



**Minutes
Cape Cod Commission Meeting
September 23, 2021**

Harold Mitchell, Chair called the Cape Cod Commission (CCC) meeting to order on Thursday, September 23, 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:

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

Summary of actions/votes taken

- The Subcommittee of the Great Western Rd Solar Development of Regional Impact (DRI) in Dennis, MA voted to approve the minutes of the 8/26/21 & 9/1/21 Subcommittee Hearings
- Cape Cod Commission (CCC) voted to adopt the draft DRI decision on the Bourne Integrated Solid Waste Management Facility with conditions

Public Comment

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

Subcommittee Hearing minutes of 8/26/21

Upon a motion to approve the minutes of the 8/26/21 Great Western Rd DRI subcommittee hearing made by seconded by Tom Wilson, seconded by Richard Roy, the motion carried. Roll call vote was taken as follows: Tom Wilson, Yes; Richard Roy, Yes; Jacqueline Etsten; Yes; Ernest Virgilio, Yes; Harold Mitchell, Yes.

Subcommittee Hearing minutes of 9/1/21

Upon a motion to approve the minutes of the 9/1/21 Great Western Rd DRI subcommittee hearing made by Tom Wilson seconded by Jacqueline Etsten, the motion carried. Roll call vote was taken as follows: Tom Wilson, Yes; Richard Roy, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Harold Mitchell, Yes;

Executive Directors Report

Kristy Senatori gave the following updates:

Regulatory – continues to be very busy

- Technical corrections to Chapter A, Enabling Regulations Governing Development of Regional Impact will be before the Commission on 10/7; these were approved by Committee on Planning and Regulation at their meeting on 9/9

Meetings/Speaking engagements

- Held two sessions to provide information to the community regarding U.S. EDA's ARPA (American Rescue Plan Act) funding opportunities
- Continuing to meet with Cape Cod Climate Change Collaborative as it plans for Net Zero 2021 workshop
- Addressed the Cape Cod YMCA Board at its 9/10 retreat
- Attended a groundbreaking event for Strawberry Hill Road Sewer Expansion Project in Barnstable on 9/17
- Updated the Assembly of Delegates on the License Plate Grant program on 9/22 Presenting to the Cape Cod Five board at its strategic planning conference on 10/27

Climate Action Plan

- Continuing work on addressing climate change including:
 - Intent to release the Climate Actions Database within the next few weeks
 - Working toward convening an Equity Working Group
 - Plan to initiate another Climate Ambassador Program this fall; working with educators to determine the best timing

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. Will be updating Remote Work Agreements following the Commissioners' updated Telecommuting Policy approval earlier this month.

Staff Updates

- Continuing to interview for a Regulatory Planner

Public Hearing: Bourne Integrated Solid Waste Facility

The Chair read the hearing notice as follows:

Public Hearing (continued by the Project Subcommittee from 8/30/21): The Cape Cod Commission will conduct a continued public hearing on the following Development of Regional Impact (DRI). At this 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: Bourne Integrated Solid Waste Management Facility - Commission File No: 20064

Project Applicant: Town of Bourne, Integrated Solid Waste Management (ISWM) Department

Project Location: 201 MacArthur Boulevard, Bourne, MA 02532 Map 28, Parcel 13; Map 32, Parcel 5; Map 32, Parcel; 9

Project Description: The Phase 7, 8 & 9 vertical and horizontal expansions of the 111-acre Bourne Integrated Solid Waste Management Facility, including the relocation of operations and solid waste handling facilities as the landfill grows.

The Chair asked for the applicant's presentation.

Dan Barrett, General Manager of Bourne Integrated Solid Waste Management Facility (ISWMF) thanked staff for the time put into the process and introduced staff members from the Town of Bourne that were involved in the process, each giving a statement.

Tim King, Interim Town Administrator, thanked staff for their work providing useful suggestions for improvements in getting this project together for submission to the Board. This is an important project for Bourne as well as the Region.

