

MEETING MINUTES
CAPE COD AND ISLANDS WATER PROTECTION FUND MANAGEMENT BOARD
BYLAWS AND REGULATIONS COMMITTEE
February 27, 2020 Meeting

Committee Members:

| | | |
|-------------------------|------------|-----------------------------|
| Rae Ann Palmer | Truro | Present |
| Mark Ells (Chair) | Barnstable | Present (departed at 11:48) |
| Andrew Gottlieb | Mashpee | Present |
| Ben deRuyter | Brewster | Present |
| Don Howell (Vice Chair) | Harwich | Absent |

Others Present:

| | |
|-----------------|-------------------------------------|
| Kristy Senatori | Cape Cod Commission |
| Erin Perry | Cape Cod Commission |
| Gail Coyne | Cape Cod Commission |
| Gary Moran | MA Dept of Environmental Protection |
| Maria Pinaud | MA Dept of Environmental Protection |
| Brian Dudley | MA Dept of Environmental Protection |
| Nate Keenan | MA Clean Water Trust |
| Bud Dunham | Sandwich |
| John Giorgio | KP Law |
| Gareth Orsmond | Pierce Atwood |

Summary of Discussion/Action Taken: Committee members met with staff from the MA Clean Water Trust and MA Department of Environmental Protection to discuss eligibility of a variety of projects for State Revolving Fund Loan financing.

Mark Ells called the meeting to order at 10:36am

Andrew Gottlieb moved to approve the January 8, 2020 meeting minutes. Rae Ann Palmer seconded the motion and the minutes were unanimously approved.

Mr. Ells moved to the discussion with MA Department of Environmental Protection (DEP) and the MA Clean Water Trust (Trust). Gary Moran introduced himself and his colleagues and thanked the committee inviting the department to speak with them. He noted that these conversations should be ongoing moving forward and that DEP looks forward to assisting communities, as appropriate. He noted that this is new territory for the region, as well as the state agencies, and that he believes there is flexibility in funding non-traditional projects.

Kristy Senatori summarized activities since the last committee meeting. She noted that Cape Cod Commission (Commission) staff had several conversations with some of the towns, DEP, and the Trust to better understand the types of projects being considered and gather questions and responses in preparation for today's meeting.

Mr. Moran noted that all projects must be consistent with the Cape Cod Area Wide Water Quality Management Plan (208 Plan) to obtain State Revolving Fund (SRF) loans.

Mr. Ells noted that Barnstable typically makes requests through SRF for large construction projects, but some of the smaller towns may make requests for SRF loans for planning or non-traditional projects. These smaller communities are less familiar with the process.

John Giorgio noted that language in the Act appears to expand the scope of eligible water pollution abatement projects and asked if alternative septic systems are eligible. Nate Keenan responded that the language does not define all that can be funded, and that federal law allows the Trust to fund a wide range of projects. Mr. Moran added that the categories specified in the Act are consistent with SRF regulations, which specify that non-point source projects, nutrient management, stormwater projects, green infrastructure, and innovative projects are eligible. Maria Pinaud added that the type of project is not the most important part of an application, as opposed to the problem being addressed.

Ben deRuyter asked about eligibility of permeable reactive barriers (PRBs), municipal septic, innovative alternative septic systems, and nitrogen trading. Mr. Moran responded that PRBs, municipal septic systems, and private septic systems are eligible. For private septic systems, DEP would want to see that this strategy was part of an overall town plan and is capable of solving the problem. A nitrogen trading strategy would warrant additional points during DEP evaluation but would need to be tied to a specific project.

Mr. Giorgio asked if the Trust is limited by the grant they receive from the federal government and Mr. Keenan responded that the fund has matured to the point that the Trust feels confident they can fund more than they currently fund annually, which is about \$500 million.

Mr. deRuyter asked about the SRF process. Mr. Ells responded that projects are submitted to SRF for evaluation and if the project is eligible then moves through the process. The applicant may receive a no or low interest loan, plus principle forgiveness from the Trust. Then, concurrently, a project subsidy would be awarded consistent with the Water Protection Fund (Fund) regulations.

Ms. Palmer asked about a 40-unit affordable housing project that requires an innovative/alternative septic system. Andrew Gottlieb responded that the intent of SRF is to abate existing flow and nitrogen load.

Mr. Keenan and Ms. Pinaud described the timeline for SRF funds. Each June a solicitation is issued for projects. Project Evaluation Forms are due in August. DEP ranks projects based on established criteria. The Intended Use Plan gets published for public comment and once final, borrowers are notified that they can start submitting their applications. Projects that receive financing must be ready to proceed within the schedule and Town Meeting must vote to borrow the funds prior to June of the year the IUP is published.

Mr. Giorgio asked if a small town has went through this process without a consultant and Ms. Pinaud responded that they would need a consultant to design the project, but that DEP will assign a staff

engineer who can provide technical assistance through the entire process. Mr. Moran also noted that consultant costs can generally be included in the loan.

Mr. deRuyter asked if the Fund would eventually result in less principle forgiveness from the Trust and Mr. Keenan said no, that the principle forgiveness offered by the Trust and the subsidies provided by the Fund are completely separate.

Mr. Giorgio noted that several towns are considering leaving the Fund and Mr. Keenan responded that the approach would be short sighted. He provided an example, the Trust is financing the town of Goshen, which has minimal full time town staff, a part time treasurer, and is completed a land fill cap for a couple hundred thousand dollars. He noted that the Cape towns can take advantage of SRF regardless of their size.

Mr. Ells asked if there is capacity to allow for more participation in the Barnstable County Septic Loan Program and Brian Dudley responded that the funding was originally for upgrades and replacements as a result of septic failure. Mr. Keenan said that there is a lot of money in that loan fund currently. Ms. Pinaud noted that loan fund would require some modifications to expand beyond septic failures.

Mr. deRuyter noted that private systems are the biggest strategy for Brewster and asked if the bigger towns represented in the room would have any eligibility concerns. He also asked what questions they would be asking.

Mr. Gottlieb said he would consider some combination of participation through the County Loan Program and SRF. He also noted that Barnstable County as the borrower isn't eligible for 0% interest. If the town is the borrower they are. There is the potential for the town to go through SRF and act in a similar capacity as Barnstable County, and then pass it on to residents.

Mr. Dudley noted that part of the problem for Brewster is that no systems meet the required nitrogen reduction targets there. He suggested nitrogen trading is an option for them. Mr. Moran and Mr. Keenan noted that the SRF loan could be provided to the town implementing the infrastructure and that town could have an agreement with neighboring town(s) regarding repayment that bond counsel signs off on.

At 11:48 am the committee voted unanimously to allow Mr. Gottlieb to assume chair responsibilities, as Mr. Ells needed to leave the meeting.

Mr. Moran noted that many projects are eligible for SRF and that the best course of action for a town to take is to reach out to DEP. Ms. Senatori offered technical assistance from the Commission as well, said that we can work with communities to evaluate their projects for 208 consistency, and can work with them and DEP.

Bud Dunham noted it might be helpful for the Management Board to maintain a list of eligible projects. Mr. Gottlieb noted it could also be helpful to include a preamble to the regulations that documents today's conversation.

The meeting adjourned at 12:02 pm.