

NUCLEAR DECOMMISSIONING CITIZENS ADVISORY PANEL (“NDCAP”)

Wednesday, July 19, 2017

**Plymouth Community Intermediate School, Little Theatre, 117 Long Pond Road,
Plymouth, MA
Meeting Minutes**

Meeting called to order at 6:30 p.m. by NDCAP Co-Chair Sean Mullin.

NDCAP MEMBERS PRESENT:

- Jessica Casey, President of the Senate Appointee
- John Chapman¹, Executive Office of Housing and Economic Development
- Pat Ciaramella, Representative of Old Colony Planning Council
- H. Joseph Coughlin, Member from Plymouth Nuclear Matters Committee
- Pine duBois, Speaker of the House Appointee
- John G. Flores, Appointee of Governor Baker
- David Johnston², Department of Environmental Protection
- Richard Grassie, Minority Leader of the House Appointee
- Robert Jones³, Executive Office of Health and Human Services
- Heather Lightner, Representative of the Town of Plymouth
- John T. Mahoney, Representative of the Town of Plymouth
- Sean Mullin, Minority Leader of the Senate Appointee (Co-Chair)
- David C. Nichols, Governor Baker Appointee
- John Ohrenberger, Representative of Pilgrim Nuclear Power Station
- Kevin O’Reilly, Speak of the House Appointee
- Jack Priest, Department of Public Health, Radiological Control Program
- Kurt Schwartz, Massachusetts Emergency Management Agency (Co-Chair)
- Paul D. Smith⁴, Representative of UWUA Local 369
- Michael Twomey, Representative of Pilgrim Nuclear Power Station
- Senator Dan Wolf, President of the Senate Appointee

NDCAP MEMBERS NOT PRESENT:

- Robert Hayden⁵, Department of Public Utilities

OPENING REMARKS:

Co-Chair Mullin explained that the Plymouth Community Intermediate School would serve as the permanent venue for NDCAP meetings subject to certain exceptions. Co-Chair Mullin noted that the meeting was being recorded by PACTV and that the recording would be posted to the internet. Co-Chair Mullin provided an excerpt of the statute which created NDCAP (Chapter 188 of the Acts of 2016 § 14) to the NDCAP members. Co-Chair Mullin explained that the excerpt focused on the roles, responsibilities, and duties of NDCAP and asked that the panel members keep this focus in mind over the course of NDCAP’s work.

¹ Designee of Secretary Ash (Executive Office of Housing and Economic Development).

² Designee of Secretary Beaton (EEA).

³ Designee of Secretary Sudders (Executive Office of Health and Human Services).

⁴ Designee of Richard Sherman (Representative of UWUA Local 369).

⁵ Designee of Angela O’Connor (DPU)

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1 Co-Chair Mullin provided the panel with a typical draft agenda for future NDCAP meetings and
2 suggested that the length of time for the meetings may not be adequate. Co-Chair Mullin asked for
3 discussion. Mr. Coughlin stated that because NDCAP will be dealing with a wide array of detailed issues
4 and seeking the advice of various experts it will difficult to accomplish everything in the meeting
5 timeframe approved at the last meeting (i.e., 6:30 to 8:00 p.m.). Therefore, depending upon the specific
6 agenda, the meeting time may need to be extended. Co-Chair Mullin called for a motion to extend the
7 meeting times to 8:30 or 9:00 p.m. and this motion was brought by Mr. Coughlin. Mr. Grassie stated that
8 it would be a mistake to set a timeframe in concrete for all meetings, particularly given the amount of
9 travel required for some NDCAP Members, and the meetings could simply be extended on a case-by-
10 case basis. Mr. Chapman agreed with Mr. Grassie and stated that the length of meetings should be
11 flexible and adjusted as necessary. Mr. O'Reilly concurred with Mr. Grassie and Mr. Chapman. Mr.
12 Ciaramella stated that it should be up to the Chairmen to set longer or shorter meeting times as
13 warranted by the agendas. Mr. Schwartz stated that if there is a likelihood of extending past 8:00 p.m.
14 with some regularity that the meetings should start earlier (6:00 p.m.) so that members are not getting
15 home later and later. Mr. Chapman suggested that the start time remain at 6:30 p.m. for now and it be
16 left to the discretion of the Chairs as to whether more time is needed based on the specific agendas.
17 Mr. Johnston stated that the panel should try 6:30 to 8:00 p.m. for a while and if this is not sufficient
18 then the meeting can be moved back to an earlier start time. Co-Chair Mullin stated that the consensus
19 was to leave the meeting timeframe as approved at the last meeting (6:30 to 8:00) and see how that
20 works agenda-by-agenda going forward.

