

MEETING MINUTES
 CAPE COD AND ISLANDS WATER PROTECTION FUND
 Management Board Meeting
 May 14, 2019

Member Town Representatives:

Barnstable	Mark Ells	Present
Bourne	James Potter	Absent
Brewster	Ben deRuyter	Present
Chatham	Bob Duncanson	Present
Dennis	Sheryl McMahon	Present
Eastham	Jacqueline Beebe	Present
Falmouth	Peter Johnson-Staub	Present
Harwich	Don Howell	Present
Mashpee	Andrew Gottlieb	Present
Orleans	Kevin Galligan	Present
Provincetown	Josee Young	Present
Sandwich	George "Bud" Dunham	Present
Truro	Rae Ann Palmer	Present
Wellfleet	Justina Carlson	Absent
Yarmouth	Tracy Post	Absent

Non-voting Ex-officio Members:

Cape Cod Commission	Kristy Senatori	Present
Martha's Vineyard Commission	Adam Turner	Present
Town of Nantucket	Elizabeth Gibson	Present

Martha's Vineyard Towns' Liaisons:

Aquinnah	Megan Ottens-Sargent	Present
Chilmark	Joan Malkin	Absent
Oak Bluffs	Gail Barmakian	Absent
Edgartown		
Gosnold		
Tisbury		
West Tisbury		

Others present:

Gail Coyne	Cape Cod Commission
Erin Perry	Cape Cod Commission
Maria McCauley	Cape Cod Commission
Gary Moran	MassDEP
Millie Garcia-Serrano	MassDEP
Steve McCurdy	MassDEP
Nate Kennan	Massachusetts Clean Water Trust

Marie Pinaud	MassDEP
Gareth Orsmond	Pierce Atwood
Brian Dudley	MassDEP
Brian Tubritt	Town of Nantucket
Geoff Spillane	Cape Cod Times
Leslie Sandberg	Senator Cyr's office
Daniel Santos	Town of Barnstable

Kristy Senatori, executive director of the Cape Cod Commission, called the meeting to order at 10:09 a.m. She welcomed everyone to the first meeting of the Cape Cod and Islands Water Protection Fund (CCIWPF or Fund) She explained that the Cape Cod Commission and the Martha's Vineyard Commission will serve as staff support for the Board. Martha's Vineyard Commission staff will assist when Vineyard towns join the board.

Ms. Senatori provided a brief overview of the agenda and asked members to introduce themselves.

Ms. Senatori said the first order of business was the nomination, followed by a vote to elect, a chair and vice chair for a term of one year. Any of the 15 Cape town members can serve.

Andrew Gottlieb nominated Bud Dunham as chair, seconded by Kevin Galligan and unanimously approved.

Andrew Gottlieb nominated Kevin Galligan for vice-chair, seconded by Peter Johnson-Staub, and unanimously approved.

Mr. Dunham thanked everyone for the nomination of chair.

Mr. Dunham introduced the next order of business, participation by non-member communities. He explained that the Nantucket and Martha's Vineyard are not members of the Fund, this may change in the future, but the board can vote to authorize communities from Dukes and Nantucket Counties to participate on a non-voting basis. When the island towns have an approved 208 plan or similar designation, they will have the opportunity to join. Mr. Johnson-Staub made a motion to allow non-member communities to participate on a non-voting basis for one-year terms, seconded by Mr. Gottlieb and unanimously approved.

Mr. Dunham welcomed Senator Julian Cyr, Cape and Islands District, and Representative Sarah Peake, 4th Barnstable District and recognized their dedication and hard work to establish the CCIWPF.

Senator Cyr thanked everyone who made the establishment of the Fund possible.

He explained that the Fund came out of the Cape Cod Commission led 208 Plan and the Commonwealth's commitment to implement the plan. The CCIWPF is the culmination of over two years of work by the Cape delegation and municipal stakeholders, the business community and environmental organizations. He said he was excited to see participation from the island communities and their active engagement in the process. In crafting the legislation, they did not want to leave the islands out as they face similar water quality challenges. Senator Cyr thanks Adam Turner, executive director of the Martha's Vineyard Commission, and Elizabeth Gibson, town manager for the town of Nantucket, for attending the meeting.

Representative Peake congratulated and thanked members for agreeing to serve on the CCIWPF Management Board. She said the real work and opportunities begin with the Board. The entire Cape Delegation were involved in the drafting and selling of the Fund to leadership and colleagues at the State House.

Representative Peake said the CCIWPF was established to provide towns a funding method separate from betterments and real estate taxes to give communities financial relief. She told members that the revenue generated during 2019 would not be indicative of the revenue the Fund would receive in future years. Since the legislation starts on July 1, 2019, it is only collecting taxes from transactions recorded from that moment on. Short term rentals made prior to the July 1 start date will not be affected.

