

**MINUTES OF THE  
CAPE COD WATER PROTECTION COLLABORATIVE  
Governing Board Committee  
October 14, 2015**

A meeting of the Cape Cod Water Protection Collaborative was held on October 14, 2015 at 9:05 a.m. in the Cape Cod Commission Ocean Meeting Room, 3225 Main Street, Barnstable, MA.

**Members:**

Barnstable	Mark Ells	Present
Bourne	Stephen Mealy	Present
Brewster	Sue Leven	Present <i>(arrived at 9:10 a.m.)</i>
Chatham	Florence Seldin	Present
Dennis	Vacant	Vacant
Eastham	Jane Crowley	Absent
Falmouth	Susan Moran	Present
Harwich	Larry Ballantine	Present <i>(arrived at 9:10 a.m.)</i>
Mashpee	Tom O’Hara	Absent
Orleans	Sims McGrath	Present
Provincetown	Vacant	Vacant
Sandwich	Frank Pannorfi	Present
Truro	Patricia Pajaron	Present
Wellfleet	Curt Felix	Absent
Yarmouth	William Hinchey	Present <i>(arrived at 9:25 a.m.)</i>
County Appointee	Linell Grundman	Present
County Appointee	Lindsey Counsell	Present
Ex-officio member	George Heufelder	Absent
Ex-officio member	Paul Niedzwiecki	Present

**Staff Present:**

Andrew Gottlieb	Executive Director
Gail Hanley	Cape Cod Commission
Paul Niedzwiecki	Cape Cod Commission

**1. Minutes of September 9, 2015**

Lindsey Counsell moved to approve the minutes of September 9, 2015. Stephen Mealy seconded the motion. With nine members voting the motion passed with 6 votes in favor and 3 abstentions.

**2. Update on the Section 208 Regional Water Quality Plan Status and Next Steps**

Paul Niedzwiecki, Executive Director of the Cape Cod Commission said the 208 Plan has been certified by the Environmental Protection Agency (EPA) and they are now in the implementing stage. He said the next date as a milestone is July 1, 2016 for towns to report back with their one-year update. He said during the implementing stage their goal is to finish the Plan, create a regulatory program and permit process. He said the Commission is required to have regulations for adoption within 90 days of the certification. He said they are in the process of flushing out financial options, working out watershed reports and trying to work out priority watersheds by July 1, 2016. He said prior to July 1, they will be holding a conference

on alternatives and the technology matrix will be updated at that time. He said the EPA and Department of Environmental Protection (DEP) want to hold joint meetings with the Commission and towns between now and July 1 and the Commission is looking at January for a joint discussion regarding that. He said it would be good if the CCWPC in conjunction with the Cape Counsellor and Selectmen group could sponsor that.

Florence Seldin referred to watersheds and questioned whether towns would need to go to Town Meeting at the end for funding. Andrew Gottlieb suggested taking up item 6 on the agenda now as it is related to this discussion.

## **6. Discussion of Watershed Permitting Pilot Issues and Approach**

Andrew Gottlieb said Mashpee has gone through the MEPA process and is almost done with the Development of Regional Impact (DRI) process. He said the town has an interest in getting a watershed permit initially for Popponesset Bay and said it would develop what a watershed permit would look like. He said Mashpee would approach the state with an application for the shared watershed with Barnstable and Sandwich and Mashpee would be looking to get out of that a state-sanctioned umbrella for credit. He said Mashpee is moving ahead next Monday to begin implementing the program for a permit. He said the second major point they are looking for in a permit is a percentage of the share and how it's apportioned and work out agreements and responsibilities with the towns sharing the watershed. He said that is how Mashpee is looking at approaching the discussion.

Sims McGrath said Orleans is taking a different approach. Mr. Gottlieb discussed the costs that Mashpee is looking at. Frank Pannorfi inquired about commonality of terms being used and asked if there was something that exists explaining the terms. Paul Niedzwiecki said there is a glossary of terms in the 208 Plan that should also be updated as they go along. Florence Seldin asked if the three towns (Mashpee, Barnstable and Sandwich) have agreed on the load. Mr. Gottlieb said not as yet; there are a couple of different ways of dividing up the load. Ms. Seldin said if Mashpee is going to be a model there needs to be commonality. Mr. Gottlieb said there is an approach to this in the 208 Plan and watershed partners could go to the state and tell them how they have worked it out or possibly towns could not come to an agreement. He said if that is the case the state could assign a certain amount of the load to towns. Mr. Niedzwiecki said the 208 Plan allocates loads in shared watersheds. He said if only one town comes forward it does leave the rest of the load allocated to other towns that haven't come forward. He said the Commission is now in the process of looking at how to allocate loads.

