

**MINUTES OF THE
CAPE COD WATER PROTECTION COLLABORATIVE
Governing Board Committee
December 14, 2016**

A meeting of the Cape Cod Water Protection Collaborative was held on December 14, 2016 at 9:00 a.m. in the Strategic Information Office, Innovation Room, 3195 Main Street, Barnstable, MA.

Members:

Barnstable	Jessica Rapp Grassetti	Absent
Bourne	Stephen Mealy	Present
Brewster	Ryan Bennett	Present (arrived at 9:10 a.m.)
Chatham	Florence Seldin	Present
Dennis	Paul McCormick	Absent
Eastham	Jane Crowley	Present (arrived at 9:10 a.m.)
Falmouth	Susan Moran	Present
Harwich	Larry Ballantine	Present
Mashpee	Tom Fudala	Absent
Orleans	Sims McGrath	Present
Provincetown	Vacant	Vacant
Sandwich	Frank Pannorfi	Present
Truro	Patricia Pajaron	Present
Wellfleet	Curt Felix	Present (arrived at 9:11 a.m.)
Yarmouth	Jeffrey Colby	Present
County Appointee	Lindsey Counsell	Present
County Appointee	Vacant	Vacant
Ex-officio member	George Heufelder	Absent
Ex-officio member	Paul Niedzwiecki	Present

Staff Present:

Andrew Gottlieb	Executive Director
Gail Hanley	Cape Cod Commission

1. Minutes of November 9, 2016

Florence Seldin moved to approve the minutes of November 9, 2016. Stephen Mealy seconded the motion. With nine members voting a vote called on the motion to approve the minutes passed with 8 votes in favor and one abstention (Frank Pannorfi).

2. Board Member Reports on Town Water Resource Issues

• **Town of Falmouth** – Susan Moran: The water filtration plant and sewer project is nearing the end on time and on budget; the town received a \$75,000 grant to fund Phase 2.

• **Town of Harwich** – Larry Ballantine: The town is still in discussion with Chatham on the IMA, Harwich made a proposal with Chatham and they will be meeting on Monday night; they will have a Town Meeting warrant article for \$30 million to

start the process and the money will be spent over a five to eight-year period; Hinckley Pond people are asking for funds for cleanup.

- **Town of Truro** – Patricia Pajaron: Nothing new to report on wastewater, the Army Corp of Engineers (ACOE) is starting a data collection on Pamet River.
- **County Appointee** – Lindsey Counsell: Barnstable’s advisory committee looked at the IMA between Sandwich and Mashpee and they are looking to move it forward.
- **Town of Yarmouth** – Jeff Colby: There will be a public meeting this afternoon at 2:00 pm at the Dennis Senior Center on total maximum daily loads (TMDLs) for Parker and Bass Rivers.
- **Town of Wellfleet** – Curt Felix: The town is in the process of trying to budget a water management position on the wastewater side and water system. Florence Seldin inquired about the Herring River project. Mr. Felix said overwhelmingly the town supports the project but the abutters question what they can get from it. He said the team managing the project is exceptional.
- **Town of Sandwich** – Frank Pannorfi: The water quality review committee is in the final phase of completing their plan and they hope to have a report by August 2017; they will now start meeting with the town manager and financial staff to begin discussions about methods of betterment; they are finalizing the IMA with Mashpee and Barnstable.
- **Town of Bourne** – Stephen Mealy: Two grants were awarded to the town which are being postponed until next year; Town Meeting passed an override for the school and police station; they are making progress in Bourne.
- **Town of Chatham** – Florence Seldin: The first phase of their construction plan is finished; the Board of Health (BOH) is in the process of issuing connection orders; Phase 1B and 1C of construction have been completed, the BOH issued mandatory connection orders which gives residents a year to hook up and it’s an ongoing process. Bob Duncanson said the BOH regulation allows people to request an extension and they have approximately 40 requests for extensions, in most part they have been granted and they will be looking at the regulation regarding timeframes. Florence Seldin referred to the issue of water usage the town experienced over the summer and said at that time voluntary conservation measures were in place but it didn’t work so the town is thinking about more mandatory measures for water usage.
- **Town of Eastham** – Jane Crowley: They are dealing with hookups on water supply, they’ve had 20 plus homes hookup, they are getting snowed under with requests from homeowners to keep their existing wells for non-potable use; the solid waste division doesn’t want further circulation of contaminated water downgradient; people need to ask for a variance which will be looked at carefully and this has become a huge undertaking; the mandatory area is paid for by the town and if people want to keep their wells they have to pay for that; they received a grant from the CCWPC for a permeable reactive barrier (PRB) in Eastham and they continue to work on strategies for shallow ponds.
- **Town of Brewster** – Ryan Bennett: They continue to work on a strategy on phosphorus impacts on ponds; the Board of Health regulation has received pushback so it has been tabled at the moment; they are requesting funds from the CCWPC; and the stormwater regulation has been tabled as well.
- **Town of Mashpee** – Andrew Gottlieb: They have reached a roadblock regarding the IMA with Barnstable and Sandwich and they continue to have discussions on that.

