



**Minutes
Cape Cod Commission Meeting
February 24, 2022**

Harold Mitchell, Chair called the Cape Cod Commission (CCC) meeting to order on Thursday, February 24, 2022 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:

Harold Mitchell	Present
Stephen Mealy (Vice Chair)	Present
Elizabeth Taylor, (Secretary)	Present
Fred Chirigotis	Present
Tom Wilson	Present
Richard Roy	Present
Joy Brookshire	Absent
Robert Mascali	Present
Jacqueline Etsten	Present
Ernest Virgilio	Absent
Douglas Fromm	Absent
Kevin Grunwald	Present
Richard Elkin	Present
Dennis Prebensen	Present
Ronald Bergstrom	Present
John Harris	Present
David Weeden	Absent
Michael Maxim	Absent

Summary of actions/votes taken

- The minutes from the Joint Executive Committee and Planning and Regulation meeting on January 13, 2022 were approved
- The minutes from Cape Cod Commission meeting on January 13, 2022 were approved.
- The Cape Cod Commission approved the DRI Exemption Request for Horton's Campground N. Truro Camping Area
- The Cape Cod Commission approved the amendment to the Technical Bulletin 92-001 Appendix

Public Comment

There were no public comments on items not on the agenda.

The Chair asked for a motion to approve the minutes.

Upon a motion to approve the Joint Executive Committee and Planning and Regulation meeting minutes from January 13, 2022 by the Executive Committee from Stephen Mealy, seconded by Kevin Grunwald, the motion carried. Roll call vote was as follows by the Executive Committee: Harold Mitchell, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Kevin Grunwald, Yes; Richard Roy, Yes. Upon a motion to approve the Joint Executive Committee and Planning and Regulation meeting minutes from January 13, 2022 by the Committee on Planning and Regulation by Elizabeth Taylor, seconded by Tom Wilson the motion carried. Roll call vote was as follows by the Committee on Planning and Regulation: Elizabeth Taylor, Yes; Tom Wilson, Yes; Jacqueline Etsten, Yes; John Harris, Abstain; Harold Mitchell, Yes

Upon a motion to approve the Cape Cod Commission meeting minutes from 1/13/22 made by Tom Wilson, seconded by Kevin Grunwald, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Abstain; Robert Mascali, Yes; Jacqueline Etsten, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Dennis Prebensen, Yes; Ronald Bergstrom, Yes; John Harris, Yes;

Executive Director's Report

Kristy Senatori gave the following updates:

Climate Action Plan

- Climate Ambassador Program is underway, two meetings held
- Continuing to participate in Climate Collaborative as member of Advisory Board
 - Steve Tupper is participating on the 5Cs Special Committee on Energy, Transportation and the Built Environment. Will begin meeting in early March.
- Staff presenting a model coastal resiliency bylaw at the MA Association of Conservation Commissions conference on March 1st

Meetings/Speaking engagements

- Erin Perry and I presented the new and second homeowner survey results to the CCIAOR membership on February 1st
- Presented regional priority projects to the Assembly of Delegates on February 2
- Presented at the Leadership Cape Cod economic development session on February 3rd
- Participated in open space stakeholder meetings (Development Pressures on Agricultural, Recreational and Institutional Lands), process continuing
- Presented the FY23 budget request to the County Commissioners on February 16th
- Presented at the Assembly of Delegates' public hearing on proposed Chapter C amendments, ordinance not supported. We will come back to the full Commission with potential modifications
- Erin participated in Assembly of Delegates' Committee on Telecommunications and Energy committee's public hearing on broadband
- Presenting at the March 1st Greater Hyannis Chamber of Commerce annual Economic Forecast
- Presenting at the March 1st Housing Institute

- Presenting to the Cape Cod Community College Educational Foundation board on March 14th

Regulatory

- Anticipate public process will begin soon on the 35 Scudder Ave Development Agreement; the Wilkens Development Agreement subcommittee holds its first meeting on March 1st.
- Looking forward to having Alexander Peterson start work on March 7th as Regulatory Planner II.

Staff Updates

- Continuing to advertise for a Special Projects Coordinator; will soon begin advertising for an Economist
- Looking to fill three summer traffic technician positions – typically college students interested in engineering or planning.

