

MEETING MINUTES
 CAPE COD AND ISLANDS WATER PROTECTION FUND MANAGEMENT BOARD
 3/22/2024

Cape Cod Member Towns

Barnstable	Mark Ells, Town Manager	Present
Bourne	Mary Jane Mastrangelo, Selectman	Present
Brewster	Peter Lombardi, Town Administrator	Present
Chatham	Jill Goldsmith, Town Manager	Absent
Dennis	Elizabeth Sullivan, Town Administrator	Absent
Eastham	Jacqueline Beebe, Town Administrator	Present (arr. 11:07am)
Falmouth	Peter Johnson-Staub, Assistant Town Manager	Present (arr. 11:06am)
Harwich	Don Howell, Selectman	Present
Mashpee	Michaela Wyman-Colombo, Select Board	Present
Orleans	Kevin Galligan, Selectman	Present
Provincetown	Jim Vincent, Dept. Public Works Director	Present
Sandwich	Bud Dunham, Town Manager	Present
Truro	Darrin Tangeman, Town Manager	Present
Wellfleet	Ryan Curley, Selectman	Present
Yarmouth	Mark Forest, Selectman	Present

Non-voting Ex-officio Members

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

Dukes County Towns' Points of Contact

Chilmark	Joan Malkin, Planning Board Member	Absent
Oak Bluffs	Gail Barmakian, Selectman	Absent

Summary of Discussion/Action Taken: The Management Board approved minutes from the 1/10/2024 Management Board meeting, and the Executive Committee and Bylaws and Regulations Committee approved minutes from the 3/6/2024 joint meeting. The Management Board voted to approve a new model for providing subsidies and adopted amendments to the Management Board Regulations to operationalize that subsidy model. The Management Board also voted on subsidies for 2021, 2022, and 2024 projects and received an update on monitoring.

Documents Used/Received: PowerPoint Presentation dated March 22, 2024; Draft minutes of the 1/10/2024 Management Board Meeting; draft minutes of the 3/6/2024 joint meeting of the Executive Committee and the Bylaws and Regulations Committee; draft amendments to Regulations of the Cape Cod and Islands Water Protection Fund Management Board, dated March 21, 2024; list of projects qualified for subsidy, dated March 2024.

Kevin Galligan called the meeting to order at 11:00am. Erin Perry, Deputy Director of the Cape Cod Commission (Commission), announced that the meeting is being held virtually, with members of the

Cape Cod and Islands Water Protection Fund (CCIWPF, or Fund) Management Board participating remotely, pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain Covid-19 Measures Adopted During the State of Emergency, signed into law on June 16, 2021, as further amended by Chapter 2 of the Acts of 2023. Ms. Perry called the roll for attendance, which is noted above.

Approval of Minutes

Mark Ells moved to approve the minutes of the 1/10/2024 Management Board meeting; seconded by Jim Vincent. Ells, yes; Mastrangelo, yes; Lombardi, yes; Howell, yes; Wyman-Colombo, yes; Galligan, yes; Vincent, yes; Dunham, yes; Tangeman, yes; Curley, yes; Forest, yes.

For the Bylaws and Regulations Committee, Don Howell moved to approve the minutes of the 3/6/2024 joint meeting of the Executive Committee and the Bylaws and Regulations Committee; seconded by MJ Mastrangelo. Ells, yes; Mastrangelo, yes; Howell, yes; Galligan, yes.

For the Executive Committee, Mr. Ells moved to approve the minutes of the 3/6/2024 joint meeting of the Executive Committee and Bylaws and Regulations Committee; seconded by Mr. Howell. Ells, yes; Lombardi, yes; Galligan, yes; Dunham, yes.

Strategy for Maintaining the Fund Subsidy

Mr. Galligan called for discussion on a strategy for maintaining the existing 25% subsidy provided by the Fund to projects in member municipalities. He recognized Andrew Gottlieb from the Association to Preserve Cape Cod, Nate Keenan from the MA Clean Water Trust (CWT), and Matthew Schnackenberg from PFM Financial Advisors (PFM) as in attendance and available to answer questions.