21
22 Co-Chair Mullin provided a draft schedule to the members setting forth the number of meetings and the
23 months in which they will occur. Co-Chair Mullin noted that one of the major tasks for NDCAP is to
24 produce an annual report. Co-Chair Mullin suggested for discussion and adoption at the next meeting
25 that NDCAP put aside two meetings to review sub-panel reports and to prepare and finalize the annual
26 report.

27
28 Co-Chair Mullin asked the group for agreement on a few of the meetings on the front-end of the
29 schedule since subject matter experts need to be contacted and scheduled. Senator Wolf stated that
30 NDCAP may want to get educated about timely issues sooner rather than later. Co-Chair Mullin stated
31 that the dry-cask storage issue was one such timely issue and the group should get speakers on that
32 topic for the September meeting. Mr. Nichols stated that it may make sense to hear from VT Yankee
33 before engaging with the NRC. Mr. Coughlin suggested that it would be helpful to learn about the NRC's
34 decommissioning requirements as that would set the stage for future discussions. Mr. Grassie agreed
35 with Mr. Coughlin. Mr. Mahoney stated that VT Yankee has a lot of good data that would be helpful to
36 the panel. Ms. duBois commented that the NRC has a lot of information on its website including the VT
37 Yankee PSDAR. She suggested that the NDCAP members should review that information in advance of a
38 meeting with representatives from Vermont. Ms. duBois further stated that the NRC is not going to tell
39 the panel anything new—it does not approve Entergy's PSDAR. Mr. Johnston agreed with Ms. duBois
40 and stated that the panel would be more effective at getting information from the NRC if it speaks with
41 Vermont first. Ms. Casey stated that the group should reach out to Kate O'Connor, the Chair of the
42 Vermont NDCAP, and ask her to come to a Massachusetts NDCAP meeting and identify the speakers and
43 subject matter experts that were most useful to the Vermont NDCAP. Mr. O'Reilly concurred with Ms.
44 Casey. Mr. Smith reminded the panel that Pilgrim is not the first nuclear plant decommissioned in
45 Massachusetts—Yankee Rowe faced the same regulations and there may be experts in Massachusetts
46 that can advise the group. Co-Chair Schwartz commented that for purposes of discussion the group
47 should be thinking about high level topics for the September, October, and November meetings, as
48 opposed to identifying specific speakers. Co-Chair Schwartz referenced Mr. Coughlin's suggestion that

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1 the NRC first present to NDCAP, followed by a presentation on VT Yankee, followed by a discussion on
2 dry cask storage. Ms. Casey commented that it may be possible to have speakers participate in NDCAP
3 meetings remotely (e.g. phone, skype, etc.) and that may make scheduling/coordination easier. Co-Chair
4 Mullin asked for a show of hands to adopt the first three topics (NRC Regulations, Vermont Yankee
5 Decommissioning, Dry Cask Storage) with the order to be determined later. A majority of the panel
6 voted to adopt the first three topics.

7
8 Ms. Lightner commented that when determining the order of topics the location of the dry cask storage
9 pad was a timely topic and needs attention now. Mr. Priest questioned whether the location of the dry
10 cask storage pad was within the scope of what NDCAP should be reviewing. Co-Chair Mullin stated that
11 in his opinion the location of the pad is inherently part of decommissioning and within the purview of
12 the panel. Ms. Lightner stated that one of NDCAP's duties is to educate the public and having a
13 discussion on the pad location fits with that duty. Mr. Priest stated that he thought the panel made it
14 clear that it was not going to discuss operational issues while the plant is still operating.