Glenn Cannon, Assistant Town Administrator in Bourne, thanked staff for their work as he is aware of what is involved. He stated that the Town of Bourne is here to work with the CCC staff.

Peter Meier, Chair of the Board of Selectmen, thanked staff and members for their time stating that the process has been great, and all have been cooperative. He explained the history of the site stating that 66% of the Cape relies on the facility. The expansion is overall a benefit to Barnstable County. With the current management, we have great oversight to ensure that the landfill doesn't contaminate ground water supply of any other resource. He feels that the expansion is warranted and strongly recommends approval.

Mr. Barrett introduced the team present at the meeting. Bourne staff included Asa Mintz, Operations Manager, Phil Goddard, Manager of Facility Compliance Technology Development, Ray Quinn, Engineer of Records from Cytek and his associate Ken Ryan, Tom Yeransian, Commonwealth Resource Management Corporation – Green House Gas Specialist, Steve Zemba, Green House Gas Specialist, Amy Ball, Horsley Whitten, and Bruce Riley & Ivan Cooper, CEC Engineering.

Using a Power Point presentation, Mr. Barrett gave an overview of ISWMF stating that it is a fully integrated waste management system. He described the role of ISWMF on Cape Cod and listed the communities that they accepted from on Cape Cod as well as Southeastern Massachusetts if the need arises. He reviewed the Local Infrastructure identified by the Regional Policy Plan (RPP). Mr. Barrett then turned the presentation over to Mr. Goddard, who reviewed Zero Waste on Cape Cod which included regional latex paint collection, regional mattress recycling, extended producer responsibility, and the Facilities. Mr. Yeransian reviewed the Green House Gas and Climate Change as being consistent and compliant with the Climate Action Plan put forth by the Cape Cod Commission. Mr. Quinn gave an overview of the expansion. His review included the ISWM Facility Parcels and the proposed build out and relocation facilities which were displayed in the diagram and

site plans shown in the presentation. Mr. Barrett added that the Bourne IWSM's goal is to develop other alternative disposal options other than landfilling. Ms. Ball reviewed the open space mitigation and waiver request and the visual slide on the mitigation parcel. Mr. Barrett thanked staff and members of the board for their time today as well as his own staff and provided contact information for questions.

The Chair asked for staff comments.

Using a Power Point presentation, Jordan Velozo explained the history of review of the project site. She stated that as a DRI the project must be consistent with the Regional Policy Plan, Municipal Development By-Laws & Local Comprehensive Plans and the probably benefit must be greater than the probable detriment. She stated that the subcommittee met 4 times throughout the process and received a significant amount of testimony through the review process. Since the applicant gave an overview of the project, she focused on the key issues and highlighted the findings and conditions in the decision. She reviewed the key issues related to open space, wildlife and plant habitat, water resources and climate mitigation. She reviewed the benefits vs. detriments of the project and the conditions in the decision.

The Chair asked for member questions, comments.

Mr. Mealy, Chairman of the Subcommittee, stated that this project is compliant and consistent with the goals of the solid waste master plan by Mass DEP, the CCC Regional Policy Plan and Bourne's Local Comprehensive Plan. He added that the subcommittee has met several times, reviewed all the submitted documentation, heard testimony by staff, the applicant and members of the public. The subcommittee voted 4 to 1 to submit the DRI to the full commission for approval. He thanked the Subcommittee Members for their participation.

Ms. Taylor stated that she was the Chair of the Climate Action Plan Committee and there was a tremendous amount of work that went into it. She had hoped that we could be proactive with the DRI. She feels that they do provide excellent facilities for communities on the Cape. She doesn't agree with the fact that they continue to accept ash from SEMASS that has been contributed to by towns throughout the state. The new contract should accept only ash in an amount equal to what has been provided by Cape Cod towns. This would enable the landfill to accept ash for a longer time period. Hopefully the amount of trash on Cape Cod will be reduced as towns become better stewards of recycling.