Senator Cyr said the CCIWPF is still being tweaked, most recently supplemental budget clarifications were made based on feedback from towns. Further revisions will be made when island towns join the Fund.

Senator Cyr and Representative Peake thanked both MassDEP and the Trust for their part in the establishment and running of the CCIWPF.

Mr. Dunham thanked Senator Cyr and Representative Peake for their hard work in establishing the Fund.

Mr. Dunham introduced the next agenda item, a presentation by the MassDEP and the Trust on the process for municipalities to borrow money from the Trust, including applying the process to apply for State Revolving Fund loans and listing projects on the Massachusetts Clean Waters Intended Use Plan.

Gary Moran, Deputy Commissioner of the MassDEP, introduced his staff in attendance: Steven McCurdy, Acting Chief Financial Officer; Maria Pinaud, Acting Director of Municipal Services; David Johnston, Deputy Regional Director, Bureau of Water Resources; and Millie Garcia-Serrano, Regional Director of MassDEP's Southeast Regional Office.

Mr. Moran thanked Senator Cyr and Representative Peake for their work in establishing the CCIWPF. He said the water quality challenges facing the Cape needs a regional solution. The water quality issue should not be looked at town by town but regionally. Potential projects should be reviewed for their long-term benefit to the region

Nate Kennan, Deputy Director of The Massachusetts Clean Water Trust (Trust), provided a presentation covering the Trust's involvement with the CCIWPF, the types of projects that are funded, how many projects are funded, how towns apply and how financing is distributed.

Mr. Keenan said the Trust anticipates an increase in Cape projects. This should not be a problem regarding distribution of funds since many projects will be done in phases, which the Trust is capable of handling. He acknowledged that applying for financing through the Trust can be more cumbersome but encouraged towns to apply as it will save money and is easier than bond anticipation notes. If towns have an idea of what they plan on financing, the Trust can send along schedules to help with planning. He encouraged members to visit the Trust's website to learn more about financing or to reach out to him directly.

Maria Pinaud introduced herself as the Acting Director of Municipal Services for MassDEP. She also oversees the State Revolving Fund (SRF). She provided a presentation covering MassDEP's role with both

the Trust and the CCIWPF. The presentation included MassDEP's role in the solicitation, selection, and evaluation of projects and overseeing their implementation. The agency selects projects with the most compelling environmental problems, and a solution that will solve the problem. She said once a project is chosen, it is reviewed by the Trust which will issue a loan commitment package.

The Fund will provide additional financing to a project that qualified for a loan through Clean Water SRF. The Fund will "bolt" on to the existing process and will follow the same requirements as SRF borrowers.

Mr. Keenan thanked the Commission for its work on water quality planning.

Mr. Galligan asked whether a project using different contractors for portions of construction would be considered by MassDEP as one project or two. Mr. McCurdy said that decision would be made based on timing. If the work were done at the same time, it would be considered one project. If it were done at separate, distinct times, it would be considered two projects. MassDEP would make that decision based on the project schedule.

Mr. Gottlieb asked for clarification of bolting on to the existing process. He asked if the selections process remains as it exists now through DEPs annual solicitation and if the projects the management board will review have already been approved by MassDEP.

Mr. Keenan said projects eligible for Trust funds must first be approved by MassDEP.

Mr. Gottlieb asked for confirmation that the CCIWPF Management Board was not picking projects; this is being done by MassDEP. Mr. Keenan and Ms. Pinaud confirmed that was the process.

Mr. McCurdy said projects submitted by towns with a Comprehensive Wastewater Management Plan will have a head start on the process since the town's water quality plan had been established.

Mr. Gottlieb asked if Mr. Keenan's slide addressing (slide 6) principal forgiveness means that anything the CCIWPF Management Board adds to that is in addition to. Mr. Keenan said yes, it is entirely separate.

Mr. Gottlieb said the Fund will have separate evaluation criteria, but it is all additive and not limited to the state rules for forgiveness.

Mr. McCurdy said federal rules state that SRF funds cannot be used for projects not consistent with the 208 Plan.

Ms. Pinaud said MassDEP will open a request for solicitation in June, and information will be available online.

Mr. Dunham thanked Mr. Keenan and Ms. Pinaud for the presentation. He introduced Gareth Orsmond of Pierce Atwood LLP. Mr. Orsmond informed members about steps they need to take with in regards to the Conflict of Interests Law, G.L. c. 268A, and the Open Meeting Law, G.L. c. 30, §§ 18-25, due to their appointment on the Management Board.