15
16 **ADMINISTRATIVE UPDATE:**

17 Co-Chair Schwartz stated that he has been working closely with EEA on administrative support issues.
18 Co-Chair Schwartz noted that funding to support NDCAP was included in the House and Senate budgets
19 but it was later cut in Conference Committee. Mr. Schwartz stated that he hoped a website for NDCAP
20 would be launched within one week on the Mass.Gov site to post meeting notices, meeting minutes,
21 and educational materials approved by NDCAP for posting.

22
23 **REVIEW AND APPROVAL OF JUNE 21, 2017 MEETING MINUTES:**

24 Co-Chair Mullin called for a motion to adopt the June 21, 2017 meeting minutes as submitted. It was
25 moved and seconded to adopt the June 21st meeting minutes as submitted without correction. The
26 motion passed by a unanimous vote of the panel members present.

27
28 **DISCUSSION OF DRAFT LIST OF POSSIBLE SUB-COMMITTEES/SUB-PANELS:**

29 Co-Chair Mullin asked Mr. Coughlin to give the group his thoughts on sub-committees versus sub-panels
30 and the overall structure. Mr. Coughlin stated that the legislature created NDCAP as a panel and not
31 committee. When the legislature wants advice they create panels and it's clearly spelled out in the
32 statute that advising the Governor and the legislature is a primary responsibility of NDCAP.
33 Consequently, Mr. Coughlin suggested that NDCAP think about the proper term for these entities—are
34 they sub-panels or sub-committees? In Mr. Coughlin's view they are sub-panels. Mr. Coughlin further
35 commented that the number of sub-panels should be small because they will be much easier to work
36 with. He added that it might be good idea to start-off with a focus on the federal requirements for
37 decommissioning imposed upon a licensee. The Code of Federal Regulations ("CFR") lists 199 parts that
38 deal with decommissioning and it's a lot of information to review.

39
40 Co-Chair Mullin stated that the draft Ground Rules are a proposed framework for how the sub-panels
41 will work and asked for a discussion on those Ground Rules. Mr. Twomey asked whether membership on
42 sub-panels would be limited to only NDCAP members. Co-Chair Mullin stated that the membership
43 would be limited to only NDCAP members but that the sub-panels could draw on outside subject matter
44 experts.

45
46 Mr. O'Reilly stated that land-use should be added to the sub-bullets under the sub-panel
47 'Financial/Economic'. Ms. duBois stated that it was unclear whether the sub-panels would define their
48 scope of work or if the main NDCAP panel would define the scope of the sub-panels. In Ms. duBois's

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1 view the issue of “waste fuel” comes under the purview of just about every sub-panel. Mr. Mullin stated
2 that the draft Ground Rules (item #4) suggest that each sub-panel define their scope of work and the
3 sub-bullets are only for the purpose of stimulating discussion—they are not intended to be prescriptive.
4 Ms. duBois commented that the main NDCAP panel needs to make sure that the sub-panels are covering
5 all the issues of concern. Mr. Coughlin added to Ms. duBois’s point by stating that once the sub-panels
6 start meeting, they need to flesh-out the scope of their work and then come back to the main NDCAP
7 panel to review that scope.

8
9 Co-Chair Mullin suggested that time be added to the November meeting to review the scope(s) of work
10 proposed by the sub-panels. Co-Chair Schwartz added that if NDCAP can agree on the list of sub-panels,
11 then there needs to be a process for soliciting membership and determining Chairs. Once that process
12 is complete, the sub-panels should meet soon thereafter and define their scope of work, and then the
13 sub-panel Chairs should meet with Co-Chairs Schwartz and Mullin to discuss: (1) what is missing; and (2)
14 where there is duplication. Co-Chair Mullin concurred with Co-Chair Schwartz and noted that the
15 requirements imposed by the Open Meeting Law on the sub-panel meetings are significant and must be
16 taken into account. Ms. Lightner asked if there has been any discussion as to where the sub-panel
17 meetings will be held and Mr. Mullin responded that there has not.

