

MEETING MINUTES  
CAPE COD AND ISLANDS WATER PROTECTION FUND MANAGEMENT BOARD  
1/27/2021

Cape Cod Member Towns

Barnstable	Mark Ells, Town Manager	Present
Bourne	James Potter, Selectman	Present
Brewster	Ben deRuyter, Selectman	Present
Chatham	Robert Duncanson, Health/Natural Resources Dir	Present
Dennis	Elizabeth Sullivan, Town Administrator	Present
Eastham	Jacqueline Beebe, Town Administrator	Present
Falmouth	Peter Johnson-Staub, Assistant Town Manager	Present (arr 4:18)
Harwich	Don Howell, Selectman	Absent
Mashpee	Andrew Gottlieb, Selectman	Present
Orleans	Kevin Galligan, Selectman	Present
Provincetown	Richard Waldo, Department of Public Works Dir	Present
Sandwich	Bud Dunham, Town Manager	Present
Truro	Darrin Tangeman, Town Manager	Present
Wellfleet	Justina Carlson, Selectman	Present (arr 4:07)
Yarmouth	Tracy Post, Selectman	Present

Non-voting Ex-officio Members

Cape Cod Commission	Kristy Senatori, Executive Director	Present
Martha's Vineyard Commission	Adam Turner, Executive Director	Absent
Nantucket	Elizabeth Gibson, Town Manager	Absent

Dukes County Towns' Points of Contact

Aquinnah	Megan Ottens-Sargent, Citizen Volunteer	Absent
Chilmark	Joan Malkin, Planning Board Member	Absent
Oak Bluffs	Gail Barmakian, Selectman	Absent
Edgartown		
Gosnold		
Tisbury		
West Tisbury		

Summary of Discussion/Action Taken: The Management Board approved minutes from the 9/9/2020 and 10/7/2020 meetings and the Bylaws and Regulations Committee approved minutes from the 11/5/2020 meeting. The Board voted to amend the regulations at Section 3.2, appoint Richard Waldo to the Bylaws and Regulations Committee, award a contract to PFM Financial Advisors for financial support and development of subsidy recommendations, consider projects on the 2018, 2019, and 2020 Intended Use Plans for subsidy, and establish an Executive Committee.

Documents Used/Received: Draft Minutes of the 9/9/2020 Management Board Meeting; Draft Minutes of the 10/7/2020 Management Board Meeting; Draft Minutes of the 11/5/2020 Bylaws and Regulations Committee Meeting; Amended Cape Cod and Islands Water Protection Fund Bylaws dated 11/5/2020; PFM Financial Advisors Proposal.

Chairman Dunham called the meeting to order at 4:02 p.m. and announced that the meeting is being held virtually as allowed by Governor Baker's Executive Order suspending certain provisions of the Open Meeting Law dated March 12, 2020. Mr. Dunham called the roll for attendance, which is noted above.

### **Approval of Minutes**

Chairman Dunham said there were three sets of minutes to approve, including two for the full Board and one for the Bylaws and Regulations Committee.

Tracy Post moved to approve the minutes of the 9/9/2020 Management Board meeting; seconded by Andrew Gottlieb. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Gottlieb, yes; Galligan, yes; Waldo, abstain; Dunham, yes; Tangeman, abstain; Post, yes.

Mr. Gottlieb moved to approve the minutes of the 10/7/2020 Management Board meeting; seconded by Robert Duncanson. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, abstain; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, abstain; Post, yes.

Mr. Gottlieb moved to approve the minutes of the 11/5/2020 Bylaws and Regulations Committee meeting; seconded by Mark Ells. Ells, yes; Gottlieb, yes; deRuyter, yes.

### **Appointment of Bylaws and Regulations Committee Member**

Chairman Dunham noted Rae Ann Palmer's retirement and, therefore, resignation from the Management Board. She served on the Bylaws and Regulations Committee, which now has a vacancy.

Kevin Galligan moved to appoint Richard Waldo to the Bylaws and Regulations Committee; seconded by Mr. Duncanson. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, yes; Carlson, yes; Post, yes.