Mr. Orsmond said he has been outside general counsel to the Cape Cod Commission for over a decade, has worked with the Martha's Vineyard Commission, and was involved with the 208 Plan. His presentation is not a training session but to serve as a reminder that the board is subject to Open

Meeting Law and Conflict of Interest Law. He recognized that most Management Board members are public officials and have familiarity with the law, but it will most likely be a little different for this entity.

Mr. Orsmond reminded members that as a board member, they are subject to the Open Meeting Law (OML). All members are considered as a public employee and are subject to OML.

Mr. Orsmond requested a decision from the Massachusetts State Ethics Commission on whether management board members will be considered state, county or municipal employees. This determination will affect, from an ethics standpoint, what members can and cannot do. Ethics vary between the three types of employee. Mr. Orsmond said he expects to hear within the next 20 days and the Board will be informed if the decision. Once there is a determination, members will be required to take the online training. This training will need to be completed within 30 days. The training will vary slightly based on the ethics commission determination.

Handouts with more detailed information were included in member packets and he welcomed questions.

The CCIWPC Management Board is subject to Open Meeting Law. All meetings must be appropriately published. He suggested the board consider using a website for the posting of notices in place of posting them in every town. All members must fulfill the OML educational requirements for OML. All members were given copies of; 940 CMR 29.000: Open Meetings, Open Meeting Law G.L. c 30A §§ 18-25, Open Meeting Law Guide, and Open Meeting Law Certification. He asked all members to fill out and return to the Cape Cod Commission, the certificate acknowledging that you have received and reviewed the document.

Mr. Orsmond advised members to be aware of any deliberation in a quorum of this board. A deliberation includes a chain phone conversation or email exchange.

Mr. Gottlieb asked if will member need to retake the training for this board if they have already taken it for another board. Mr. Orsmond said that an answer will be included in the State Ethics Commission's decision.

Mr. Dunham introduced the next item on the agenda, the discussion and potential nomination and vote to establish a subcommittee to develop bylaws by which the Management Board will operate. He said the act said the Management Board will establish its bylaws. The suggestion was five voting members and two non-voting islands members. The goal is to have bylaws ready for the boards meeting in September.

Ben deRuyter, Sheryl McMahon, Rae Ann Palmer, Don Howell, Mark Ells, and Andrew Gottlieb volunteered to be members of the subcommittee. Megan Ottens-Sargent asked if Martha's Vineyard towns could discuss bylaw committee membership.

Mr. Galligan made a motion to appoint Ben deRuyter, Sheryl McMahon, Rae Ann Palmer, Don Howell, Mark Ells, and Andrew Gottlieb as members to the bylaws subcommittee, seconded by Josee Young and unanimously approved.

Mr. Dunham said Cape Cod Commission staff would be in touch with dates for the first meeting.

For the last agenda item, Questions and Comments from Cape Cod and Islands Water Protection Fund Management Board members, Mr. Dunham asked if members would briefly state what their towns are doing in terms of wastewater planning along with any comments or questions.

Barnstable-Mark Ells: The has been a participant in the SRF program and has had great success. He said he would be willing to talk with communities who have not participated in the program to answer questions. Barnstable is in the process of completing a CWM for this calendar year. Invited members to visit the town to see their facilities.

Brewster-Ben deRuyter: Brewster does not have a CWMP but does have an integrated water management plan. The town is part of the Pleasant Bay Watershed Permit and has addressed a significant portion of Brewster's share in the first year. The water quality of the over 80 ponds in the town are a priority.

Chatham-Robert Duncanson- The town is currently in its fifth construction contract to expand its sewer system and built a new wastewater treatment plant. Chatham has been using SRF consistently. Continuing to move on implementation and continues to evaluate alternative systems. Chatham is a partner in the Pleasant Bay watershed and has an Intermunicipal Agreement with Harwich.

Dennis-Sheryl McMahon: In the early 2000s through the Dennis water districts began funding MEP reports. The last one was received recently. Dennis is working with Yarmouth and Harwich for a joint wastewater treatment center to be located in Dennis.

Eastham-Jacqueline Beebe: Eastham is in the process of constructing the town's drinking water system. It is about 50% completed. The project is under budget and two years ahead of schedule. The towns wastewater plans include a targeted watershed plan; two shared with Orleans and one shared with the Cape Cod National Seashore. The plan will consist of both traditional and non-traditional solutions.

Falmouth-Peter Johnson-Straub: The Town of Falmouth is actively engaged in wastewater planning. Most recently, completing an extension of the sewer system in the Little Pond area and working on updating the CWMP. The town continues to look at alternative technologies. The next phase of the sewer buildout is dependent on available funding.