Kristy Senatori, Executive Director of the Commission, said the CCIWPF Executive Committee has been pursuing strategies to maintain the existing 25% subsidy provided by the Fund. At its meeting in January, the Executive Committee endorsed a strategy that included use of Bipartisan Infrastructure Law funds to support a portion of the 25% subsidy in the near-term and requests for bond authorizations in the long-term. That strategy required a majority vote of the CWT Board of Trustees and Commission staff sent a letter to members of that Board and their staff requesting their consideration of the strategy on January 25, 2024.

In the meantime, CWT staff presented an alternate strategy for meeting the needs of the Fund that allows the Fund to continue to provide a 25% subsidy to projects. The proposal is to shift from a principal forgiveness model to a debt service model, beginning with projects listed on the 2023 Clean Water Intended Use Plan (IUP), providing a portion of the 25% subsidy over the term of the loan. Subsidy payments would be made when principal payments on the loan are due.

She noted that PFM has modeled this scenario and written a memo regarding the modeling. Conservative numbers for project costs were used knowing that those have changed significantly in the past few years over what was anticipated. Commission staff will continue to collect information from towns about anticipated projects so the financial model assumptions can be refined moving forward.

The Executive Committee endorsed this strategy at its meeting on March 6, 2024 and now is an opportunity for the Management Board to discuss this proposal.

Mr. Galligan noted the order of agenda items for today's meeting, first to adopt this change from a principal forgiveness model of providing subsidy to a model that provides the subsidy over the term of the loan (referred to throughout the meeting as the debt service model) and then the regulation amendments that would operationalize this change.

Mr. Gottlieb said the debt service model was discussed at the creation of the Fund and for several reasons, such as the newness of the funding source and predictability of revenue, the Management Board adopted the principal forgiveness model it has used since, knowing that model would expend funds more rapidly than the debt service model.

Now, with the acceleration of project activity and a higher level of comfort that revenue collections have been as projected, and continue with some predictability and reliability, this alternative approach is in the best interest of all communities. The debt service model can provide towns with some certainty that they will continue to be provided with the highest level of subsidy that can be provided at this time. This model avoids the need to go to the legislature to seek additional revenue and allows communities to use the resources they have through the Fund to meet their needs without action by the Commonwealth. He said this is a step forward for the Management Board and provides a level of certainty that for the remainder of this decade the Fund can provide the level of subsidy towns are accustomed to. He recognized the future is uncertain but said the Management Board has the discretion to continue to monitor finances and project activity, gain further knowledge through Watershed Permit schedules, and can adjust and adapt going forward. He encouraged the Management Board to move forward with the debt service model.

Mr. Keenan agreed with Mr. Gottlieb and said this debt service model makes a lot of sense and allows the Management Board to maintain control without having to go to the Commonwealth for supplemental funds to continue to provide projects with a 25% subsidy. He said there will need to be some coordination and communication with the towns to execute the new model and offered CWT staff support to work with towns on that. He said this gives the Management Board a good opportunity to secure subsidy long-term and congratulated towns on moving many projects forward.

Mr. Schnackenberg said the financial model is conservative for project cost estimates through 2029 with \$350M in project costs per year which is about \$100M more than 2024 project costs. He clarified that the 25% subsidy will be applied to the principal amount of the loan.

Ryan Curley asked to clarify the preferred alternative. Mr. Gottlieb said the preferred alternative would provide 25% of the principal payment associated with a debt service schedule over the life of the loan. For example, if a town had a 20-year loan with the CWT, the subsidy would be allocated out in 20 payments according to that debt service schedule. Mr. Gottlieb said a lot of Cape Cod towns have been approved for 0% interest rate loans from the State Revolving Fund. If a town has a loan that does not qualify for 0% interest the town would be obligated to pay the interest under the debt service model. Mr. Schnackenberg noted payments would be equal payments over the loan period.

Mr. Ells commented that the financial model assumes the Management Board will modify the approach to payment that was voted on for 2023 IUP projects. He said he spent time reviewing the model with the Barnstable finance director and treasurer and they recommended he proceed favorably with this approach as it is beneficial. He asked Mr. Gottlieb to comment on how this might affect 2023 IUP projects. Mr. Gottlieb said the Management Board voted to provide subsidy for 2023 IUP projects under the current principal forgiveness payment model and that the new debt service payment model would apply to projects on the 2023 IUP and future IUPs. This does not change the subsidy commitment to those projects, it just applies the debt service payment model to those projects. Previous year projects will continue under the original principal forgiveness payment model and payments for pre-existing projects will remain unchanged.

