energy criteria for designating Green Communities, available solar permitting and zoning bylaw guidance provided by the Massachusetts Department of Energy Resources and the Metropolitan Area Planning Counsel, and the Massachusetts 2050 Decarbonization Roadmap and the Solar Massachusetts Renewable Target (SMART). She showed a map produced by Clark University showing the locations of large-scale solar installations in the Commonwealth. She explained solar development in relation to the Zoning Act, and more recent solar permitting guidance from the Town of Athol and the Pioneer Valley Planning Commission. She reviewed the recommendations related to solar development from the Regional Policy Plan and the Climate Action Plan and provided background information on solar energy. She provided an overview of the model bylaw language including general requirements, site plan review, design standards and performance standards.

The Chair asked for member questions, comments.

Dr. Andrews thanked staff for their work and appreciates the effort. She commented that Eversource built a large battery complex separate from solar project and escaped DRI review. She heard that Eversource is looking to build more of these and asked if it was considered to just deal with battery projects separate from solar? Ms. Rempel stated that it was considered but the purpose of this bylaw is associated with solar projects and that we looked at the large-scale solar installation in total which includes battery storage. She noted a reference from New York is included in the model bylaw for stand-alone battery projects that a town can work with if there is a battery project.

Dr. Andrews asked what the process is for this bylaw, for example, a public process and how can we bring in the town planners for input? Ms. Rempel stated that this information is available on the Cape Cod Commission website and there is information out there about its availability. This has been worked on under the same grant as Ms. McElroy discussed and a recommendation from the Climate Action Plan. Dr. Andrews stated that if folks are interested having a public hearing where town planners are invited and the public to weigh in it would be helpful.

Ms. Taylor thanked Ms. Rempel for her presentation. She stated that it is problematic if we are allowing large scale solar projects or small scale on pristine land that must be cleared and it is critical to keep our forests. If a town wanted to be stringent about it and require use of parking lots, building or other ground fields will the attorney general or the state disallow that? Ms. Rempel stated that she has been approached by folks off Cape that are interested in the Model Bylaw because they are dealing with a lot of large-scale solar projects. There is a disconnect at the state level between the need for solar and the need to protect our natural and working lands. There are some working groups that are working on aligning those two things. Ms. Taylor feels that the CCC needs to be proactive looking at this and when we get our model bylaws/DRIs we should be pushing for the use of empty buildings and available parking lots and should not be clearing land for anything.

Mr. Elkin mentioned that he saw several acres of solar canopies at Lincoln Sudbury High School. He feels that the solar canopy is an attractive roof screening the parking area. In terms of land use, he feels that the Solar Bylaw needs to consider how we can encourage parking lots being turned into solar fields such as at beaches, schools and shopping centers that can be made more attractive by installing solar canopy creating a dual use. Possibly creating incentives for using parking lots. Ms. Rempel mentioned as a next step as identified in that recommendation from the Climate Action Plan, a bylaw will be developed for smaller scale projects such as parking lot canopies.

Ms. Etsten stated that she has mentioned her concerns before regarding the height of the panels and that the bottom edge of the solar panels nearly touching the ground and the only way to maintain vegetation close to that is by using herbicides. She would like to see in this ordinance a minimum of height below the solar arrays and a prohibition on the use of herbicide for regular maintenance purposes. Ms. Rempel stated that herbicides are mentioned in the bylaw and their use is discouraged and we want solar installations maintained in a sustainable way. As far as heights, there is language for town's to use their discretion to restrict heights and there are other pieces of equipment that can be used such as whipper snippers etc.

Mr. Mealy stated that the logical next step would be to address the battery storage only adding that they could be added more frequently on Cape Cod.

Mr. Chirigotis stated that he is struck by the conflict between being green and the use of our land for these large industrial developments. He feels that we should incentivize homeowners so that each person is self-sufficient. He has concerns about the placement such as median strip highways and the powerlines that run through Cape Cod. If they are environmentally safe, and not a hazard to the water resources we need to be looking at alternative locations. He feels that we are pricing ourselves out of the market and we won't be able to afford to live here.

Ms. Taylor added that goats can clear anything and would be great for solar.

Ms. Rempel stated that all the points that were given today were well taken. There are ongoing efforts looking at the scale of the projects and looking at the issues as well as working on the incentives mentioned.

The Chair thanked staff for their informative presentations adding that this information is available on the Cape Cod Commission website.

The Chair asked for comments on New Business.

New Business:

Mr. Virgilio stated that he would like to request that the following be added to a future agenda. He asked if staff could please take a look at Chapter C procedures on Citizens Petitions to amend the RFP and bring forward some suggestions to revise that process.

Meeting Adjourned:

The Chair asked for a motion to adjourn.

Upon a motion to adjourn the meeting at 4:39 p.m. made by Elizabeth Taylor, seconded by Joy Brookshire, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Douglas Fromm, Yes; Cheryl Andrews, Yes; Harold Mitchell, Yes; Richard Elkin, Yes; Ronald Bergstrom, Absent; John Harris, Yes.

Documents used/submitted at the October 7, 2021, 2021 Cape Cod Commission Meeting

Cape Cod Commission Meeting Agenda 10/07/21

Draft Minutes of the 9/9/21 & 9/23/21 CCC Meetings

Power Point Presentation prepared by Cape Cod Commission staff inclusive of all agenda items

Enabling Regulations to Chapter A – May 2020, redlined document

Model Large Scale Solar Bylaw

Model Coastal Resilience Article