

CAPE COD COMMISSION
21ST CENTURY REVIEW TASK FORCE
PUBLIC HEARING MINUTES
August 8, 2006

Task Force members present: Elliott Carr, Larry Cole, Michael Cole, Tom Evans, Wendy Northcross, Henry Kelley and Ed Mangiafico.

The Task Force appointed by the Barnstable County Commissioners to review the Cape Cod Commission met on Tuesday evening, August 8, 2006 at Eastham Town Hall for the purpose of taking public testimony. Tom Evans opened the hearing at 7:00 p.m. He explained the purpose of the task force hearings. Members introduced themselves.

Testimony:

Fred Fenlon of Eastham presented comments on the Eastham Ocean Beach DRI decision, which was approved by the Commission in April 2005. Mr. Fenlon discussed his concerns about the conditions placed on the applicant and the cost to conduct the work necessary for compliance. He presented several recommendations for change. The recommendations focused on changing the language of Section 17 of the Cape Cod Commission Act, which sets forth the appeals process. He is unhappy with the 30 day appeals timeframe in the statute and the designation of Barnstable County Superior Court as the body to decide appeals from CCC decisions. He recommended alternatives to the existing appeals procedures, such as arbitration and adjudication by the Assembly of Delegates.

Larry Cole explained that the source of the CCC's authority comes from the CCC Act and that the conditions placed on DRI approvals are tied to minimum performance standards that come from the Regional Policy Plan, which is approved by the Assembly of Delegates. He said that Section 17 is just about the appeals process.

Henry Kelley asked Mr. Fenlon what the CCC's vote was when it approved the beach project. Mr. Fenlon did not recall.

Ron Bergstrom, Chatham Selectman, noted that a warrant article to withdraw from the CCC had been proposed for the last Town Meeting and that the sentiment had been almost universal in favor of staying in. He said is a former CCC member and member of the Regional Transit Authority and said he has nothing but praise for the staff. He noted that he understands that public agencies should undergo comprehensive reviews to ensure they are following their mission. He said that all the comments he's heard about the CCC are positive in terms of the CCC role but he is also supportive of the task force.

Frank DeFelice, Eastham Building Inspector, expressed his dissatisfaction about the CCC's potential review of a current project proposal that went through site plan review and planning board review. He was concerned that the CCC might review the project

even though the local board did not send a referral. He said review should be voluntary and that the 40b projects could have used CCC support.

Mr. Evans asked whether the project exceeded a CCC review threshold. Mr. DeFelice said that it did but it involves an existing building. He said that communication needs to be improved and the triggers need to be refined.

Joan Sullivan, Eastham resident and chair of the Eastham Ocean Beach Committee, described the beach project and gave background on the application, review, and TM actions. She said the beach opponents had undue influence on the CCC. Her comments focused on her dissatisfaction with the CCC's review of the beach project. She discussed the application materials and studies required and felt they were overly burdensome for the construction of the beach parking lot and added significant cost to the project. She expressed her unhappiness about specific regulatory requirements of the CCC's decision.

Joe Bianchi, professional structural engineer who worked for the beach proponents on the project, echoed Ms. Sullivan's comments and expressed his dissatisfaction with the amount of information required for the CCC's review. He recommended that CCC review of town projects be tempered and left to local boards.

Mr. Evans said that the task force is not seeking to rehash details about any one project but is looking more for general impressions about the CCC.

Mr. Cole said that there is nothing simple about constructing on a coastal bank and that state agencies would have been involved with the habitat concerns even if the project hadn't been before the CCC. He noted he was aware of the virulent opposition to the project as well. He also said that he was concerned by and didn't understand the comment about the opponents having more access to the CCC, as all meetings and hearings are advertised and posted.

Michael Cole noted that the task force is looking at DRI review processes such as Projects of Community Benefit and limited DRI review.

Bob Cook, Eastham resident and wildlife biologist, discussed the rapid growth on Cape Cod, noting that what makes the Cape special is disappearing. He said that the CCC is one of the most important organizations we have for protecting the Cape and as we head into the future we need its expertise to deal with the increasing water, traffic, and other problems. He said a robust CCC is necessary to protect Cape Cod as a special place.

Amy Eckman, Eastham resident, spoke in support of the CCC. She said that prior to the CCC's involvement there was very little information available about the Eastham beach project and that the CCC process made the facts available to the public so that residents could make informed decisions. She said that since the CCC's decision, an alternative parking area has been provided to residents and that it is a win-win situation. She noted that many people feel the CCC should be more stringent. She said the town needs the resources and support of the CCC to plan for the future.

Larry Cole asked what she meant by the alternative. She explained that the Seashore provided a parking area adjacent to Nauset Light for town residents.

Elizabeth Bridgewater, Executive Director of the Lower Cape Cod Community Development Corporation (LCCCDC) spoke in support of the CCC and the need for a regulatory body looking at regional issues. She explained that the CDC is a non-profit agency that provides affordable housing and economic development opportunities to Lower Cape residents and that the Commission work supports their mission. She said that the CDC received important technical assistance from the CCC.