Mr. Elkin stated that Wellfleet doesn't participate in SEMASS or take advantage of this facility. He was approached by town staff at the transfer station and they fully support this initiative because of the town's interest to keep it competitive by lowering the rates they can offer to towns. The town is also concerned about a natural disaster, stating that there is no alternative to get rid of wet mattresses, or wet carpets. It's important for the town of Wellfleet that this facility be available.

The Chair closed the first round of questions for members and opened the floor for public testimony

There were no comments from, Town, State and Federal Officials.

Comments from the public:

Chris Powicki from the Town of Brewster said he was speaking on behalf of the Sierra Club Massachusetts Chapter and Cape Cod Group. He stated that the Sierra Club supports the

maintenance of capital infrastructure and facilities in which adverse impacts and potential environmental health and safety risks are fully understood and mitigated. This DRI process as reflected in the draft decision has been unbalanced in favor of the project. The Conservation Law Foundation (CLF), Sierra Club and other organizations have submitted written comments and oral testimony documenting known adverse impacts and concerns relative to the RPP goals and objectives and the states zero waste and climate mitigation targets. That information is not reflected in the findings and conditions. The findings document historical and previous water resource protection, recycling, and waste diversion, landfill gas control and renewable assessment activities and initiatives. He said that no conditions specify new or additional water resource protection, zero waste and GHG mitigation activities. CLF, Sierra Club and other organizations have submitted written comments in opposition to the project augmented by findings and conditions that they feel should be incorporated into the decision. He said that the facility has contaminated the Cape's sole source aquifer and the expanded facility will accept incinerator ash and solid waste, continuing the contamination. A finding related to waste management is that the facility expects to exhaust the landfill capacity creating the need for the expansion. Based on these findings, he feels that additional conditions should be put into the DRI decision. He said that the CCC is charged with keeping a special place special not with approving capital facilities.

Cassidy Leight, on behalf of CLF, is opposed to the project and stated concerns are about water contamination by toxic chemicals. She gave the history of CLF and stated that they have submitted comments on this project which she reviewed. She feels that the project should not be approved. They feel the applicant does not have a need for the expansion and is not consistent with the RPP's Goals and Objectives. The applicant should establish leachate and groundwater protocols for PFAS before any DRI application is approved.

David Dow, resident of Falmouth and an advisor to the Sierra Club, stated concerns about the ash coming from the SEMASS facility. He said that incineration doesn't remove the PFAS chemicals. He added that landfills are a source of groundwater contamination on Cape Cod and more information will be coming out about PFAS and how it contaminates the water. We need to prepare for monitoring of groundwater leachate and PFAS and develop a plan to address it.

The Chair closed the public comment period and opened the floor to staff and the applicant if they would like to respond to any of the public comments.

Ms. Velozo stated that pfas is still widely used in consumer products, therefore it's not unreasonable to assume that there is leachate at the facility that contains PFAS. The facility has provided details of the monitoring and there are protections in place to prevent and detect leaks of leachate. MassDEP indicated in their comments that the double composite liner system is consistent with the requirements of systems for hazardous waste sites. Despite the possibility that leachate may contain PFAS, the material in the record doesn't indicate that there is any potential that the groundwater is contaminated with PFAS. There are no downgradient wells on the site; they are prohibited by the town of Bourne's regulations and monitoring for pfas is not currently required by DEP since there is no potential it will be used for drinking water.

Tim Pasakarnis, Water Resources Analyst for the Commission, stated that the approach outlined has been used throughout the RPP for other groundwater contaminants. It ensures that there are measures in place to prevent the release of contaminants to groundwater, but also take steps to identify, minimize or eliminate sensitive receptors like private wells and put in place monitoring to be aware of a release so that response actions can be initiated.