- **Town of Orleans** – Sims McGrath: A special Town Meeting approved the \$3.28 million to continue the planning process, they are looking for a 25% design for the downtown area and they have a very aggressive timeline; they installed a permeable reactive barrier (PRB) in the middle school parking lot, they are just starting with that pilot project, and they also have a pilot project with mature oysters from Falmouth.

Chair Sims McGrath asked Paul Niedzwiecki, Executive Director of the Cape Cod Commission, if he wished to provide an update on the Section 208 Plan. Paul Niedzwiecki said the watershed reports continue and the Commission is looking at several towns that might have wastewater plans for town meeting.

3. Executive Director's Report

Andrew Gottlieb said moving contracts through the system has become an unexpected challenge and the County Counsel now needs to review all contracts and several other contracts are going through a thorough review. The contract for the Provincetown Center for Coastal Studies did not get signed. He said this is the third and final year of the first contract with the Provincetown Center for monitoring in Nantucket Sound. The work is done and even though the contract expires in April, it's substantially complete and he authorized final payment. He said as of today the County has no monitoring contracts with anyone in any waters on any side of the Cape. He said it's asserted that it will be revisited in January by the new board but he has no idea what the outcome is going to be. He said the new contract was written to encompass Nantucket Sound, Buzzards Bay and Cape Cod Bay and he was pushing it forward using the County appropriation of \$250,000. He said it made sense to move it ahead to give them time to mobilize in the spring. He said right now there is nothing and it will interfere with the coordination and collection of samples beginning in April 2017. He said everything they paid for has been provided to date; the reports and database has been provided. He said one of the reasons behind this was to avoid gaps. He said he does not know how it will play out in January.

4. Discussion of Fiscal Year 2018 Budget Request and Ratification of Submission

Andrew Gottlieb said the budget process as it pertains to the CCWPC has been suboptimal. He said he submitted a budget and he was neither told the schedule for the budget submission nor provided any guidance by the budget director despite numerous requests and, ultimately, at the end of the day was simply told to use his best judgement to formulate a budget. He said he didn't see the form, he didn't see the guidance, and he didn't see the priorities. Mr. Gottlieb said he submitted the budget last Tuesday/Wednesday with the idea that he would bring it back to the CCWPC Governing Board for ratification and because he did not know what the schedule was and he could not get it to the Governing Board before it was due, as he was not told when it was due. He said he proposed a level-funded budget from what the level of effort has been in fiscal 2017. He said it's not the same thing as a level-funded budget from an appropriation point of view. He said the reason there is a difference is that for this current year they proposed back a year ago in December that they wanted a \$502,000 budget. He said at that time the County Commissioners took that recommendation and cut out the \$150,000 for municipal support projects which was a 30 percent cut when the average department took a 9 percent cut last year. He said they ultimately took the appropriations cut so they ended up with an appropriation for this fiscal year of \$352,000. He said they negotiated a carryover of \$150,000 from an unencumbered prior year's funds so that the municipal services function could be funded at the same level and said it just didn't come out of fiscal 2017 funds. He said they took a hit but they were allowed to spend at the same level. He said the budget he is now proposing from the budget director's point of view is a \$150,000 increase because he is proposing to continue to provide that function. Mr. Gottlieb said he has had discussions with the County about allowing them to retain some unexpended encumbrances so that they wouldn't have to appropriate money but he did not receive a response to that conversation. He said he didn't want to hold the towns up so he put in a payment as he was waiting for the unexpended encumbrance. He said that will show an increase in appropriation as there doesn't seem to be any interest in allowing a carryover again. He said he believes that if the County matches in fiscal 2018 the \$250,000 the CCWPC will continue to have access to the \$250,000 from the state. He said the rest of the budget is along the lines of what the CCWPC has done in the past to support those municipal projects, address

critical issues and also provide learning opportunities for other towns and sponsor communities for the work that is being done. He said this is his recommendation to the Governing Board. Mr. Gottlieb's FY18 budget request memo is attached to the minutes.

Susan Moran moved that the Governing Board ratify and propose the budget as presented. Curt Felix seconded the motion. A vote called on the motion passed with a unanimous vote.

Mr. Gottlieb said he will submit the budget to the County today as ratified by the Governing Board and he will find out the meeting date to discuss the budget proposal from the Commissioners sometime in January.

