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**Minutes  
Cape Cod Commission Meeting  
September 9, 2021**

Harold Mitchell, Chair called the Cape Cod Commission (CCC) meeting to order on Thursday, September 9, 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 pursuant to 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
Elizabeth Taylor, (Secretary)	Present
Stephen Mealy (Vice Chair)	Present
Fred Chirigotis	Present
Tom Wilson	Present
Richard Roy	Absent
Joy Brookshire	Absent
Jacqueline Etsten	Present (arrived at 3:11 p.m.)
Ernest Virgilio	Present
Douglas Fromm	Absent
Cheryl Andrews	Present
Kevin Grunwald	Present (left the meeting at 4:00 p.m.)
Richard Elkin	Present
Ron Bergstrom	Present
John Harris	Present
David Weeden	Absent
Michael Maxim	Present

**Summary of actions/votes taken**

- Cape Cod Commission (CCC) voted to approve the minutes of the 7/22/21 CCC Special meeting
- Cape Cod Commission (CCC) voted to adopt the draft DRI decision as amended and approve the Great Western Road Solar DRI Project in Dennis, MA.

**Public Comment**

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

## **Minutes of the CCC Meeting 7/22/21**

Upon a motion to approve the minutes of the 7/22/21 CCC meeting made by Cheryl Andrews, seconded by Stephen Mealy, the motion carried. Roll call vote was taken as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Ernest Virgilio, Yes; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; Ronald Bergstrom, Abstain; John Harris, Abstain;

### **Executive Directors Report**

Kristy Senatori gave the following updates:

#### **OneCape Conference**

- Virtual conference held on August 23 & 24, 2021
- 500 attendees, 12 breakout sessions
- Plenary session speakers included:
  - Janet McCabe, Deputy Director Environmental Protection Agency
  - Ellen Dunham Jones, Prof/Director, Urban Design-Georgia Tech
  - Dan Wolf, Chief Executive Officer Cape Air & Dorothy Savarese, CEO Cape Cod 5
  - Rosalin Acosta, MA Sec of Labor & Workforce Development
  - Jamey Tesler, Secretary Mass DOT
  - Pamela Conrad, Founder Climate Positive Design/Principal CMG Landscape Architects
  - Chris Gloninger, KCCI Chief Meteorologist/Climate Change Reporter
  - Kathleen Theoharides, MA Sec Energy & Environmental Affairs

#### **Climate Action Plan**

- Continuing work on addressing climate change including:
  - Additional database improvements, adding strategies
  - Finalized model resiliency bylaw
  - Draft of solar model bylaw
  - Planning for another group of Climate Ambassadors and an Equity Work Group

#### **Meetings/Speaking engagements**

- Continuing to participate in Barnstable County's American Rescue Plan Act planning meetings and Septic Loan Program discussions
- Addressed Environmental Business Council at its New England Climate Change Resiliency Summit on 7/23/21
- Provided testimony on climate action at the MA Senate Committee on Global Warming and Climate Change on 7/26/21
- Continuing to meet with Cape Cod Climate Change Collaborative as it plans for Net Zero 2021 workshop
- Addressing the Cape Cod YMCA Board at its 9/10 retreat
- Joining a Roundtable Discussion with MA IT & Policy Leaders on 9/15
- Participating as a panelist at the 10/20 NW Atlantic Webinar Series hosted by the Northeastern Regional Assoc of Coastal Ocean Observing Systems (NERACOOOS) & the Canadian Integrated Ocean Observing System (CIOOS)

**Regulatory - continues to be very busy**

- Technical corrections to Chapter A, Enabling Regulations discussed today at the Committee on Planning and Regulation; this will be on an agenda for up upcoming Commission meeting

#### **COVID-19**

- Continuing to monitor developments related to the pandemic and current variants and any Open Meeting Law updates that may arise.
- Will continue to meet remotely for the foreseeable future; staff continues to work primarily remotely.
- In the second request for proposals for Covid related recovery grants from license plate funds, the Barnstable County Economic Development Council recommended eight grant awards totaling nearly \$150k, which were approved by the County Commissioners.

#### **Staff Updates**

- Interviewing for a Regulatory Planner
- Kathleen Mason joined staff as a Water Resource Analyst

A component of One Cape conference was to review the 30 years of the Cape Cod Commission. We have documented work through the years through a series of interviews. A trailer was previewed at the summit. The full documentary will be released in the next few months. Ms. Senatori played the video trailer for the members.