Gerry Potamis, Wastewater Superintendent in Falmouth, asked if there was a plan in place to give someone in Mashpee the authority to require stricter numbers than what the Board of Health already has. Mr. Gottlieb said they will have an internal process in place to meet their targets. He said that is something everyone will have to think about for future loads.

Sue Moran inquired about partnerships and their shares. Mr. Gottlieb said watersheds have to provide a community with protection from neighboring communities that are in violation of complying. He said there needs to be a provision for dispute resolution between communities. Florence asked if monitoring is built into the plan. Mr. Gottlieb said the permit would have five-year reviews. Frank Pannorfi asked how often the DEP looks at TMDLs that have been established. He said they are all at different levels as communities and he asked what organization would be encouraging communities to stay up-to-date. Mr. Gottlieb said the CCWPC serves as an education entity and ongoing support would be provided by the Commission with technical assistance. He said it will be a challenge and it will be a re-education process. He said regarding TMDLs there is a biennial review of non-conforming waters in theory every two years someone would be looking at that and would determine if waterbodies could come off the list or stay on the list. He said there is a process for this. Stephen Mealy referred to Popponesset Bay being the model and asked if templates would come out of that and asked where the Conservation Law Foundation (CLF) stands with this. Mr. Niedzwiecki said yes there would be templates. He said in regard to the CLF the final count of the lawsuit has been dismissed and CLF has said they will not challenge TMDLs in place right now but that could change in the future. Mr. Gottlieb said he would report back to the CCWPC with information. He said

Mashpee is going to pursue this and sees it as an opportunity to see what works and what doesn't work. Mark Ells said Barnstable is a participating community with Mashpee and it would be good to vet the process at CCWPC meetings. Mr. Gottlieb said certain issues will be common to every town and other towns can look at what Mashpee has done. Stephen Mealy said protection enforcement should be added.

Florence Seldin asked how 20% of the 53 watersheds would be determined annually. Paul Niedzwiecki said in the 208 Plan it's based on water quality. He said they are not going to limit the number at 20% but it's the goal. He said in the first year it won't be a problem. He said in Mashpee it will be watershed by watershed. He said the Commission has notified towns to have a point person in place. He said he believes they will have enough responses in the first year and this will all be mapped so people can see what is happening and where. He said enforcement under the 208 Plan can come from a number of places. He said the DEP can come forward to enforce but individual towns also have tools to enforce as there are local options as well. He said every scenario enforcement action may vary.

### **5. Discussion of Falmouth Municipal Support Request**

Anastasia Karplus, Technical Consultant, said Falmouth is requesting support from the CCWPC to fund a project to review the Quashnet River and Moonakis River sub-embayment. She said this is a shared watershed as it's in Falmouth but it impacts Mashpee as well and it's in their CWMP. She said they are requesting \$43,000 and asking CCWPC to fund part of it and Falmouth and Mashpee will provide money as well. She said this will allow them to do additional watershed planning in Waquoit Bay.

Chair Larry Ballantine said he believes the work for this project should be funded and today the CCWPC will be voting to approve funding this and how much. Frank Pannorfi inquired about the concern in the estuary. Ms. Karplus said the concern is flushing. Florence Seldin asked how much Falmouth and Mashpee are willing to support this. Ms. Karplus said the towns are very supportive. She said originally they talked about the CCWPC supporting 50% or \$25,000 and Mashpee and Falmouth providing the other 50%. Sims McGrath asked for clarification on the objective and what types of estuaries would this help. Ms. Karplus said the project will determine whether there is occlusal tidal exchange; if there is an occlusion or dampening of what the natural tide should be. She said it would help as it applies to the upper reaches of estuaries that have a stream input and demonstration projects are very educational. Linell Grundman said partnerships are important and it's an opportunity to create partnerships in towns. Mark Ells asked if there was a timeline for this and said he would have a timeline for Falmouth and Mashpee to provide funds. Ms. Karplus said they would like to start in the spring or as soon as funding starts; she said it would be a 12-month project. Sue Leven asked how much CCWPC money is available; she said two towns are partners in this and CCWPC could be a partner as well and suggested splitting the dollar amount three ways instead of 50/50. Florence Seldin agreed with Ms. Leven's suggestion instead of \$25,000 and said it's important that the towns provide more funding. Ms. Grundman said she was thinking more around \$20,000.