Sandra Larson of Eastham said she supports the protection of cultural, natural, and historic resources, noting that the CCC was created because of the unchecked growth boom on the Cape. She said that many local residents have little confidence in local boards as they lack technical expertise and may have bias and that the CCC provides checks/balances to towns that are too small to protect the unique resources of Cape Cod. She said that officials should work to refine the CCC rather than get out.

Gwen Pelletier, Eastham resident, spoke in support of the CCC and also of the task force review. She said the CCC is a much needed body as the town is facing issues that are too big for it to handle alone and that affect more than just Eastham. She recommended coming out with a stronger CCC.

Sue Leven, Harwich resident and Harwich Town Planner, explained that she has considerable experience in working with the CCC including 6 DRIs and a DCPC in Harwich. In response to a previous speaker's comments on the CCC appeal process, she called the CCC 30 day appeal period a gift, noting that the local ZBA has a 20 day appeal period and that it is necessary to go to court for appeals. She said the CCC provides technical assistance on issues that the towns are not prepared or equipped to handle on their own. She noted some issues such as thresholds, building design requirements and cases whereby one property owner has to go through CCC review but another one does not should be looked at. She said that regional planning is extremely important and that the money that goes to the CCC would never be used by the towns for the important purposes it now dedicated to as towns have too many other priorities they're dealing with.

Mr. Carr asked Ms. Leven to elaborate on the equity issue and how this could be better achieved. Ms. Leven said it concerns segmentation and that she's not sure how to fix it.

Mr. Kelley asked whether there is a formal association or networking among the town planners. Ms. Leven said there is not a formal association but that the town planners meet every month at the CCC and that she belongs to a list-serve for planners. In response to a question whether the town planners work together regionally she said that the CCC is helpful in bringing the towns together.

Mr. Mangiafico asked Ms. Leven how she felt about impact-based thresholds. She said that the square footage type threshold is the easiest but suggested that this be looked at. She added that some good things had happened in Harwich as a result of the CCC, such as the new roundabout at Queen Anne Road/Route 39.

Mr. Cole asked how she felt about the idea of regional zoning and having the CCC suggest where growth should happen. She said that she doesn't support the concept of CCC designated DCPCs, as the towns need to be the lead or the process won't work.

Ms. Northcross asked Ms. Leven what she thinks of the notion of concurrent CCC/town review if it could be achieved legally. Ms. Leven said that it would be helpful to allow the planning board to have a more active role.

Mary Lou Petitt, resident of Eastham, said she was speaking for herself but noted that she has considerable experience as Eastham's former AOD representative for 12 years, as founding member of the Lower Cape CDC, as founding member of the Lower Cape Coalition, and as member of the Transit Task Force. She thanked the CCC for its review of the Eastham Beach. She said that the CCC connection has benefited the towns and that town officials and anti-CCC people don't understand how the agency works. She said the Flex Route couldn't have happened without the CCC and that the affordable housing work the CCC does is more important than the beach issue. Regarding the regional role, she said it is necessary because the towns can't solve water and affordable housing problems on their own. She discussed the benefit of having the CCC to deal with big projects that the towns are reluctant to get involved in. She also noted the confusion between the CCC and the County and how they interact.

Mr. Cole asked about the relationship between the towns and the CCC including the role and appointment process of the CCC reps. Ms. Petitt said that the Assembly of Delegates has a similar problem in terms of requiring some form of reporting back to the town and recommended a standardized reporting process. She also recommended continuing with appointed reps because of the skills needed.

David Shropfer, Eastham selectman, said that the towns' importance is under recognized. He said he supports the idea of regional planning but not the involvement in individual town projects. He said that the Flex bus is a more appropriate project for the CCC efforts and that the CCC should not get bogged down in the minutiae. He supports the concept regional connection but that local issues should be left to the towns.

Mr. Evans noted that part of the challenge as the task force considers recommendations is how to form a global approach while giving towns the power to do things. Mr. Shropfer said that the CCC reps should be elected. He recommended against having a 10,000 s.f. trigger for review.

Larry Cole asked him to elaborate on the notion of leaving to the towns what is local. He also asked whether he would support the idea of establishing uniform wastewater standards for the towns to implement if they had the expertise and what the CCC could

do to regulate less while leaving more to the town? Mr. Shropfer said that if a town has a good planning board and ZBA and staff that should be enough. Mr. Cole noted that some projects have “spillover” into another town and the planning board may not be dealing with that.

Roy Jones began by noting that there’s been a lot of change on Cape Cod. He thanked the CCC for getting the Flex Route done and for bringing the seven towns together. He said he is a firm believer in regional planning but not regulation. He pointed to the issues of village centers and affordable housing as efforts needing leadership. He expressed concern that the CCC needs to consult more with public safety officials when doing its planning and regulatory work. Ms. Northcross questioned whether public safety and fire safety should be addressed more appropriately at the local level.

The meeting adjourned at 9pm.