COVID-19

- Commission will continue to meet remote.
- Open Meeting Law update - the ability to hold virtual meetings with additional remote provisions extended through July 15
- Discussed with Executive Committee today how/when to resume some in person meetings with a consensus from the Committee that it would be beneficial for the full Commission
- Masks currently still required in county buildings; anticipate the policy will be addressed soon (state no longer requires/CDC still recommends but is expected to update shortly)

Public Hearing:

Public Hearing – Horton’s Campground: The Cape Cod Commission will hold a virtual public hearing (continued by Committee on Planning and Regulation from 2/10/22) to consider the following Development of Regional Impact (DRI) Exemption request submitted pursuant to Section 12(k) of the Cape Cod Commission Act, as amended. At this hearing, the Committee will discuss the following project and may vote to decide whether to grant the Exemption request.

- Project:** Horton’s Campground North Truro Camping Area (CCC File No. 21010)
- Project Applicant:** A-C Mobile Home Park, Inc.
- Project Location:** 10 Old Dewline Road and 67 South Highland Road, Truro, MA 02562 (Assessors Map 37 Parcel 19 and Map 37 Parcel 15)
- Project Description:** Division of land totaling 38.64 acres in common ownership to convey a total of 9.61 acres, in four separate lots, to the Truro Conservation Trust

The Chair asked for the applicant’s presentation.

Donald Nagle stated that he is the Attorney representing A-C Mobile Home Park, Inc. and that they are requesting exemption from DRI review by the Cape Cod Commission for the above project. Mr. Nagle also introduced Robert Singleton, CFO, A-C Mobile Homes. Mr. Nagle stated that A-C Mobile is the owner of a recreational campground comprised of 38.64 acres know as Adventure Bound Campground and Hortons Campground and located within the National Seashore and in operation for at least 50 years and is comprised of 218 campsites as shown on the map and pointed out the location of the state required wastewater facility. He also shared a satellite image of the campground.

He explained that when A-C Homes purchased Hortons Campground in 2012, the Town of Truro notified them that they must upgrade the existing sanitary sewer system to comply with MA standards for treatment of sewage prior to groundwater discharge. A-C Homes retained a permit, from Mass DEP which required the construction of a wastewater treatment facility. The construction of this facility resulted in the alteration of habitat for the Eastern Box Turtle and triggered a requirement to comply with Mass Rare and Endangered Species Program. The applicant applied and was issued a conservation and management permit requiring mitigation for the alteration of turtle habitat. This mitigation included donation of 9.61 acres comprising of 4 parcels within the 38-acre A-C Mobile Park. The proposal is to transfer that property to the Truro Conservation Trust which has agreed to accept the transfer of 9.61 acres and keep that property protected from development. He explained that the conveyance of land would be subject to an easement held by A-C Mobile Home Park to continue to maintain and operate the well. He reviewed the mitigation areas which are outside the active campground and adjacent to the Cape Cod National Seashore providing land for turtle habitat consistent with the objectives of the Cape Cod National Seashore. He stated that the requirement under the Fish and Wildlife Permit requires this conveyance which requires approval by the Truro Planning Board and has been submitted. Since the conveyance is more than 30 acres of land, it triggers the threshold for a mandatory review as a DRI by the Cape Cod Commission. Mr. Nagle applied for an exemption from a DRI review given the nature of the conveyance which proposed to convey the land to the Truro Conservation Trust protecting it from development in perpetuity. He believes that this circumstance does satisfy the legal standard for exemption from DRI review. The location, character and environment effects of the development will prevent it from having any significant impacts on the resources, values and purposes protected by the Act outside the municipality in which the development is to be located. A-C Homes believes that the standard has been met because the conveyance as required by the Conservation and Management Permit (CMP) is designed to mitigate alternations to turtle habitat by protecting it from further development. Therefore, we ask that you grant a request for an exemption from DRI review.

The Chair asked for staff comments.

Ms. Velozo stated that the project triggered a mandatory DRI referral because it proposes to divide two parcels of land that total over 30 acres. The referral came from the Truro Planning Board and therefore the Commission's jurisdiction is limited to the division of the land itself. The subdivision of land is required to comply with the CMP issued by National Heritage and Endangered Species Program for a take on Easter Box Turtle habitat associated with site work for a permitted wastewater treatment facility. Under the Commission Act and regulations to grant this exemption, you would have to find that the development will not have any significant impacts on the values and purposes protected by the Act outside of the municipality of where the development is located. Based on staff's analysis, the fact that the commission's jurisdiction is limited to just the division of land and does not have any significant impacts on values and purposes protected by the Act made it appropriate for the proposed consideration for a DRI Exemption. Factors to consider include is that the project is a division of land that does not propose physical building or structural development work. The subdivided parcels will be deeded to the Truro Conservation Trust. Based on staff's review the division of land is consistent with advanced values and purposes of the Commission Act and the Regional Policy Plan (RPP) relative to open space and plant habitat. This application was presented to the Committee on Planning and Regulation (CPR) on February 10, 2022 and the Committee recommended that the exemption be recommended for approval to the full Commission. If after discussion you agree, you could vote to adopt the draft decision. Based on the discussions that the CPR had, the draft decision includes a condition that clearly states that the exemption decision applies only to the division of land for conservation purposes, if further

development meets or exceeds our DRI thresholds proposed on the property that development must be referred to the CCC.