Larry Ballantine inquired about the schedule. Mr. Gottlieb said he hasn't seen it but typically the Commissioners meet during the month of January/February and meet with the individual departments, then they make a recommendation to the Assembly of Delegates later in February, the Assembly then has its subcommittee process that starts February/March and if approved it goes back to the Commissioners sometime in May for their consideration. Mr. Gottlieb said he will try to find the schedule.

5. Discussion and Acceptance of a Recommendation on the Future Disposition and Role of the Collaborative

Mr. Gottlieb distributed a draft letter and said he drafted the letter for the Governing Board to consider. He said the majority of the Commissioners have questions about efficacy of this group and the need for the position that he has occupied and they are having discussions about the future of the CCWPC. He said he drafted the letter as a starting point for the Governing Board to clarify its record of accomplishment over the last decade and also to make some suggestions on the best way for the entity going forward.

Chair Sims McGrath said this is the draft letter dated December 14, 2016 to the Barnstable County Commissioners.

Florence Seldin said she has read that one of the recommendations is that the CCWPC come under the direction of the director of the County Department of Health and said George Heufelder is no longer occupying that position and asked if someone else was in that position. Mr. Gottlieb said Sean O'Brien has been appointed as interim director. Sims McGrath said he fails to see how someone working under the health department could be a substantial advocate for regulatory reform and said they are charged with supporting the regulations as presented. Frank Pannorfi referred to the County Commissioners meeting on November 30 and said he was disturbed by the tone of one of the Commissioners and said that worries him; he said Mr. Gottlieb was very tolerant. Susan Moran said the letter is very important and hits on both fiscal issues and on the science. She suggested emphasizing the word "collaborative." She said the Collaborative represents the essence of the Cape and it parallels with the Cape Cod Commission and it works so well. She said it's an opportunity to express the identity of the Collaborative and the impacts of this body on tourism and economics. She said this will have great impacts on the Cape and she suggested adding a paragraph about outreach. Ms. Seldin referred to language in the last paragraph of the letter where it talks about supporting the 208 process and to achieve this the Collaborative should remain County funded but operationally assigned to the Cape Cod Commission. Larry Ballantine said the CCWPC is an independent body from the County and it's critical to have a group of town representatives who have a voice as an independent body. He said sharing information serves an important advisory role. Mr. Gottlieb said he made that recommendation because going forward a lot of benefit is to continue to provide the type of direct municipal input into the 208 implementation process that the Governing Board has been able to provide. He said one of the primary functions of the Collaborative is to continue to integrate with the 208 program that the Cape Cod Commission is running. He said it's important to have clarity on what the role and mission should be. He said he doesn't believe the Collaborative will get much support from the County and said over the years the Cape Cod Commission has provided support to Mr. Gottlieb and the CCWPC. He said from an operational point of view he believes the CCWPC would be in a better position with the

Commission, and that's not to say you're under the control of the Commission but to get support from the Commission and that would allow the CCWPC to function. Mr. Ballantine said that language should be clarified in the letter and Mr. Gottlieb said he would provide that language in the letter. He said he doesn't know what it means to assign County contracts to the Health Department as it has not been articulated, and he is not sure that it has been thought through. He said as an alternative to assignment to County Health the Board needs to put something forward that allows them to function better and enables the Board to continue to function effectively.

Jane Crowley said she is not directly involved in the County process and inquired about the rationale or discussions regarding improved operational performance and accountability and how assigning the CCWPC to the health department came about. Mr. Gottlieb said that was not discussed with or explained to him. Paul Niedzwiecki said what Mr. Gottlieb is trying to react to is a series of statements made by the current Board of County Commissioners and statements on the record by what will become the future County Board of Commissioners. He said Mr. Gottlieb is trying to give the Board his best advice on how the CCWPC can remain relevant. He said the County created this group 11 years ago to provide some leadership and did that by providing funding for a lot of the efforts going forward, and the Governing Board needs to remain relevant in that discussion. He said the Commission has tried to work with Mr. Gottlieb and provide as much administrative support as possible to make what the Governing Board does as valuable as it can be. He said this is a County board and the County Commissioners are going to have a discussion as a board and with the Assembly of Delegates regarding what they are going to do with it and to what extent. He said that how much of that discussion is public he does not know and said he can't answer the question of what the county board and assembly may recommend.

Mr. Gottlieb said what he has heard in the FY17 process is that one of the Commissioners proposed elimination of Mr. Gottlieb's position and proposed assigning responsibilities to County Health. Mr. Gottlieb said he lost that vote 2 to 1. He said it was proposed as part of the Commissioners' budget message to the Assembly, and the incoming Commissioner has made similar comments in his writings prior to the election. Mr. Gottlieb said he is responding to that and that only. He said he doesn't know what goes into it or what the plan is. Mr. Gottlieb said he has not been asked for any input or discussion nor has he been asked to get input from the CCWPC Governing Board into that process.