Sims McGrath moved that the CCWPC appropriate \$20,000 to fund the project and if the towns have not participated by June 1, 2016 then the money would be used for something else. Linell Grundman seconded the motion. A vote called on the motion passed with a unanimous vote.

### **3. Reports from Governing Board Town Representatives**

- **Town of Harwich** – Larry Ballantine: The main effort is to find a recharge site otherwise the Water Advisory Committee is moving forward; the hardest part of the Muddy Creek construction is getting utility out there, the public debate has been about traffic, and they expect completion by Memorial Day 2016.

- **Town of Orleans** – Sims McGrath: The town has hired A.E. COM to do work and make recommendations on the downtown area for nonstructural responses and how to amend their CWMP.
- **Town of Chatham** – Florence Seldin: The town is preparing contracts to resume sewer projects in the spring.
- **Town of Sandwich** – Frank Pannorfi: Dr. Howes did a report on Scorton Creek and Wright Pierce can now move forward on the CWMP; things have changed at the Marina area and the Water Quality Advisory Committee will be meeting soon to go over plans and changes; regarding the beach issue on Friday Land Court heard both sides for two hours and the judge has promised to let parties know his decision by October 21.
- **Town of Truro** – Pat Pajaron: Truro continues to move forward on Phase 2; they have been looking at condominiums and impacts; they have been engaged with the ACOE on Balliston Beach and Pamet River restoration.
- **Town of Barnstable** – Mark Ells: Barnstable is one of the three towns along with Mashpee and Sandwich that will be involved with the watershed permitting in Popponesset Bay.
- **County Appointee** – Linell Grundman: As the County appointee she will start attending meetings of the Clean-Up Committee at MMR.
- **Town of Bourne** – Stephen Mealy: Bourne has been invited by the Buzzards Bay Coalition to submit a proposal for a “Multi-Community Partnership to Reduce Nitrogen in Upper Buzzards Bay,” and proposals are due on November 6, 2015; the Town Administrator has assigned Terri Guarino, Bourne Health Agent, to be the contact person for the 208 Plan; the town’s override failed in the October 6 election by 34 votes, the general government side of the budget will be reduced by \$400K for the remaining six months and an additional \$1 million next year; they continue to make progress with the 208 Plan and addressing their sewerage needs; they have two new hotels in the planning stages one on Perry Avenue and the second on Main Street, they have exhausted all but 17,000 gallons per day (GPD) of their allotment from Wareham, they have approval for 100,000 GPD disposal for a wastewater treatment plant and they are now trying to pull together the estimated \$180K for design and permitting.
- **County Appointee** – Lindsey Counsell: The Three Bays Preservation group met and Scott Horsley gave a presentation; tonight they are hosting a meeting/presentation through the Cape Cod Commission and Mahesh Ramachandran, Environmental Economist at the Commission, will be doing a presentation on alternative plans.
- **Town of Falmouth** – Susan Moran: Rebecca Moffitt gave a comprehensive report at the September meeting; there is a petition on grinder pumps by residents who want the town to pay for the cost of maintaining grinder pumps on approximately 700 properties, the petition article will be on the Town Meeting warrant in November, the selectmen did not recommend the article, five or six other communities are studying this and Falmouth is looking into this to work it out.
- **Town of Brewster** – Sue Leven: The town submitted important parts of their plan to the Cape Cod Commission and the DEP in June; they requested funds through the DLTA grant program to develop a framework for a regional shellfish management plan for Pleasant Bay; the goal is to work with the four towns in the watershed to reduce nitrogen and evaluate allocation; they are proposing to develop a whitepaper for use by the four watershed towns to identify key issues with shellfish management and how to best utilize this alternative to improve water quality.

#### **4. Executive Director's Report**

Andrew Gottlieb reminded Board members of the International Oyster Symposium taking place next Wednesday and Thursday at the Sea Crest Hotel in North Falmouth. He said he would forward the invitation to Board Members.

#### **7. Adjourn**

The meeting adjourned at 11:00 a.m.

#### **MATERIALS USED/PRESENTED AT THE October 14, 2015 CCWPC MEETING:**

- October 14, 2015 CCWPC Meeting Agenda.
- Draft Minutes of the September 9, 2015 CCWPC meeting.