The Chair asked for member questions and comments.

Kevin Grunwald corrected something that Attorney Nagle said “the park has been in operation for 60 years” – he believes that it was started in 1950, therefore it would be 72 years. Hortons Campground is the first place he stayed on the Cape 60 years ago and it was an incredible place for his family to vacation. A-C Mobile home acquired the campground in 2012. He discovered that A-C Mobile is a foreign company, organized in Ohio, doing business in Florida and operate several campgrounds. He added that what triggered this activity, 4 years after acquiring the property, A-C Mobile without property permitting clear cut and area of approximately 12 acres showing pictures of that area. This was the most heavily wooded area of the campground and where primitive tent camping was done. At the time the building inspector issued a stop work order. George Price was the Superintendent of the National Seashore and was very involved in this at the time and stated that they cleared all the topsoil, the vegetation and trees from the area, and began storing empty trailers on that area. Mr. Price stated that A-C Mobile showed a total disregard for the town’s zoning and regulations. This is the view that many people use traveling in Truro but does see that the trailers have been removed but still an unsightly view of the park. He believes that the town is still in litigation with A-C Mobile over the fact that they did this work without proper permitting.

Mr. Grunwald added comments relative to the fact that he feels that this should be reviewed as a DRI. During that process, a subcommittee will look at things closely as there are questions that he has which don’t expect to be answered today. He is curious as to why the mitigation is for 4 noncontiguous parcels, two of which do not have access to the road. They will be deeded to the Truro Conservation Trust and there would be no public access. This is a total of 9.61 acres subtracted from 38.64 acres you are left with 29.03 which he feels is under the 30-acre requirement for a DRI Referral. He doesn’t know if it’s true that A-C Mobile is in the business of running a campground, but he knows that in 2018 A-C Mobil floated a proposal to subdivide this into 11 – 3-acre lots for housing. He spoke to a realtor and each of those lots would be worth at least 1 million dollars. He feels that we are looking at further subdivision of the property for residential use and is concerned that the CCC loses the ability to weigh in on that. This is a small campground in the smallest town on the Cape and is in the heart of the National Seashore, close to the oldest golf course, the oldest lighthouse on the East Coast of the US, Jenny Lind Tower and visited by many. He feels that there is a significant impact to waiving the DRI. He strongly encourages members to deny this waiver.

Ms. Velozo stated that it’s important to distinguish between work that the applicant did because of the wastewater treatment facility and some of the clearing that went on prior to when it was referred to us and what has been referred to us by the Town. The Town of Truro referred to the CCC for review the division of land for conservation purposes which could be reviewed as a DRI. Staff reviewed the impacts for the division of land and that is what has been considered. If this were reviewed as a DRI, there would be limit to what could be done in terms of mitigation and the impacts and would not be able to review anything beyond that. Jordan asked that the applicant address the comments by Mr. Grunwald.

Mr. Nagle stated that there is a history to this which is beyond the scope of the DRI. When A- C Mobile purchased the property, the town of Truro indicated that they had to comply with current environmental regulations which is what they did. They obtained a permit from DEP requiring a centralized water treatment facility. The clearing was done to accommodate what DEP required for

the infrastructure of the treatment facility. A-C Mobile checked with the town before moving forward with construction. When the clearing occurred to install the sewer pipes, the town issued a stop work order. A-C Homes negotiated with the town with an extensive agreement requiring revegetation of the cleared land and they are hoping to start that work in the spring. He explained that the properties are non-contiguous because they are high quality habitat for Eastern Box Turtles.

Robert Mascali questioned if we would lose further jurisdiction on subdivision plans in the future if we grant this exemption. He believes that staff indicated that it would not be the case. Ms. Velozo responded that we would not lose jurisdiction beyond what the exemption is limited to, which is the subdivision that is currently in front of the commission for conservation purposes. Staff also reviewed the judgment that has been entered with the town and there are restrictions which include the expansion of campsites, no sewer connections are allowed in the tent site area and the town would inspect the site for anything requiring a permit. If anything does, it will need to obtain one, subject to the judgment with the town.

