

**MINUTES OF THE
CAPE COD WATER PROTECTION COLLABORATIVE
Governing Board Committee
November 13, 2013**

A meeting of the Cape Cod Water Protection Collaborative was held in the Innovation Room of the Barnstable County Strategic Information Office on November 13, 2013 at 9:00 a.m.

Members:

Barnstable	Mark Ells	Present
Bourne	Linda Zuern	Present
Brewster	Sue Leven	Present
Chatham	Florence Seldin	Present
Dennis	Paul McCormick	Absent
Eastham	Jane Crowley	Present
Falmouth	Rebecca Moffitt	Absent
Harwich	Larry Ballantine	Present
Mashpee	Michael Richardson	Absent
Orleans	Sims McGrath	Present
Provincetown	Elaine Anderson	Present
Sandwich	Linell Grundman	Present
Truro	Patricia Pajaron	Present
Wellfleet	Curt Felix	Present
Yarmouth	William Hinchey	Present
County Appointee	Sheila Lyons	Present
County Appointee	Vacant	Vacant
Ex-officio member	George Heufelder	Absent
Ex-officio member	Paul Niedzwiecki	Present

Staff Present:

Andrew Gottlieb	Executive Director
Bob Ciolek	CCWPC Consultant
Gail Hanley	Cape Cod Commission

1. Minutes of October 9, 2013

A motion to approve the minutes of October 9, 2013 was moved and seconded. The motion passed with a unanimous vote.

2. 208 Update—Cape Cod Commission

Paul Niedzwiecki, Executive Director of the Cape Cod Commission, said the designation started in January, meetings began in July, they have 11 watershed working groups, and there are approximately 175 stakeholders engaged state-wide. He said the Commission has been invited to a watershed workshop in Dennis at the Cape Cod Museum of Art and the focus would be on the 208 planning process to date. In January the Commission will be holding a stakeholder summit. He said in the first six months they have looked at watersheds. He said it has been a great process to be associated with to date.

Sue Leven inquired about an extension of time for the Cape-wide Fertilizer DCPC bylaw. Mr. Niedzwiecki said a one-year extension has been granted. Ms. Leven asked when they would see an extension in writing. Mr. Niedzwiecki said the Commission is waiting to receive that. Members discussed terms of the extension and inquired about other nutrients beyond nitrogen.

Chair Larry Ballantine inquired about the CLF lawsuit. Mr. Niedzwiecki said it got bunched on a summary judgment, the Buzzards Bay Coalition has dropped their effort and the CLF seems to have changed their position.

Linell Grundman moved that the CCWPC authorize Chair Larry Ballantine to write a memo on the Fertilizer DCPC extension. The motion was seconded and passed with a unanimous vote.

3. Town Reports

- **Town of Sandwich** – Linell Grundman: Sandwich is at a standstill; nothing new to report.
- **Town of Truro** – Patricia Pajaron: Nothing new to report.
- **Town of Eastham** – Jane Crowley: The town has been engaged in 208 discussions and water is still the highest priority in Eastham. The town continues with the investigation of the landfill, they are now in Phase 4 and the study area is about 340 parcels. They will be installing some remedial treatment—point of use and coconut carbons. Sheila Lyons asked if there have been discussions from Wellfleet regarding the study area. Ms. Crowley said they believe the problem is downgradient therefore it doesn't affect people in Wellfleet.
- **Town of Orleans** – Sims McGrath: The Orleans Board of Selectmen is considering proposals for RFPs for a variety of studies for wastewater needs. There has been open discussion with Tri-town planners.
- **Town of Yarmouth** – William Hinchey: They are undertaking the DY septic facility; the town received a grant to expand the Parker's River Bridge otherwise nothing new to report.
- **County Appointee** – Sheila Lyons: Nothing to report.
- **Town of Bourne** – Linda Zuern: Ms. Zuern asked that Bob Ciolek's report/presentation from the October 9 CCWPC meeting be sent to board members.
- **Town of Provincetown** – Elaine Anderson: They continue with 208 meetings in Provincetown. They are looking forward to the third meeting; the technologies are fascinating. The town approved Phase 4 of sewage work in the West End for the Commercial Street drainage and sewage project. David Guertin, DPW Director, has retired and Rick Waldo is the new DPW Director.
- **Town of Chatham** – Florence Seldin: Harwich/Chatham received a \$3.4 million grant for the Muddy Creek Restoration project which is part of the National Water Restoration project. They are going out for bids soon and the project should happen in one season. On October 15 the town started the next phase of the sewage construction project. Mr. Ballantine said Jeremy Bell was the lead on the grant writing. Curt Felix asked if there would be any monitoring of Muddy Creek before and after. Mr. Ballantine said there has been monitoring of Muddy Creek and Ms. Seldin said Pleasant Bay has been monitoring the area.