Mr. Barrett stated that in response to Mr. Powicki and Mr. Dow's concerns about monitoring, DEP has announced in their new regulations that PFAS will be included in the regulatory standard for monitoring, therefore we (ISWMF) will be monitoring for PFAS. Bourne has voluntarily started a pilot project developing ways to remove PFAS from the water. As it related to the contamination of the facility, he asked that Mr. Quinn comment on our groundwater protection system. Mr. Quinn stated that in 1980, that spawned the development of double composite leak detection system landfills which is a self-healing type of liner. 20 years ago, the Town of Bourne the eliminated the possibility of drinking water being downgradient from the landfill.

The Chair stated that there have been lengthy meetings regarding this, and it was covered during the subcommittee process. He wanted this information brought forth today for the full commission to make their decision. He thanked staff and the Town of Bourne for the information provided today.

The Chair opened the floor for final comments/discussion by the members.

Mr. Wilson stated that he was on the Subcommittee and has been impressed with how the staff at Bourne's landfill has handled the questions or objections that were brought up by CLF. He is also impressed with the pilot program that they are running on PFAS. To have a facility that is committed to the safety of its operation and the drinking water beneath speaks well to the project. He was also impressed with the double liner being used at the landfill which includes 5 impermeable layers of which 3 are self-healing. He strongly supports the project and feels that it is needed.

Dr. Andrews stated that it was an excellent presentation. When hurricane drenched mattresses were discussed, that spoke to her. She dealt with this several years back during a storm when that was the situation in Provincetown. By continuing to use this approach dealing with solid waste, we continue to do things that are harmful. She will be voting no as she did on phase 6 on the project.

Mr. Bergstrom stated that we need to consider the nature of this facility. We must look at in the context of other waste management facilities. The Town of Bourne has done a good job minimizing the effects of the facility. The comments have to do with the nature of the facility but it's necessary, as long as we protect groundwater. He understands the concerns of the CLF and the Sierra Club but we need the facility and the best we can do is to make them as clean as possible. He is confident that the staff and DEP included regulations to ensure the facility is as clean as can be. He plans to vote for the project.

Mr. Mealy stated that as the State or Federal regulations change, the Facility will adapt to the regulations that are applied to them. Mr. Mealy's comments were cut short due to technical difficulties.

Ms. Brookshire stated that she also was on the subcommittee. Initially she had reservations about the project, but after all the discussions, including the need for the facility and the need for it to grow, she feels that concerns have been addressed and she plans to vote to approve the project.

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

Upon a motion to close the public hearing by Tom Wilson, 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, No; Harold Mitchell, Yes; Richard Elkin, Yes; Ronald Bergstrom, Yes; John Harris, Yes.

The Chair asked for a motion.

Upon a motion to adopt the draft written DRI Decision and approve the Bourne Integrated Solid Waste Management Facility DRI project expansion by Stephen Mealy, seconded by Joy Brookshire, the motion carried. Roll call vote was as follows: Fred Chirigotis, Yes; Stephen Mealy, Yes; Elizabeth Taylor, No; Tom Wilson, Yes; Richard Roy, Yes; Joy Brookshire, Yes; Jacqueline Etsten, Yes; Ernest Virgilio, Yes; Douglas Fromm, Yes; Cheryl Andrews, No; Harold Mitchell, Yes; Richard Elkin, Yes; Ronald 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 4:43 p.m. made by Ernest Virgilio, 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, Yes; John Harris, Yes.

Documents used/submitted at the September 23, 2021 Cape Cod Commission Meeting

Cape Cod Commission Meeting Agenda 9/23/21

Draft Minutes of the 8/26/21 & 9/1/21 Great Western Rd Solar DRI, Dennis Subcommittee Meetings
Power Point Presentation prepared by Cape Cod Commission staff inclusive of the applicant's presentation

Draft Decision, Bourne ISWWMF DRI expansion

Public Comments: Commonwealth Law Foundation comment letter to the CCC

Approved by the Cape Cod Commission October 7, 2021