Harwich- Don Howell: The Town of Harwich has an approved CWMP. A few highlights from the town include the collaboration on the Pleasant Bay Watershed, the Muddy Creek Bridge, the Cold Brook Project, and IMA with the town of Chatham, discussions with Yarmouth and Harwich on a wastewater treatment facility.

Mashpee-Andrew Gottlieb: Mashpee has an approved CWMP. The town is partnering with Sandwich and Barnstable on the Popponesset Bay watershed and with working with Sandwich and Falmouth on the Waquoit Bay watershed. The town is setting aside the increase in rental tax to invest in infrastructure. At this time the town is relying heavily on shellfish propagation but will need to build infrastructure in the future to address the water quality problem.

Orleans-Kevin Galligan: The 208 Plan provided us with tools to help implement solutions for the town's water quality issues. Orleans may be one of the first to go through the process. Town meeting authorized money for a collection system, treatment plan, and effluent disposal. Mr. Galligan thanked Alan McClennan for all his work. He said he is happy to share what the town has learned.

Provincetown-Josee Young: Provincetown has a wastewater treatment facility and sewer system which covers most of the town. Construction mostly funded by USDA grants and general obligation. The town has an enterprise fund which funds the treatment facility. Just authorized a \$10 million expansion to the system.

Truro-Rae Ann Palmer: Truro has completed phase one of the CWMP and is waiting to start phase 2. An area of concern is Beach Point, which has increased density. Health regulations were recently changed to allow for eliminating cesspools in town. There are ongoing discussions with Provincetown and Truro regarding a shared sewer system, at least for the Beach Point area.

Nantucket- Elizabeth Gibson: Nantucket's CWMP was adopted and approved in 2004 and updated in 2016. A sewer master plan is underway right now. The island has two wastewater treatment facilities. Most sewer projects are funded out of the town's sewer enterprise fund that ratepayers fund. 50% of the island is connected to the sewer system. A few sewer projects are funded in part or in total by the taxpayers. The town has a Sewer Act specific to Nantucket. Work has started on developing a stormwater management plan and stormwater regulations. Currently in the process of completing a \$23 million sewer extension.

Martha's Vineyard Commission-Adam Turner: Martha's Vineyard towns are very different from each other. The more developed towns have sewer systems in their downtowns – Edgartown, Oaks Bluff, and Tisbury. Towns have been looking into alternative solutions. One technology, enhanced nitrogen removal, have been testing at sewer level. The island needs to develop a 208 Plan or something similar. Up-island towns have less development and no sewers.

Aquinnah-Megan Ottens-Sargent: The town is very rural and the possibility of sewerage is limited. There is a wastewater facility on land owned by the tribe. The up-island towns are starting to plan at the watershed level and are very interested in testing being done through the Martha's Vineyard Commission.

Sandwich-Bud Dunham: The town's CWRMP was approved two years ago. It called for three treatment plant solutions. Over time roughly 20-25% of the town's properties will have to be sewerage. The town hopes to keep that number as low as possible. Sandwich is in discussions with Joint Base Cape Cod and upper Cape towns on potential collaborations on the use of the wastewater treatment facility at the base. At town meeting this week, the Sandwich Board of Selectmen were given authority to grant Sewer easement rights to towns of Barnstable and Mashpee for flow to base. Last Thursday voters supported the creation of a water infrastructure investment fund.

Mr. Dunham asked if members had any additional questions. Mr. Johnson-Straub asked if the bylaws will include funding allocation decisions or how the Management Board will operate.

Ms. Senatori said the bylaws will address the function and operation of the board. It is likely the board will need regulations in the future. The Massachusetts Department of Revenue has been invited to the next meeting to explain the collection of the tax. Regulations will be addressed in the future, outside of the bylaws.

Mr. McCurdy suggested towns do their due diligence and look at RDA financing packages. The Trust and MassDEP have tried supplementing lower interest loans from SRF program with USDA loans, but it isn't possible. He said he was not sure what the supplemental financing would do to RDA packages. Chapter

44 dictates what you can borrow for, some of the innovative approaches are not a good fit, such as shellfish projects. He said these projects might be a good fit for CCIWPF funds.

Ms. Ottens-Sargent asked if the island representative to the bylaws subcommittee could participate remotely. Ms. Senatori said that would not be a problem.

Mr. Dunham informed the management board that the next CCIWPF management board is scheduled for Wednesday, June 26, at 4:00 p.m. in the same room, the East Wing Conference Room. The Massachusetts Department of Revenue has been invited to the meeting to discuss how funds will be collected and distributed.

The third meeting of the CCIWPF is expected to be held in late August or September.

Mr. Dunham thanked members for their participation and the Commission for their work in preparing for and organizing the meeting.

The meeting adjourned at 11:49 a.m.