### **Amendments to Cape Cod and Islands Water Protection Fund Regulations**

Chairman Dunham began by stating there is a proposed minor amendment to the regulations previously approved and asked Kristy Senatori to describe the changes. Ms. Senatori pointed to the redline version of the regulations that was shared with the Management Board in advance of the meeting. Ms. Senatori described the amendment, which includes a revision to section 3.2, Terms of Subsidy, which inserts "or equal to" in the section that describes the percentage subsidy awarded to projects less than \$1 million. The revised text reads that project costs less than or equal to \$1 million shall receive twice the percentage subsidy. She added that the amendment is clarifying and that the

Bylaws and Regulations Committee met to discuss the amendment and voted to recommend full Board approval.

Mr. Gottlieb moved to approve the regulations, as proposed; seconded by Mr. Ells. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, yes; Carlson, yes; Post, yes.

### **Financial Advisor**

Chairman Dunham asked Ms. Senatori to provide an update on the process to select a financial advisor. Ms. Senatori said that the Commission issued a request for proposals for a financial advisor in December and PFM Financial Advisors was the sole respondent. She noted that the proposal was reviewed by Chairman Dunham, Vice-Chairman Galligan, Gail Coyne, Erin Perry, and herself. The review team contacted references who indicated satisfaction with support they provide, including that their team provides comprehensive reports and presents information clearly. She added that they have worked with the MA Clean Water Trust, MA State Treasurer's Office, Massachusetts Water Resources Authority, as well as several State Revolving Fund (SRF) programs in other states. The firm has been providing financial advisory services for 45 years and their staff team includes expertise from their Memphis and Minneapolis offices, as well as their local Boston office.

Ms. Senatori added that, if the Board votes to proceed with contracting, their contract would be for two years. They propose completing all tasks for both years for a total of \$47,350. She stated that, based on the proposal and feedback from references, the review team suggests the Board move forward with contracting. The review team also suggests the contract include a not-to-exceed cost of \$90,000 to allow for some flexibility in the event the Board would like to request additional assistance. The contract could be structured to include an additional task to allow for this additional assistance upon request and would be provided at the rates included in the PFM proposal.

Ms. Senatori continued, stating that staff suggests directing PFM to consider the following projects when developing the 2021 funding recommendation: pre-existing debt from named communities in the legislation, projects on the Intended Use Plan (IUP) in 2018, 2019, and 2020, and 2021 draft IUP projects. She also suggested the Board establish an executive committee to, in part, work with staff and PFM to develop the 2021 funding recommendation. These actions will be discussed further in the following agenda items.

Mr. Galligan moved to contract with PFM Financial Advisors for an amount not to exceed \$90,000; seconded by Mr. Gottlieb. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Johnson-Staub, yes; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, yes; Carlson, yes; Post, yes.

### **2018, 2019, and 2020 Clean Water Intended Use Plans**

Chairman Dunham introduced the agenda item and asked Erin Perry to discuss the 2018-2020 IUP projects. Ms. Perry noted that a number of communities have projects listed on IUPs that fell between when the legislation was passed creating the Water Protection Fund and when the regulations were adopted in late 2020.

Ms. Perry noted that Chatham and Harwich have projects on the 2018 IUP; Bourne, Chatham, Orleans have projects on the 2019 IUP, Barnstable 2020.

She added that staff suggest the Board consider authorizing consideration of projects on these IUPs for subsidy in 2021. If the Board chooses to do so, the Commission will direct PFM to incorporate that information into development of their subsidy recommendation.

Mr. Gottlieb noted that this is a fair and equitable thing for the Board to do. When the legislation passed, the thought may have been that the following year we would have been providing subsidies, but it took us some time to get there.

Peter Johnson-Staub expressed agreement with Mr. Gottlieb. He also noted that the Fund will provide subsidy for pre-existing debt, so it seems fair and equitable to consider the 2018-2020 IUP projects.

Mr. Waldo expressed concern about the pre-existing debt and asked if the pre-existing debt needs to be SRF debt. Ms. Senatori said that the Commission is collecting information on pre-existing debt and that there are some intricacies to that question at the moment. She added that this may be something the Executive Committee, if established, could work through.

Ms. Post asked if we should be authorizing consideration of the 2018-2020 IUPs if we do not have a full understanding of the pre-existing debt. Mr. Gottlieb replied and said that the projects on the IUPs under discussion now would not be considered pre-existing debt. He added that this will allow the financial advisor to include them in their subsidy modeling. This will help guide the Board's discussions on actual subsidy awards.

Mr. Waldo clarified that, today, we are just voting on consideration of the projects, but not any particular subsidy. Chair Dunham confirmed.