#### **Recognition of Jack McCormack, Jr., retired Cape Cod Commission member**

The Chair (Harold Mitchell) explained that in his role as Chair it is difficult to say goodbye to members that have served on the board, Jack McCormack is one of those members. Mr. Mitchell stated that he looked up to Mr. McCormack and respects his commitment to his work as a member. Mr. McCormack has resigned his position on the Cape Cod Commission, and he will be missed. The Chair presented a Certificate of Appreciation to Mr. McCormack thanking him for contributions as the Yarmouth Representative to the Cape Cod Commission, wishing him the best wishes for good fortune and continued success to Mr. McCormack. That certificate will be mailed after today's meeting,

Ms. Senatori echoed the Chair's comments. She added that Mr. McCormack was one of the first members she encountered in her new role and she looked up to him and learned a lot from him. She thanked him for his dedication and commented that he truly wants to the best for Cape Cod and she thanked him for that.

Dr. Andrews thanked Mr. McCormack for the time and work at the commission and wished him the best.

Ms. Taylor stated that she has worked with Jack on several committees, and she will miss him. She wished him the best of luck and will miss his wonderful collection of socks!

Mr. Virgilio commented that through all the years of working together, Jack's performance was outstanding. He displayed a great deal of knowledge and Mr. Virgilio has learned a lot through the years. He will miss Jack and wished him the best.

Mr. Harris agreed with colleagues stated that Jack exceeded in his contributions. He has enjoyed conversations throughout the years and wished Jack the very best.

Jack McCormack stated that it was a pleasure to serve on the Cape Cod Commission. He thanked members for their kind words. He has been a big fan of the Cape Cod Commission since it began. He feels that everyone should want the best interest of Cape Cod as a Region. He thanked everyone for their kind words stating that it has been a pleasure to serve on the Cape Cod Commission.

The Chair read the hearing notice as follows and asked the applicant for their presentation.

**Public Hearing (continued by the Project Subcommittee from 9/1/21):** The Cape Cod Commission will conduct a continued public hearing on the following Development of Regional Impact (DRI). At this hearing session, the Cape Cod Commission may vote and decide on the Project, including adoption of a draft written DRI Decision. Public Testimony will be welcome:

**Project:** Great Western Rd Solar, Dennis CCC File No: 21007

**Project Applicant:** VS Great Western Dennis SMART, LLC

**Project Location:** 131 Great Western Rd, Dennis MA, Map 131 Parcel 5-0

**Project Description:** Proposed redevelopment of a 3.1-megawatt solar energy facility with battery storage on approximately 8.5 acres of the 13.9 acre lot

Applicant made its presentation.

Attorney Ford introduced the project team John Hession, the Project Engineer from VHB, Walter Steinkraus the Manager of VS Great Western Dennis Smart, LLC, and Mr. Koos Erasmus from Volta energy who is unable to participate today.

Attorney Ford explained that the proposed project is a 13.9-acre lot at 131 Great Western Rd in Dennis. It was utilized prior to 1990 as a sand and gravel operation then received a DRI permit from the CCC for the Crowell Golf Driving Range which ceased operation around 2015. In 2016, the CCC under Section 14 finding made a finding that the use ceased to exist and the DRI provisions to the property were terminated. The property was divided into two parcels one consisting of 13.9 acres which is the subject to this petition. The proposal includes removing remnants of the driving range and a large-scale solar array will be built in the area that is the industrial zoning district in the Town of Dennis. The balance of the land is zoned residential and there is no proposed development in that area. The applicant has been able to locate this development away from a residential area that exists to the west of the property and will leave a natural buffer of land that contains many trees between the array and the single family residential district that exists. There was a public comment that was received regarding that buffer and requesting a condition to keep it, and that condition is within the proposal. There have been a series of meetings with the Dennis Town Planner and other department heads to get input prior to the design of the project. The staff at the Cape Cod Commission was consulted to ensure that the standards of Development of Regional Impact were met. He was pleased to find that the application and proposal met the goals and objectives of the Regional Policy Plan at the subcommittee meetings and reflected in the staff report provided today. He asked that John Hession provide an overview of the project.