18
19 Senator Wolf suggested that the title “Working Groups” may be more appropriate for the sub-panels.
20 Mr. Mullin called for a motion to call them “Working Groups”. It was so moved, seconded, and passed
21 by a unanimous vote of the panel members present.

22
23 Mr. Nichols cautioned that the group should not get caught up in creating a large bureaucracy and noted
24 that creating the Working Groups would add a total of 30 meetings (i.e., 5 Working Groups with a
25 minimum of 6 meetings per group) in addition to the meetings of the main NDCAP group. Mr. Nichols
26 added that the Ground Rules should not be so prescriptive in directing the number of times that the
27 Working Groups meet. Mr. Nichols further stated that the group needs to be careful that they are not
28 educating the smaller Working Groups to the exclusion of the larger group.

29
30 Co-Chair Mullin asked whether there was consensus on the 5 proposed Working Groups. A motion was
31 made to adopt the 5 proposed Working Groups and that motion was seconded. The motion was
32 adopted by a majority of the panel members present.

33
34 Co-Chair Mullin then directed the panel’s attention to the Working Group Ground Rules and asked for
35 further discussion. No further discussion was offered. Co-Chair Mullin stated that consistent with the
36 prior discussion, the Ground Rules would be amended to reflect a framework where the full NDCAP
37 Panel would be involved in approving the scope of work for each Working Group. Co-Chair Mullin
38 further suggested that the November meeting agenda should include time to review each Working
39 Group’s proposed scope(s) of work.

40
41 Ms. Casey asked Co-Chair Mullin how the Working Groups will provide input/content into the NDCAP
42 Annual Report. Co-Chair Mullin stated his view that on a quarterly basis each Working Group would
43 provide the full NDCAP Panel with an update and discuss the content and format of the Annual Report.
44 Mr. Flores stated that each Working Group should establish its own mission and goals to achieve the
45 scope of work approved for each Working Group by the full NDCAP Panel. Co-Chair Mullin stated he will
46 put together a draft framework for how the Working Group will provide input to the full NDCAP Panel
47 and into the Annual Report.

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1 Co-Chair Mullin called for a motion to adopt the Ground Rules with the addition of a framework where
2 the full NDCAP Panel would approve the scope of work for each Working Group. It was so moved. Mr.
3 Twomey asked whether this motion included the amendment suggested by Mr. Nichols to eliminate the
4 minimum six meetings per year requirement (Item #6 on the Ground Rules). Senator Wolf moved to
5 amend the motion to eliminate the minimum six meetings per year requirement in the Ground Rules
6 and it was seconded. A majority of the panel members present voted to adopt the Ground Rules subject
7 to (a) adding the framework where the full NDCAP Panel would approve the scope of work for each
8 Working Group, and (b) eliminating the minimum six meetings per year requirement (#6 on the Ground
9 Rules).

10
11 Following the vote, Mr. Nichols stated that #8 on the Ground Rules list should be amended so that it is
12 not a prescriptive requirement for the Working Groups to report in to the full NDCAP Panel 3 times per
13 year. Co-Chair Mullin disagreed, stating that it is important to have check-ins to ensure the Working
14 Groups are meeting and that they are on track.

15
16 **PUBLIC COMMENT ON WORKING GROUPS:**

17
18 Mr. Rich Rothstein commented that there is publically available information about the Maine Yankee
19 decommissioning process online and one of the issues addressed in there was how quickly to take spent
20 fuel out of the pool and place it into dry cask storage. Mr. Rothstein added that the NRC's regulations
21 are dynamic and subject to change and getting an NRC speaker to address NDCAP would be valuable. In
22 April, the NRC had a webinar about regulations that might be subject to change including how
23 decommissioning funds can be spent or not spent.