Florence Seldin said it's unclear and asked if the CCWPC goes under the CCC will the body exist but with no funding. Mr. Gottlieb said he has recommended that the County continue to fund all of it. He said there are two audiences here the Commissioners and the Assembly of Delegates and said the CCWPC needs to come up with an alternative pathway that gives people someplace else to go in the negotiation process. He said the limitation is that the Assembly can provide funds but they can't make the Commissioners hire someone; there is a limit to what the Assembly can do but that is all part of a larger conversation. Mr. McGrath said he has concerns that if it falls under health it seems like that is the most likely place to dwindle and fade into the shadows, whereas, if they receive operational support from the Commission it is far easier for the CCWPC to go on in a fashion similar to what it has done in the past and continue to be a relevant voice in the process.

Frank Pannorfi asked how close the health department was to the Cape Cod Commission with respect to the 208 program. Mr. Niedzwiecki said the Commission funded some of the research for the Test Center George Heufelder is running and they have had discussions about innovative alternatives which is a part of the 208 discussion. He said the challenges that the Commission is moving into are primarily funding and outreach, and then continued scenario design. Mr. Gottlieb said he recommends looking back at what has been successful, and looking at what's in the future and it's really the implementation side and realigning the CCWPC's primary functions in order to meet that challenge. Ms. Seldin suggested including that in the last paragraph of the letter. Mr. Ballantine inquired about CCWPC funds for 208 going forward. Mr. Niedzwiecki said one of the benefits to the 208 plan is County support through the CCWPC for funds for monitoring and said the monitoring component is critical. Mr. McGrath asked whether the Commission should be asked for a letter of support. Mr. Ballantine said he would suggest asking for further discussion if the letter from the CCWPC is not supported by the

County Commissioners. Ms. Seldin referred to the draft RFP and asked if that is for the Executive Director position. Mr. Gottlieb said his contract was due to expire on April 11, 2017 so months ago they had gone through the process to revise the RFP to get a new contract in place. He said that now remains relevant and said the County Commissioners need to make a decision whether they want to staff the CCWPC; in order to do the RFP would need to go out unless this is done under other duties as assigned to someone in the health or other department. Stephen Mealy said he took the liberty of meeting with the Commissioner elect and discussed the successes of the CCWPC and what it has done and he believes that the Commissioner elect is convinced that this is a worthwhile organization and it should not be part of the County Health Department. Mr. Mealy said we may have a better opportunity than what they think they have. Jane Crowley asked if there have been discussions about hiring freezes and budget constraints going forward. Mr. Niedzwiecki said there have been some discussions about hiring freezes and every department is preparing to take a 10% cut as the County continues to navigate through fiscally challenging times and there is a discussion now on how to achieve County goals. He said the CCC will continue to move forward and meet its responsibilities and obligations as they see fit - with the County's investment in wastewater or not. Mr. Ballantine suggested sending a copy of the letter to the Assembly of Delegates and Cape towns. Curt Felix suggested working into the letter that the Provincetown Center monitoring is a game changer in how towns do things and the lack of an agreement to do that may call into question the settlement and potentially open up the suit again. Mr. Gottlieb said the Plaintiff has the right if they are not happy with the process of implementation to petition the court to reopen. Mr. Felix said with no water quality data on which to judge performance, perhaps that could be mentioned in the letter. Mr. Gottlieb said he would not want to assert speculation about what might happen and Ms. Seldin agreed and said she would not do that. She said the letter is good, it shows what work has been done and what needs to be done going forward. Mr. Gottlieb said he would make revisions to the letter based on today's discussion and with the Board's approval ask Sims McGrath to sign as Chair.

Florence Seldin moved that the CCWPC Chair sign the letter as amended by today's discussion. Lindsey Counsell seconded the motion. A vote called on the motion passed with a unanimous vote.

Ms. Seldin inquired about the effective date of Mr. Gottlieb's resignation and Mr. Gottlieb said January 3. Frank Pannorfi extended his thanks and appreciation to Mr. Gottlieb for his work and contribution to the CCWPC. Mr. Gottlieb said it has been a very enjoyable process. Mr. McGrath wished Mr. Gottlieb the best and extended his appreciation. Susan Moran thanked Mr. Gottlieb for his expertise and political contacts both locally and statewide and said Mr. Gottlieb should be proud of his leadership to the CCWPC. Mr. McGrath said he will sorely miss Mr. Gottlieb's skills and important contacts.

6. Adjourn

The meeting adjourned at 10:15 a.m.

MATERIALS USED/PRESENTED AT THE DECEMBER 14, 2016 CCWPC MEETING:

- Handout material: December 14, 2016 CCWPC Meeting Agenda.
- Handout material: Memo from Andrew Gottlieb regarding FY18 budget request.
- Handout material: Draft letter to the Barnstable County Commissioners on the future disposition and role of the Collaborative.