Using a Power Point presentation, Mr. Hession reviewed the aerial photograph of the site location and discussed the location. He explained that the installation within the site located is in the commercial zoning district with no proposed work in the residential zone and located away from the wetland buffer. Mr. Hession reviewed photos along the project frontage that showed the landscape buffers. He reviewed the site plan explaining the entrance and battery storage location, and other aspects of the site which included fencing and a gravel road for maintenance access. He reviewed

the grading and drainage plan and the landscape plan. Mr. Hession also reviewed the diagram of a solar array installation.

Attorney Ford added that he respectfully suggests that this is a renewable energy project with no carbon generation and is an appropriate area for the project.

The Chair asked for staff comments.

Using a Power Point presentation, Jordan Velozo stated that in evaluating the DRI, staff looks at the project's consistency with the Regional Policy Plan (RPP), Municipal Development By-Laws and the Probable Benefit vs. Probably Detriment of the project. She commented on staff's focus of the review, which included the Redevelopment of the site with an emphasis on improvements and protection of existing resources. She reviewed the consistency with the RPP, which included water resources consistency, wildlife and plant habitat, energy resources and climate mitigation goals. She also reviewed the probable benefit vs. probable detriment of the project, stating that the probable benefit is greater than the probable detriment. She reviewed the conditions drafted as recommended by the Subcommittee. Ms. Velozo introduced Jessica Rempel, Natural Resource Analyst at the Cape Cod Commission, to go into further detail on the management of invasive species plan.

Ms. Rempel explained how staff reviews projects in relation to the wildlife and habitat technical bulletin and objectives. Invasive species must be controlled to ensure the establishment of native species. Eradication methods can be controversial as it relates to herbicides. Development on sites where invasive species have been identified should provide a management and restoration plan detailing the management of invasive species. She said we require as part of the natural resources inventory an inventory of invasive plants and a description of methods to control and eradicate the invasive species. The applicant identified the invasive species and described a suite of potential control methods. They include mechanical chemical and biologic controls. Staff agrees that all these methods may be appropriate for the site, provided they are targeted and implemented according to an approved management plan. Given the history of the site, as a sand and gravel pit and a driving range with low quality habitat, there may continue to be invasive species on the site. It is appropriate to provide mechanical methods to control the invasives and the applicant has agreed to that. There are no sensitive resources on site and the wetland buffer is being avoided. It's in the applicant's best interest to manage the vegetation; aggressive means of removal may take time and it may inhibit the desired establishment of native species, therefore there is a tradeoff. If later the mechanical methods are proving ineffective and the invasives continue to spread, limited targeted use of herbicides may be warranted. Chemical control methods are discouraged except in situations where chemical management would reduce adverse impacts on the environment. Restoration ecologists include herbicides as a tool for use in a specific situation where a particular species is not responding to mechanical methods or other sensitive resources in the area that preclude the use of mechanical methods. This use is done with detailed management plans that include who is doing the application, the proven effectiveness of the herbicide being used on the target species, the timing of the use to maximize effectiveness, limited quantiles to be used and the target short term applications including direct application to the problem species. The landscape and invasive species management plan are conditions of the decision and will run with the life of the project. Condition C10 of the draft decision includes revision to provide the invasive species management plan to specify the use of mechanical methods to control invasive species and the applicant has agreed to, which will allow the applicant to come back to staff if alternative methods are needed. Staff understands the concern of the members regarding extensive use of herbicide on the landscape and would not approve indiscriminate use, however in certain circumstances limited

targeted use of an herbicide in accordance with an approved management plan may be warranted and would advise against precluding such use.

Ms. Veloso stated that Ms. Rempel's comments conclude staff comments. She added that the project is consistent with the RPP, municipal development by-laws and the probable benefits are greater than the probable detriment.

The Chair thanks Ms. Velozo for her presentation. He stated that he chaired the subcommittee on this project along with Richard Roy, Ernest Virgilio, Tom Wilson and Jacqueline Etsten. The fact that the applicant was redeveloping the land, consistent with the town by-laws, made this a positive project. The decommissioning of the batteries raised questions and staff commented the decommission plan is not required. There was a public comment regarding maintaining a vegetation buffer by an abutter and that was added to the decision. He asked if other subcommittee members would like to comment on the project.