24
25 Senator Wolf suggested that the Co-Chairs contact the NRC and find out where they are at with respect
26 to potential regulatory changes. Co-Chair Mullin stated that he would reach out to Mr. Watson of the
27 NRC.

28
29 Ms. Mary Lampert stated that some topics are more timely and fundamental than others and NDCAP
30 should be assessing what it should be doing right away. In particular, Ms. Lampert stated that the
31 establishment of a more conservative clean-up standard is one such timely issue. Another timely issue
32 is whether NDCAP should be more engaged in bills pending before the legislature (e.g., Senator
33 Demacedo's bill on decommissioning funding, and Senator Cutler's bill on Emergency Planning).

34
35 Mr. Schwartz asked the panel about where to slot the topics of the "Clean-up Standard" and legislative
36 matters into the Working Group structure. Co-Chair Mullin stated that "Clean-up Standard" should be in
37 all the Working Groups and in particular under the topics of PSDAR and Safety. Ms. duBois agreed that
38 the "Clean-Up Standard" should be considered by all the Working Groups.

39
40 Ms. Henrietta Cosentino stated that the goal of NDCAP has everything to do with the safety of the
41 Commonwealth's citizens and land. Ms. Cosentino stated that one of the tragedies of the nuclear energy
42 industry is that the for-profit goals of the companies that own generation are in conflict with the
43 interests of the people who live around those plants.

44
45 **CONTINUED DICUSSION OF POSSIBLE TOPICS:**

46 Senator Wolf stated, if the Chairs would like, he would be happy to report out on pending legislation at
47 the next NDCAP meeting. Senator Wolf added that it is important for NDCAP to know the timing of
48 hearings and if there is any potential to weigh-in. Co-Chair Mullin asked how much time should be set-

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1 aside for that and Senator Wolf responded fifteen minutes. Co-Chair Mullin called for a motion to set
2 aside 15 minute at the next minute for Senator Wolf to provide a legislative update. It was so moved,
3 seconded, and approved by a majority of the panel members present.

4
5 Co-Chair Mullin asked the panel if there were any other topics that NDCAP wants to add to the list.

6
7 Mr. Twomey stated that he wished to address one topic that NDCAP does not need to get into at this
8 time and to clear up any public confusion. Mr. Twomey stated that at this time there is no agreement
9 between Entergy and NorthStar with respect to the Pilgrim facility and that it is very uncertain as to
10 whether or not there will be a transaction in the future. If such a deal were to happen there would be
11 appropriate notifications to NDCAP.

12
13 Mr. Flores suggested that NDCAP should hold one or more meetings down on the Cape because there
14 are a lot of groups outside of Plymouth that have been very active in looking at Pilgrim. Mr. Flores
15 offered to arrange for the use of Barnstable Town Hall if the group is amenable to holding a meeting
16 there. Co-Chair Mullin stated that he thought it was a great idea. Mr. Smith stated that it was
17 appropriate for the meetings to be held in Plymouth because it is the host town for the plant and a
18 majority of the NDCAP members are from Plymouth or have an interest in Plymouth. Mr. Flores
19 disagreed and stated that depending upon which way the wind is blowing, other communities would be
20 affected if there was an incident at the plant. He added that it would not be out of order to hold at least
21 one meeting outside of Plymouth. Mr. O'Reilly stated that he would not be opposed to holding a
22 meeting outside of Plymouth. Mr. Grassie pointed out that the legislation did not limit meetings to the
23 Town of Plymouth. Ms. Casey stated that NDCAP was a panel for the entire Commonwealth, reporting
24 to the Governor and legislature, and it should not be limited by geography. Co-Chair Mullin called for a
25 motion that a meeting should be held at a date to be named later on the Cape. It was so moved,
26 seconded, and approved by a majority of the panel members present.