Mr. Curley expressed some concern about project costs in the model decreasing in 2030. Mr. Galligan acknowledged the Management Board is working with the best information it has.

Peter Lombardi said this is an excellent near- and medium-term solution and agreed the assumptions over the next several years are very conservative but maybe not conservative enough further out. When thinking of how much has changed since the Fund was created, he expressed comfort with the model assumptions at this time and acknowledged the Management Board would continue to reevaluate those each year. He said this debt service model is not necessarily a long-term solution in terms of having certainty that the Fund is able to maintain the 25% subsidy.

Ms. Mastrangelo expressed the desire to move forward with the debt service model and the need to look beyond 2030. She asked why the set aside in the financial model increases from \$500,000 after 2027 to \$2.3M in 2028. Mr. Gottlieb reminded members they capped the set aside at \$500,000 through 2027 and that was carried forward in the financial model, then the amount increases to what would be the maximum percentage allowed under the CCIWPF statute. Mr. Galligan underscored the conservative assumptions in the financial model. Ms. Mastrangelo said this is something that should be discussed in the future. Mr. Gottlieb acknowledged this is one way to show the maximum impact of the highest allowable set aside given the other financial model assumptions.

Ms. Mastrangelo expressed concern about the accurate collection and reporting of short-term rental taxes and noted that item for future discussion.

Mark Forest expressed appreciation for the work that has gone into this effort. He said Yarmouth is supportive of the change but agreed with other comments such as the need to lay the groundwork for a stable long-term financial future. He acknowledged Ms. Mastrangelo's comment on sufficiently capturing the existing Fund revenue stream and said there may be additional revenue streams to consider. He said the Management Board should start analyzing what the needs are for additional capital and additional resources. He said all communities will be encouraged and incentivized to be aggressive in implementing projects and the ability of towns to progress will improve the more the Management Board can strengthen the financial picture of the Fund.

Mr. Howell agreed with Mr. Forest but reminded members they are here today to fairly allocate the existing funds of the CCIWPF. He said there is a mechanism proposed where if there is a revenue shortfall, towns will know and can address that at town meeting. He said the debt service model

allows the Management Board to address its existing revenue stream and provide subsidies equitably.

Mr. Gottlieb reiterated this work will be ongoing and the Management Board can always look for more money and opportunities to leverage other resources to enhance its work, but the debt service model can provide near-term certainty.

Mr. Ells made a motion to adopt the proposed debt service model for providing subsidies to projects listed on the Clean Water Intended Use Plan beginning with projects listed on the 2023 IUP and authorize Commission staff to request the Massachusetts Clean Water Trust return funds already transferred for 2023 projects to the Cape Cod and Islands Water Protection Fund.; seconded by Mr. Howell. Ells, yes; Mastrangelo, yes; Lombardi, yes; Beebe, yes; Johnson-Staub, yes; Howell, yes; Wyman-Colombo, yes; Galligan, yes; Vincent, yes; Dunham, yes; Tangeman, yes; Curley, yes; Forest, yes.

Amendments to the Cape Cod and Islands Water Protection Fund Regulations

Mr. Galligan called for discussion on amendments to the Cape Cod and Islands Water Protection Fund regulations, which describe the process by which Cape Cod and Islands Water Protection funds are distributed.

Mr. Ells said the Bylaws and Regulations Committee met prior to this meeting of the Management Board and voted unanimously in support of proposed modifications to the Management Board regulations to adopt the debt service payment model and asked Ms. Perry to review the proposed changes.

Ms. Perry said the primary changes have to do with the timing of the payments and the basis for the final subsidy commitment. The transfer of subsidies will no longer occur over a 4-year period, but over the life of the loan; a percentage of the principal amount will be paid over the term of the loan; payments will commence in the year of the first debt service payment. She said the final subsidy commitment will no longer be based on the cost in the Project Regulatory Agreement but is tied to execution of a loan agreement and on the costs identified in the loan agreement.