Ms. Etsten stated that it was a nice application to review. It considered the issues carefully. The revegetation to the buffer on the roadway, the site itself and the protection to the wetlands in the south, and the drainage systems were all well done. She did not want to see solar array panels put so close to the ground that you couldn't get equipment underneath to control the vegetation. In this case, they are higher off the ground which will allow maintenance of vegetation. She thinks that the language on the condition on the use of herbicides is appropriate in staff's recommendation.

The Chair opened the floor to member comments.

Ms. Taylor stated that it's an excellent applicant and a well-designed redevelopment project. She is extremely troubled by the possible use of herbicides. She feels that the Commission should never consider approving the use of glyphosate.

Dr. Andrews asked where the batteries are located and Mr. Hession reviewed the site plan which showed the location as near the entrance of the location for easy access. She said that she would like to make an amendment to the conditions when the time is appropriate.

The Chair thanked members for their comments.

The Chair asked for comments from the public.

There were no public comments.

The Chair asked Dr. Andrews for her comments. She stated that she has concerns about the battery systems, materials, fire, training, and the lifespan relative to the project. She would like to make an amendment to the conditions regarding that.

The Chair explained that in the town of Sandwich they require that in their bylaws; it is not part of what the Commission would require. He doesn't feel that this is something that the Commission should require. The applicant provided a decommission plan.

Ms. Andrews stated that we received testimony at the last hearing regarding the National Fire Protection standards that would require developers to provide jurisdictional authorities with those plans.

Dan Fortier, Town Planner in Dennis stated that the town defers most fire code compliance to the Building Commission and the Deputy Fire Chief through the building permit process.

Mr. Ford commented that when the applicant met with Town department heads and discussed battery storage and the need for a response plan. The Fire Chief indicated that at the time of the building permit, the applicant would need to meet with the Fire Department and come up with an approved response plan.

Dr. Andrews thanked Attorney Ford for his comments. She stated that any plans developed as required through the building permit process would also be copied to the Cape Cod Commission. Attorney Ford agreed adding that all local permits obtained we are required to give to the CCC.

Dr. Andrews asked for a motion to move the draft set of conditions in the decision to include an additional condition which reads prior to and as a condition, the issuance of a preliminary certificate of compliance by the CCC, the applicant shall provide to the Commission any plans pertaining to emergency response, operation, maintenance, decommissioning of the batteries as per state, local and federal regulation, seconded by Tom Wilson. Roll call vote on the motion was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, left early; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes.

Mr. Wilson stated that we have a list of conditions and we heard Mr. Rempel comments, we also heard Ms. Taylor's comments about the use of glyphosate. He asked if we need to do something with condition C11 of the draft decision. Ms. Rempel stated that the information that she provided was for educational purposes. Ms. Velozo stated that this is a specific circumstance, and we don't want that to be the case for all DRI's. Ms. Etsten feels that the condition as written is very appropriate for this project. Mr. Ford added that the applicant has no problem with condition C11 the way it currently reads.

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

Upon a motion to close the public hearing by Tom Wilson, 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; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, absent; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes.

The Chair asked for a motion on the project.

Upon a motion to adopt the draft written DRI decision as amended and approve the Great Western Road Solar DRI Project in Dennis by Tom Wilson, 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; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, absent; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes.

The Chair asked for a motion to adjourn.

Upon a motion to adjourn by Stephen Mealy, seconded by Cheryl Andrews, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, Yes; Tom Wilson, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, absent; Richard Elkin, Yes; Ron Bergstrom, Yes; John Harris, Yes.

**New Business:**

There was no new business.

**Meeting Adjourned:**

The Chair asked for a motion to adjourn.

Upon a motion to adjourn the meeting at 3:44 p.m. made by Richard Roy, 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; Douglas Fromm, Yes; Cheryl Andrews, Yes; Harold Mitchell, Yes; Kevin Grunwald, Yes; Richard Elkin, Yes; John McCormack, Jr, Yes; David Weeden, Yes.

**Documents used/submitted at the September 9, 2021 Cape Cod Commission Meeting**

Cape Cod Commission Meeting Agenda 9/9/21

Draft Minutes of the 7/22/21 CCC Special Meeting

Certificate of Appreciation to Jack McCormick

Draft DRI decision, Great Western Solar Project

Power Point Presentation prepared by Cape Cod Commission staff including Applicant's presentation slides

Approved by the Cape Cod Commission on October 7, 2021