• **Town of Brewster** – Sue Leven: The town applied for a 319 grant but did not receive it. She inquired about the 319 grant the County received. The town has started ranking alternatives for Pleasant Bay technology, they will be starting the first round of pond meetings, and they will try to do them as webinars.

Patty Daley, Deputy Director at the Cape Cod Commission, said the 319 grant is to help with a monitoring pilot. Andrew Gottlieb said it's a "black box" add on. He said George Heufelder is looking at testing standards for systems leaching down through a carbon barrier.

• **Town of Wellfleet** – Curt Felix: The town received Board of Selectmen approval for a propagation plan for an oyster reef. The town feels it's important to use aquaculture as a remediation approach and it offers other benefits as well. Both Dan Wolf and Sarah Peake have signed a letter supporting the request for this. He said perhaps the CCWPC could submit a letter of support as well. Ms. Seldin asked how large the reef would be. Mr. Felix said it would involve six areas where they would have concerns—estuary outflow areas. He said they would be small areas of an acre or two. They are trying to be very strategic and still have an impact. Ms. Seldin asked about Herring River. Mr. Felix said they plan on doing the culvert work soon. He said there have been no discussions about stopping the project. Ms. Lyons asked how many families/residences are involved. Mr. Felix said those affected are 308 residences. He said most people in town are behind the project.

Linell Grundman moved to authorize Chair Larry Ballantine to write a letter on behalf of the CCWPC in support of the oyster reef plan. Sheila Lyons seconded the motion. The motion passed with a unanimous vote.

• **Town of Barnstable** – Mark Ells: The town continues to participate in the 208 meetings and the town continues to work with the College on connecting to the treatment facility.

• **Town of Harwich** – Larry Ballantine: Managers of two golf courses in Harwich attended 208 meetings. Harwich formed a committee a few years ago to consider how to pay for wastewater. They met again last week and came up with a series of fees. The next step is to go to the Board of Selectmen for policy discussions on how to move forward. Information on the meeting is available on the town's website.

John Payson, Chatham resident, posed observations and two questions to the board regarding a Scientific Peer Review sponsored and funded by the CCWPC to conduct an independent peer review of the MEP methodology for developing appropriate TMDLs for the estuaries and embayments of Cape Cod. He asked that the board provide answers to his questions and requested that his written document of observations and questions be included in the minutes of this meeting. Mr. Payson's document is an attachment to the minutes.

4. Executive Director's Report

Andrew Gottlieb gave the following update:

- The Technical Advisory Committee will continue to help define the matrix for the 208 Plan.
- The budget appropriation request that went to the Assembly of Delegates last month passed last Wednesday. He is putting together an RFP to do monitoring.
- Continues to work on Rock Harbor with a more detailed scope and a meeting with DEP is scheduled for December.

5. FY15 Budget Preparation and Delegation Vote

Andrew Gottlieb said he received instructions for the FY15 budget. He said they can continue with this discussion in December. He said the original appropriation for this year was \$402,000 for assistance to towns. He discussed significant expenses in the FY14 budget and recommended that they think about bringing the number down in FY15. He said there is nothing to carry over in FY15 and the MEP report for Megansett Harbor will only be done once. He said he is proposing a service level budget that is for less money.