She said, in addition, as the Management Board has already awarded monitoring funds, the opportunity was taken to move the language on monitoring, which was listed as 'tabled for future discussion' at the end of the regulations, into Section 8 Management of Use of Water Protection Fund of the regulations.

She said these amendments have been drafted in collaboration with the CWT staff and their counsel, in addition to Commission staff and members of the Bylaws and Regulations Committee.

In reference to regulation Section 5.3, Mr. Lombardi suggested that some projects less than \$1M may not be financed through a loan and asked if that language should be revised to allow for subsidy to support those projects. Mr. Gottlieb said the proposed amendments do not affect the treatment of projects, and the statute states that receiving subsidy is based on financing through the CWT. Mr. Keenan affirmed the state revolving fund is a loan program and confirmed planning projects are also financed as loans.

Mr. Ells made a motion to adopt the Cape Cod and Islands Water Protection Fund regulations, as presented; seconded by Mr. Howell. Ells, yes; Mastrangelo, yes; Lombardi, yes; Beebe, yes; Johnson-

Staub, yes; Howell, yes; Wyman-Colombo, yes; Galligan, yes; Vincent, yes; Dunham, yes; Tangeman, yes; Curley, yes; Forest, yes.

Subsidy Awards

Mr. Galligan called for discussion on subsidy awards for projects on the 2021, 2022, and 2024 Massachusetts Clean Water Intended Use Plans (IUP).

Ms. Senatori reminded members last year the Management Board voted to reduce subsidies to projects listed on the 2021 and 2022 IUPs, as additional subsidy is being provided to those projects by the CWT using American Rescue Plan Act (ARPA) funds. She said this provided the Fund some relief given the rising costs of projects listed on the IUPs and allowed the towns to continue to receive the 25% subsidy. She said the CWT anticipated providing a 15% subsidy from ARPA for projects on both 2021 and 2022 IUPs; however, 2022 IUP projects actually received a 20% subsidy from ARPA.

In addition, several Project Regulatory Agreements have been executed since the Management Board voted on those reduced subsidies from the Fund.

At the request of the CWT, the methodology for calculating the reduced subsidy was revised so that each community is receiving exactly 25% of the project costs between the Fund and the CWT ARPA funds, where final subsidy amounts from the Fund represent a 10% subsidy for 2021 projects and a 5% subsidy from the Fund for 2022 projects.

Mr. Galligan asked Ms. Senatori if this would be communicated to the towns. She said Commission staff will work with Mr. Keenan to convey that message to towns.

Mr. Ells made a motion to approve final commitments for subsidies to fund qualified projects listed on the 2021 and 2022 Massachusetts Clean Water Intended Use Plan in the amounts presented; seconded by Mr. Howell. Ells, yes; Mastrangelo, yes; Lombardi, yes; Beebe, yes; Johnson-Staub, yes; Howell, yes; Wyman-Colombo, yes; Galligan, yes; Vincent, yes; Dunham, yes; Tangeman, yes; Curley, yes; Forest, yes.

Ms. Senatori noted the 2024 IUP is currently in draft form, but the Management Board received confirmation from the MA Department of Environmental Protection (DEP) that projects listed on the draft IUP will be listed on the final IUP. She said there are projects in nine towns, representing 14 projects. She said one project in Falmouth has been withdrawn though it still appears on the IUP. It is anticipated that project will be resubmitted for listing on the 2025 IUP.

She said the 2024 IUP includes over \$248M in project costs, representing over \$620M in projects, and includes \$50M for Yarmouth Phase I as a carryover project. With the withdrawal of the Falmouth project for 2024, the 2024 IUP projects eligible for funding total \$257,168,500 representing a total subsidy from the Fund of \$64,859,825. These totals assume a 25% subsidy for all projects except for the three under \$1M, which receive 50% subsidy.

Assuming the subsidies will be paid out over 20 years, an annual transfer for 2024 projects will total \$3,242,991. This may be revised should costs change between now and when final loan agreements are executed.