27
28 Mr. Nichols suggested that NDCAP members tour the Pilgrim facility. Mr. Twomey stated that Entergy
29 could accommodate a tour for panel members but that it could not conduct a tour for all 21 members at
30 once. Mr. Twomey stated that he would delegate responsibility for setting up those tours to Entergy's
31 Government/External Affairs Manager, Joseph Lynch. Mr. Coughlin stated that the Plymouth/Entergy
32 work group had a tour of the Pilgrim facility and it was very helpful. Ms. Casey pointed out that
33 compliance with the Open Meeting Law would need to be taken into consideration when scheduling
34 those facility tours. Mr. Twomey agreed with Ms. Casey and noted that the facility tours would need to
35 be less than a quorum of NDCAP members each time.

36
37 Ms. duBois stated that at the 6/21 meeting there was a motion to seek an advisory opinion from the
38 Attorney General as to whether the Open Meeting Law would apply to the sub-panels (Working
39 Groups). That vote was 9 in the affirmative, 6 in the negative, and 3 abstentions. Ms. duBois noted that
40 under Robert's Rules of Order abstentions do not count as votes and therefore the motion should have
41 carried. Co-Chair Mullin stated that Chapter 188 of the Acts of 2016 § 14 provides that NDCAP shall act
42 only by vote of a majority of its entire membership (i.e., 11 votes) and the statutory directive trumps
43 Roberts Rules of Order. Co-Chair Mullin stated that NDCAP may want to revisit the issue of whether or
44 not to seek an advisory opinion in light of several issues that had been raised at the meeting (i.e., the
45 number of Working Group meetings, posting/minutes requirements, touring the Pilgrim facility, etc.).
46 Co-Chair Schwartz offered to speak with MEMA's General Counsel about Open Meeting Law issues and
47 to contact the Attorney General's office for informal guidance as needed. Mr. Twomey stated that he
48 read the Open Meeting Law and that it seems to be very clear that when there is a quorum of 11

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1 members the Open Meeting Law applies. Co-Chair Schwartz stated while that is true for the main
2 NDCAP group, there is also the separate issue of a quorum of a Working Group (as a public body in its
3 own right) being subject to the Open Meeting Law (i.e., properly noticed public meeting, recorded
4 minutes, etc.) when it is deliberating on NDCAP matters. Mr. Coughlin stated that his understanding is
5 that the Working Groups would be subject to the Open Meeting Law. Co-Chair Mullin stated that Co-
6 Chair Schwartz would look into the issue and report back at the next meeting. Senator Wolf asked
7 whether it was the intent that the Working Groups would vote on issues and if so that should be
8 communicated to the Attorney General when seeking an opinion. Co-Chair Mullin stated that members
9 of the Working Groups are going to vote on who will Chair the individual Working Groups.

10
11 Mr. Coughlin stated that additional topics had been identified that were not on the latest list and
12 offered to go through, compare, and provide an updated list to the Co-Chairs.

13
14 **PUBLIC COMMENT ON POSSIBLE TOPICS:**

15 Ms. Elaine Dickenson asked how it was going to be determined who is on each Working Group. Co-Chair
16 Mullin stated that any member of NDCAP may serve on a Working Group. Ms. Dickenson asked if the
17 names of the Working Group members would be posted to the website. Co-Chair Mullin said that could
18 be done once it is all put together.

19
20 Ms. Diana Price suggested NDCAP take into consideration a phased-in/sequential approach to creating
21 the Working Groups rather than having several Working Groups working in parallel. The first phase of
22 Working Groups would be tasked with working on more time sensitive issues first.

23
24 Mr. Rothstein recommended the “Clean-up Standard” as an area of focus for NDCAP.

25
26 **WRAP UP AND ADJOURN:**

27 Co-Chair Schwartz requested that members of the public e-mailing comments to NDCAP keep them
28 respectful and civil.

29
30 There was a motion to adjourn and it was seconded.

31
32 ***Meeting adjourned at approximately 8:04 p.m.***

33
34 **DOCUMENTS USED AT MEETING:**

- 35
- 36 • Chapter 188 of the Acts of 2016 § 14 Excerpt (NDCAP Duties)
 - 37 • Typical Draft NDCAP Meeting Agenda
 - 38 • Draft NDCAP meeting schedule
 - Draft List of Possible Sub-committees and Ground Rules