Mr. Gottlieb moved to authorize consideration of projects listed on the 2018, 2019, and 2020 Clean Water Intended Use Plans for subsidy from the Water Protection Fund in 2021; seconded by Mr. deRuyter. Mr. Waldo confirmed that the Management Board will not review the projects themselves and Chair Dunham confirmed and stated that listing on the IUP is the threshold for consideration. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Johnson-Staub, yes; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, yes; Carlson, yes; Post, yes.

### **Establishment of an Executive Committee**

Chairman Dunham said that it may be appropriate to establish an Executive Committee and asked Ms. Senatori to discuss the potential structure and responsibilities further. Ms. Senatori noted there is a placeholder for an Executive Committee in the Management Board Bylaws, but one has not been established. She suggested the Executive Committee could work with the financial advisor on a subsidy recommendation for full Board consideration.

Ms. Senatori suggested the membership could include approximately 5 members and that it include the chair, vice-chair, and subregional representation from the upper, mid, and lower/outer Cape. The term of members on the committee could align with the chair/vice-chair terms, which run through June 30, 2021. She suggested the Executive Committee could be tasked with developing recommendations for the full Board regarding the annual subsidies, Cape Cod Commission funding

for administrative and technical support, and a Memorandum of Understanding with the Massachusetts Department of Environmental Protection for monitoring and modeling.

Mr. Gottlieb moved to establish an Executive Committee with the duties and powers described; seconded by Mr. Ells. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Johnson-Staub, yes; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, yes; Carlson, yes; Post, yes.

Chairman Dunham asked that any members interested in participating express notice to Ms. Senatori.

Mr. Gottlieb moved to authorize the Chair to appoint members to the Executive Committee; seconded by Mr. de Ruyter. Mr. Ells asked for clarity on how to express interest and Chairman Dunham said an e-mail to he and Ms. Senatori would suffice. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Johnson-Staub, yes; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, yes; Carlson, yes; Post, yes.

### **Local Technical Assistance**

Chairman Dunham asked Ms. Perry to discuss potential assistance the Commission could provide to communities by request. Ms. Perry noted that this is in response to comments from the Bylaws and Regulations Committee and the full Management Board that there are several communities in the region that have not applied for SRF loans in the past and that technical assistance for communities may be beneficial. Ms. Perry provided some examples of technical assistance the Commission could provide to support communities, including developing planning process and communication frameworks; supporting planning processes, including providing analytical tools, and assisting in technology selection, facilitation, monitoring protocols, and other elements; drafting scope of services documents for third-party contractors; assisting in the development of comparative cost information; navigating the permitting process; facilitating discussions regarding SRF project eligibility; navigating the SRF process, including application requirements and deadlines; and developing SRF application materials.

Ms. Perry also noted that the Commission is responsible, as outlined in the legislation that created the Fund, for providing both administrative and technical support. If the Board would like the Commission to offer assistance to communities, it could be done in several ways. She provided some examples of how to structure the approach, including authorizing the Commission to provide assistance, on request; providing authorization on a request-by-request basis; authorizing the Commission to provide assistance up to an agreed upon funding allocation, with any requests that extend beyond that allocation being brought to the Board for authorization.

Ms. Perry clarified that this assistance would be for future projects on future IUPs.

Mr. Johnson-Staub asked if there would be a not-to-exceed cost associated with assistance. Ms. Perry said that would be up to the Board. Mr. Johnson-Staub noted that he is agreeable to the

approach, but wants to reserve the majority of funds to subsidize projects. He suggested setting some parameters around the types of assistance to be provided.

Mr. Duncanson expressed agreement with Mr. Johnson-Staub and suggested the assistance be directed at the SRF loan process, including the Project Evaluation Form and submittal.

Mr. Potter expressed agreement with the prior speakers and asked what assistance would be provided that couldn't be provided by a consultant.

Mr. Galligan suggested the Executive Committee could work on a policy that describes the types of assistance and a strategy for funding the assistance, such as applying a certain percentage of the annual revenue.

Mr. Ells supported Mr. Galligan's suggestion to have the discussion on technical assistance with either the Executive Committee or the Bylaws and Regulations Committee.