Mr. Mascali asked the process for identifying the 4 lots being discussed. Attorney Nagle stated that they worked with MassDEP, Fish and Wildlife, National Heritage and Horsley Whitten who was hired by the Town of Truro to evaluate and determine that.

Elizabeth Taylor reminded everyone that even though this is now under 30 acres it does not preclude the Town of Truro from a referral to the CCC.

Mr. Grunwald stated that he spoke to the Truro Town Manager today and was told that the litigation with the Town has not been settled. Attorney Nagle stated that they entered a judgment with the town and that litigation is over, he is not sure what this is about, and he had no idea.

The Chair asked for public testimony.

There were no comments from state, or local officials.

There were no comments from members of the public.

The Chair asked for final comments from members.

Mr. Grunwald stated that this is a complex issue that has been going on for 6 years and feels that it's not as simple as the application may appear to be. Part of the DRI discussion, we discuss benefits and detriments and feels that we need to have that conversation. He is advocating for denying the waiver and move ahead with a DRI review of this project.

Dick Roy stated that he would like to hear that officially the litigation that Mr. Grunwald mentioned is something else or part of this. He agreed that we need more time to figure that out. He doesn't want to approve the project and then find out that something else is involved.

The Chair stated that we could make a motion to close the hearing or delay the vote on the hearing.

Ms. Wielgus clarified the point that has been asked about the judgment. There is a judgment by the Barnstable Superior Court which was entered on November 16, 2021 that contains the elements that the applicant and Ms. Velozo have referred to. It is not a private agreement between the town and the applicant but by has been entered by the Barnstable Superior Court. As to whether other litigation exists, the applicant needs to respond to this question.

Mr. Nagle stated that he was legal counsel to A-C Mobile regarding this matter as indicated the issue related to the alteration of habitat and clearing of the land to construct the wastewater treatment facility, has been completely resolved. Both parties released all claims related to the issue, which is on public record. With all due respect I do not know what Mr. Grunwald is referring to.

Bob Singleton, CFO of A-C Mobile Homes stated that is not aware of any litigation remaining with the town. This process began years ago, and mistakes were made by not verifying and assuming we had proper approval for the work, once it was stopped by the town, we went through a litigation process 2 years ago. We approached the town and asked if they wanted to go to the next level or get together and make a compromise. The two parties met and walked the properties just before COVID putting this on hold, working with fish and wildlife simultaneously and the National Seashore. He stated that he is in the campground business. We are committed to the campground and settled with the town, and we are installing a state of art sewer system to operate the campgrounds.

Ms. Taylor asked if there was a representative from the town present? Ms. Velozo stated that she reached out to the town and National Seashore for comment, and they declined to attend or provide comments.

Mr. Grunwald apologized for creating confusion on this, but his comments still stand. His conversation with the Town Manager today was that the town's litigation is a separate matter from what was negotiated was Mass Division of Fisheries and Wildlife and stated that the town was still in the process of litigating with A-C Mobile.

The Chair stated that there is no need to apologize, you have expressed what the Commission is about and that it is to keep a special place special. At the same time, this is about setting aside 9.61 acres and giving it to the Truro Conservation Trust. Personally, he will take the word of the applicant and believe that they have done what they said they have.

Jacqueline Etsten expressed concern that the hearing in front of the CPR we had little or no information about this and suggested continuing the discussion to the next meeting. She added that 12 acres being cleared for a treatment plant seems excessive.

Ms. Velozo stated that we are not able to continue the exemption matter to the next hearing because we are out of time for this application. We have 45 days from the application completeness to issue a decision. Therefore, we need to make a decision on the exemption today. The clearing for the wastewater facility was not presented in full at the CPR meeting because it's a very limited jurisdictional issue. All we are looking at is the land for conservation purposes that the CCC has jurisdiction over.

Ron Bergstrom commented that there seems to be a point of controversy as to whether there is any litigation on the property at this time.

Attorney Nagle stated that as a member of the Massachusetts Bar, he hereby swears that there is no litigation between A-C Mobile Home and the Town of Truro. Again – that litigation was successfully resolved resulting in restoration of the vegetation in park.

The Chair added that if the town had issue with this proposal, and they were approached for comment and provided none it's reasonable to assume that there is no problem.

The Chair asked for a motion.