Elaine Anderson said during 208 talks in Provincetown East Harbor came up as a possible area of concern and asked if a study like that could fit into this. Mr. Gottlieb said they could frame what the RFP is and the CCWPC could help with that. He said there could be funding where work is being done if it's a model and has a value. He said they could figure out what the study could look like. Linda Zuern said Bourne had a study done by MEP for Phinney's Harbor and she was not happy with the report as they did not look at the source of the problem in Eel Pond with eel grass. She questions using MEP for a report. She said for monitoring she would suggest using a system that they can trust. Ms. Seldin asked for a breakdown in each of the categories and Mr. Gottlieb said he would provide an update on that. He said he will prepare a policy that the board can discuss next month. Mr. Ballantine said the CCWPC could play a bigger role in towns; take a more pro-active role and share information. Nate Weeks, GHD, talked about a guidance document that has been drafted to inform stakeholders, homeowners and regulators. Ms. Seldin said she would be interested in knowing what work consultants have done in towns. Mr. Gottlieb said he will bring back forms for a final vote in December.

6. Continuation of Finance Discussion

Bob Ciolek, CCWPC consultant, said he is here today to follow up on any questions members might have. He said this is probably his final visit with CCWPC meetings. He said financial discussions have been a benchmark and he is available to go out and work with communities if people would like him to do that. He said each individual idea may be small but collectively they are large. He said there is a lot of creative thinking out there. Mr. Ballantine said he would look forward to having Mr. Ciolek help the CCWPC to share those ideas.

7. Adjourn

Upon a request by Mr. Ballantine, a motion to adjourn at 10:45 a.m. was moved and seconded. The motion was unanimously approved.

JOHN PAYSON OBSERVATIONS AND QUESTIONS POSED AT THE MEETING OF THE BOARD OF GOVERNORS OF THE COLLABORATIVE ON NOV 13, 2013

For the record, my name is John Payson and I am from Chatham.

More than two years ago, a Scientific Peer Review was sponsored and funded by the Cape Cod Water Protection Collaborative to conduct an independent peer review of the MEP methodology for developing appropriate TMDLs for the estuaries and embayments of Cape Cod.

In its written Report, promulgated on 30 December 2011, the Scientific Peer Review Panel found that the MEP modeling approach was scientifically credible and rated it as functionally adequate.

The Panel observed that *uncertainty* arises from the fact that model parameters are not known exactly, that input data is not fully known and that processes are inherently more complex than can ever be completely captured by models.

MassDEP advised, in writing, on at least two occasions, that they will not use TMDL values as an enforcement tool as they are modeled values and thus inappropriate to be used as such.

In Section 7 of the Report referred to above, the Panel set forth a high level categorical summary of the its recommendations for a path forward.

The Panel recommended that the towns proceed within an adaptive management framework to develop and implement wastewater and nutrient management plans, making improvements along the way to reduce management uncertainties and thereby ensure that TMDL implementation was not compromised due to a lack of information, and that progress be made in the most cost effective manner while gathering new information to improve upon the scientific analysis and the initial wastewater and nutrient management plans.

The Panel concluded, therefore, that planning bodies needed to incorporate a *healthy recognition of uncertainty* into their pursuit of an adaptive management strategy so as to be able to evaluate proposed nitrogen control measures with a realistic sense of the degree to which model results are *uncertain*.

The Panel specifically included in its high level categorical summary of recommendations that sensitivity analyses be conducted for the components in the watershed-embayment model for each specific estuary.

Sensitivity analyses are a computer technique that involve testing a model with different data sets to determine how different data and different assumptions affect the model.

They have been widely used for more than fifty years to evaluate how different given values of independent assumption(s) and postulations will interact to impact dependent conclusions.

It has now been almost two years since the Scientific Peer Review Panel issued their Report and included their specific recommendations for going forward.

My two questions, respectfully posed, are:

What sensitivity analyses have been conducted since the Peer Review Panel Report was issued?

Where I can obtain written or electronically accessible written documentation of any such sensitivity analyses?

I do not expect answers to these two questions today, but I would appreciate an expedited response.

I respectfully request that these observations and questions be included in the minutes of this meeting.

Thank you for giving the opportunity to speak.