Mr. Ells made a motion to approve contingent commitments for 25% subsidies to fund qualified projects listed on the 2024 Massachusetts Clean Water Intended Use Plan in the amounts presented; seconded by Mr. Howell. Ells, yes; Mastrangelo, yes; Lombardi, yes; Beebe, yes; Johnson-Staub, yes; Howell, yes; Wyman-Colombo, yes; Galligan, yes; Vincent, yes; Dunham, yes; Tangeman, yes; Curley, yes; Forest, yes.

Water Quality Monitoring

Mr. Galligan called for an update on discussions with the MA Department of Environmental Protection regarding potential amendments to the Memorandum of Understanding to administer a comprehensive water quality monitoring program of Cape Cod's coastal embayments and surrounding water bodies, as allowed by Massachusetts General Laws pursuant to Section 19 of Chapter 337 of the Acts of 2018.

Ms. Perry reminded members last year, the Management Board executed a Memorandum of Understanding (MOU) with DEP for the purpose of funding monitoring in the waters around Cape Cod and the Islands, committing up to \$325,000 for monitoring for the year.

The Commission contracted with the Center for Coastal Studies to conduct the monitoring and that contract runs through July 2024. To continue to support monitoring, the MOA will likely need to be amended relative to time and funding. Commission staff reached out to DEP to discuss, and DEP staff are looking into the best strategy for amending the MOA, and, potentially allowing for it to cover multiple years of monitoring.

Member Reports

Mr. Galligan called for updates from members.

Adam Turner said Martha's Vineyard towns need to develop 208 plans or equivalent, which all towns are working towards. He said two towns have developed Comprehensive Water Management Plans and Oak Bluffs has a plan approved. He said the up-island towns will have another plan. He complimented the Management Board on approving the change to subsidy payments. He said of the 14 ponds on Martha's Vineyard, 10 are impaired and towns are looking at alternative technologies to address those impairments.

Mr. Ells said the Management Board should start talking about effluent discharge and he expressed concern about the regulatory environment.

Ms. Mastrangelo said there was a MA Division of Marine Fisheries public hearing on regulations around fisheries and effluent that members may be interested in.

Ms. Beebe said that Eastham had a Massachusetts Environmental Policy Act (MEPA) hearing for filing its Targeted Watershed Management Plan and is moving into the design phase for a treatment and collection system.

Mr. Johnson-Staub said there is a group in Falmouth energized about urine diversion toilets and the town is engaging with MassTech to conduct initial feasibility to try to secure some grant funds and address barriers to entry, such as the plumbing code and how to transport and market the urine as fertilizer. He said the next phase will be a pilot to seek DEP approval to get those devices approved as Innovative-Alternative systems for watershed permits. He said if a community is interested in participating, they can contact MassTech.

Ms. Wyman-Colombo said there is a Town Meeting warrant article in Mashpee for debt exclusion for the next sewer phase and commented that today's work will make a big difference to the town.

Mr. Vincent expressed thanks to the Executive Committee and Mr. Gottlieb for their work on maintaining the subsidy level.

Mr. Dunham said Sandwich is working hard on wastewater efforts but getting frustrated on a lack of direction and support from DEP and EPA. The town will keep working on those issues.

Mr. Forest said there was a groundbreaking for Phase I last week. He too expressed concern and challenges with discharge permits and said the Management Board will need to work together on these issues.

Mr. Galligan said Orleans received a favorable certificate from MEPA for its updated filing on project phases, which included a roadmap to simplify some monitoring requirements.

New Business

Mr. Galligan called for any new business. There was none.

Public Comment

Mr. Galligan called for public comment. There was none.

Future Agenda Topics

Mr. Galligan called for discussion on possible future agenda items.

Mr. Ells asked if discussion of a long-term funding strategy for the Fund should be referred to the Executive Committee before returning to the Management Board. Mr. Galligan suggested reconvening when updated project projections are received from towns.

Adjourn

Mr. Ells made a motion to adjourn, seconded by Mr. Howell. Ells, yes; Mastrangelo, yes; Beebe, yes; Howell, yes; Wyman-Colombo, yes; Galligan, yes; Vincent, yes; Dunham, yes; Tangeman, yes; Curley, yes; Forest, yes.

The meeting adjourned at 12:11pm.