Upon a motion to approve DRI Exemption Request for Horton's Campground N. Truro Camping Area as presented by Kevin Grunwald, seconded by Tom Wilson, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, No; Tom Wilson, Yes; Richard Roy, Yes; Robert Mascali, Yes; Jacqueline Etsten, Yes; Harold Mitchell, Yes; Kevin Grunwald, No; Richard Elkin, No; Dennis Prebensen, Yes; Ronald Bergstrom, Yes; John Harris, No

Amendment to Technical Bulletin 92-001 Appendix: Staff will review and Cape Cod Commission members may vote to adopt an amendment to the Technical Bulletin 92-001 appendix (Estimation of High Ground-water Levels for Construction and Land Use Planning – A Cape Cod, Massachusetts Example) to include updated adjustment tables prepared for new and replacement wells that are now part of the index well network on Cape Cod.

Using a power point, Tim Pasakarnis gave background information on Technical Bulletin 92-001 which included when it was first published, what it is used for and by whom and that it relies on monthly water table measurements. He reviewed the Cape Cod well network and index wells, the estimation of high groundwater and how that is calculated and the changes to the Cape Cod well network. He reviewed the proposed changes to the technical bulletin appendix and the benefits to those updates.

Ms. Taylor asked if this strictly relates to how much groundwater we have and the age of the groundwater relative to drinking water availability and draw issues or does it involve sea level rise and saltwater pressure or is that a totally separate issue?

Mr. Pasakarnis stated that this methodology is designed for areas outside of tidal influence therefore does not consider sea level rise. The 2006 update that was done looked at and expanded the period of groundwater measurements that were used to generate the adjustments in the table. He stated that the water values in the Zones A, B C & D are based on historical fluctuations in the index well determining where the current level of where the index well is compared to the historical high groundwater level. To take into account sea level rise would require a new statistical analysis of the historical ground water record which is possible but not what we have done here and not what we are asking to be approved. He explained that this method is intended to allow for a measurement at a project site at any point during the year to be converted to the probable highest ground water level that would exist at that same site so that structures requiring a certain separation from the water table can be verified that even at times of high water, they will still maintain that minimum separation.

Ms. Taylor commented that she thought that all of the lenses on Cape Cod were influenced because we are surrounded by salt water and the saltwater pressure would affect all of the lenses because everything is connected.

The Chair asked for a motion.

Upon a motion to amend the Technical Bulletin 92-001 to update the appendix as described by staff by Elizabeth Taylor, seconded by John Harris, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Richard Roy, Yes; Robert Mascali, Yes; Jacqueline Etsten, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Dennis Prebensen, Yes; Ronald Bergstrom, Yes; John Harris, Yes

Communications Update- Virtual Meetings: Cape Cod Commission staff will review with Commission members the process and practical reminders to prepare, access and participate in remote virtual Cape Cod Commission meetings.

Using a power point, Jessica Wielgus explained how to prepare, access, and participate in remote Commission meetings. David Still then reviewed accessing the meetings virtually explaining meeting links and the various locations they can be found, using the phone option. He added that Lisa would be reaching out to schedule one on one technology follow ups with each of you individually to discuss equipment and accessing information. He reviewed the ZOOM platform, and its features and stated that the updated reference guide would be provided when the individual meetings are scheduled.

Mr. Bergstrom commented that the ability to have remote meetings has been approved by the Governor until July 15th. He asked if we were prohibited to meet in person. He asked who would determine when we would be coming back to in person meetings which is normally determined by the Chair. Ms. Wielgus stated that the Executive Committee just met and had this discussion. Likely remote meetings will continue and some meetings will be in person or a hybrid component. The Chair added that there was discussion of having an in person meeting sometime in April and at that meeting as a group decide what how meeting will look in the future. He added that people are ready to move forward and there is a comradery that is missing from the online meetings.

The Chair requested that members read the calendar invites that are sent and accept the invitation to the meeting, it is time consuming to call members for a quorum and it's necessary to establish to have a meeting.

New Business:

The Chair asked for comments on New Business. There was none.

Meeting Adjourned:

The Chair asked for a motion to adjourn.

Upon a motion to adjourn the meeting at 4:48 p.m. made by Ron Bergstrom, 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; Robert Mascali, Yes; Jacqueline Etsten, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Dennis Prebensen, Yes; Ronald Bergstrom, Yes; John Harris, Yes;

Documents used/submitted at the February 24, 2022 Cape Cod Commission Meeting

Cape Cod Commission Meeting Agenda 2/24/22

Draft Minutes of the January 13, 2022 Joint Executive Committee and Committee on Planning and Regulation meeting

Draft minutes of the January 13, 2022 Cape Cod Commission Meeting

Draft DECISION – Hortons Campground and North Truro Camping Area, 2/24/22

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

Approved by the Cape Cod Commission on April 7, 2022