### **Member Reports**

Mr. Ells said that Barnstable is reviewing how other communities address the financial aspects of their Comprehensive Wastewater Management Plans. He said that they received their certificate from the Massachusetts Environmental Policy Act unit and are about to submit the plan to the Commission for a 208 consistency determination. He added that they have a proposed sewer assessment ordinance drafted, as well. He offered to work with communities who have questions about how to access SRF funds.

Mr. Potter said that Bourne has spoken with Senator Cyr about potential amendments to the legislation that created the Fund to address the issue of Bourne's Intermunicipal Agreement with Wareham. He said they are moving forward with their Comprehensive Wastewater Management Plan. He also added that they recently received a presentation from the Buzzards Bay Coalition regarding a potential outfall at Massachusetts Maritime Academy, which would serve as disposal for an expanded Wareham treatment facility. He said there has been considerable interest and feedback on that project.

Mr. Duncanson said that Chatham has three sewer construction projects underway. He added that he was before the Board of Selectman last evening, asking for an additional \$7 million to continue moving forward with wastewater projects. It was unanimously approved and will be on the Town Meeting warrant and the ballot. They have several additional projects in design, some of which will go out to bid in the fall. He added that he is also happy to offer assistance to communities with questions on the SRF process.

Ms. Sullivan said that Dennis continues to meet with the Dennis-Harwich-Yarmouth Community Partnership. The Dennis Selectboard has voted to move forward with this partnership and conversations are ongoing. She noted that Dennis is also undergoing a peer review on the Swan Pond watershed and any impacts the proposed treatment facility may have on that watershed. She is hopeful that the phase 1 survey, design, and engineering will be on the upcoming Town Meeting warrant.

Ms. Beebe said that Eastham is awaiting a draft watershed management plan. She also added that they are moving forward with a permeable reactive barrier test project.

Mr. Johnson-Staub said that Falmouth is moving forward with an upgrade to the treatment plant and the Great Pond watershed sewerage, in addition to alternative projects, including aquaculture and a permeable reactive barrier. In April, a design funding request will be before Town Meeting.

Mr. Gottlieb said that Mashpee has the highest ranked project from the Cape on the Draft IUP. Mashpee is planning to go to Town Meeting for authorization for the treatment facility and associated collection infrastructure this spring. He added that Mashpee set aside 75% of the local option overnight stay tax for wastewater. This will fund a portion of the debt service. He anticipates going to the ballot with a debt exclusion, but one that is far less than the full cost of the project. He noted the town will be posting a position to manage the wastewater project for the town.

Mr. Galligan said that the downtown collection system and treatment facility is roughly 20% complete. The next phase is Meetinghouse Pond and it is in design. He added that Orleans also set aside local option overnight stay tax for wastewater.

Mr. Waldo said that Provincetown is currently in phase 5, expanding treatment and collection capacity. This phase should provide approximately a 15% increase in capacity.

Ms. Carlson said that Wellfleet continues to work toward a watershed permit application. The spring Town Meeting warrant should include funding for a long-term budget for wastewater work. She added that innovative/alternative septic systems are a large component of their planning work. She also said that they received a MassWorks grant for an innovative/alternative system for a large-scale affordable housing project.

Ms. Post said that Yarmouth was hesitant to earmark the full funds planned for wastewater, due to COVID impacts. She added that \$5 million was approved at the fall Town Meeting to work on the Route 28 corridor, in coordination with the Massachusetts Department of Transportation. They hope to put wastewater pipe in the ground, while the Massachusetts Department of Transportation is doing roadwork. She said she anticipates the Dennis-Harwich-Yarmouth Community Partnership to be on the warrant for spring Town Meeting.

Chairman Dunham said that Sandwich is still looking at whether Joint Base Cape Cod is going to be an option for a regional treatment facility. Sandwich continues to work with Mashpee and Barnstable to look at shared infrastructure options. The spring Town Meeting will forward some smaller components of the Comprehensive Water Resources Management Plan.

### **New Business**

No new business was presented.

### **Public Comment**

No public comment

### **Adjourn**

Mr. Galligan moved to adjourn; seconded by Ms. Sullivan. Ells, yes; Potter, yes; de Ruyter, yes; Duncanson, yes; Sullivan, yes; Beebe, yes; Johnson-Staub, yes; Gottlieb, yes; Galligan, yes; Waldo, yes; Dunham, yes; Tangeman, yes; Carlson, yes; Post, yes.

The meeting adjourned at 5:19 pm.