

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources State Reclamation and Mosquito Control Board

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

SCOTT J. SOARES
Commissioner

MEMBERS

Lee Corte-Real, **Chairman**
Department of Agricultural
Resources (DAR)

Anne Carroll
Department of Conservation
And Recreation (DCR)

Gary Gonyea
Department of Environmental
Protection (DEP)

ADMINISTRATION

Alisha Bouchard
Project Administrator

MOSQUITO CONTROL PROJECTS & DISTRICTS

Berkshire County Mosquito
Control Project

Bristol County Mosquito Control
Project

Central Massachusetts
Mosquito Control Project

Cape Cod Mosquito
Control Project

East Middlesex Mosquito
Control Project

Norfolk County Mosquito
Control Project

Northeast Massachusetts
Mosquito & Wetland
Management District

Plymouth County Mosquito
Control Project

Suffolk County Mosquito Control
Project

DATE: WEDNESDAY, NOVEMBER 18, 2009
TIME: 10:00 A.M. TO 12:00 P.M.
LOCATION: 251 Causeway Street, Suite 500, Boston, MA

- A. Start: Call to Order, Attendance, and Opening Remarks (*if any*)
- B. Minutes: The Board will consider for approval the meeting minutes of the October 21, 2009 meeting.
- C. Management of Board: The Board will consider a vote for an Executive Director for the Board and recognize that individual as the chief staff person pertaining to general Board issues. Also, the Board will consider authorizing the Executive Director to manage day-to-day operations under the direction of Chairman.
- D. New Letterhead: The Board will consider approving new letterhead and adding Executive Director Position under Administration on letterhead.
- E. Annual Operations Report Template: The Board will discuss and vote on final template for early submission of 2009 mosquito control season operations.
- F. Discuss, comment, and vote on Policy for annual mosquito control budget sign off
- G. GEIR Update: Another extension for comments has been requested and the update lacks monitoring protocols for efficacy
- H. NPDES Update: Chairman Corte-Real participated on conference call and will update Board of latest information on development of permit for mosquitoes.
- I. NPDES and EPA economic analysis for mosquito control: Gary Gonyea report and lead discussion on recent questionnaire due November 30, 2009.
- J. Commissioner Appointments and Reappointments: Update
- K. Location of Meeting for May 26, 2010 date: The Board will vote to have this meeting date *at the UMASS Waltham Center* since Central MA Mosquito is unable to host the Board meeting at their facility. Also, the Board needs to consider October 27th date instead of October 20th voted at the last meeting due to potential conflicts for Chairman.
- L. Adjournment.

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Mark S. Buffone
Executive Director

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Suffolk County Mosquito Control
Project

Subject: Meeting Minutes Summary (State Reclamation and Mosquito Control Board)

Date / Time: Wednesday, November 18, 2009

Place: 251 Causeway Street, Suite 500,
Boston, MA

PRESENT:

Board and Administration Members:

Lee Corte-Real, Department of Agricultural Resources, Chairman
Anne Carroll, Department of Conservation and Recreation, Member
Gary Gonyea, Department of Environmental Protection, Member

Alisha Bouchard, Projects Administrator

Mosquito Control

Project Commissioners: None

**Mosquito Control Project Directors/
Superintendents /Assistants:** None

Others:

Mark Buffone, MDAR, past SRMCB Chairman

Bob Ritchie, MDAR, General Counsel

A: Call to Order, Attendance, Introductory Remarks (if any)

Chairman Lee Corte-Real called the meeting to order at 10:00 AM. He asked for a roll call of each member. Anne Carroll representing the Department of Conservation and Recreation, and Gary Gonyea were present. The Chairman recognized himself representing the Department of Agricultural Resources and stated there was a quorum.

- B. Minutes: the Board will consider for approval by vote the meeting minutes of the October 21, 2009 meeting.**
- B.1: Background:** Chairman Corte-Real asked if the Board members had time to review the minutes of October 21, 2009.
- B.2: Questions and Discussions:** Chairman Corte-Real stated that if the Board needs additional time to review the minutes, he suggested that with the Board's permission, the Board could table consideration of the minutes to the next meeting.
- B.3: Action Taken:** Anne Carroll moved to table the minutes of October 21, 2009 to allow for additional time to review the motion was seconded by Gary Gonyea and voted unanimously.
- C: Management of Board: The Board will consider a vote for an Executive Director for the Board and recognize that individual as the chief staff person pertaining to general Board issues. Also, the Board will consider authorizing the Executive Director to manage day-to-day operations under the direction of Chairman.**
- C.1: Background:** Chairman Corte-Real stated that this vote would recognize that Mr. Mark Buffone would fill the role of Executive Director.
- C.2: Questions and Discussion:** Chairman asked for a clarification from General Counsel Bob Ritchie about the new position function. He stated that Mr. Buffone can freely, without contending with the rough edges of Open Meeting Law; deal with any one of the members on a one-to-one basis. The Executive Director position could do this in many ways such as by email, via telephone, or in person. This position will permit operational continuity and optimize efficiencies of the Board. He stated that the objective is not that the Executive Director reports to the Chairman in particular, but can keep all members advised. The goal is that the Executive Director supports the Board as a major staff person with wide latitude to carry out business on behalf of the Board. Bob Ritchie advised that the Board should 1st establish the position of Executive Director, 2nd appoint someone to that position such as Mark Buffone if that is the Board's goal and then settle on the appropriateness of the designation of the title that depicts and defines accurately the role of the position.
- C.3: Action Taken:** Gary Gonyea made a motion that the Board establish the position of an Executive Director; that the Board appoint Mark Buffone as the Board's 1st Executive Director, and that the duties of the Executive Director consist of managing the day-to-day operations under the direction of the Chairman and other Board members as well as conducting standard business on behalf of the Board. Anne Carroll seconded the motion. The motion was unanimously approved.
- D: New Letterhead: The Board will consider approving new letterhead and adding Executive Director Position under Administration on letterhead.**
- D.1: Background:** Chairman Corte-Real introduced the agenda item. Mark Buffone noted that this letterhead is consistent with the Massachusetts Department of Agricultural Resources.
- D.2: Questions and Discussions:** The Board discussed where the Executive Director name be placed on the new letterhead.

- D.3: **Action Taken:** Gary Gonyea made a motion that the Board approve the new letterhead and add the Executive Director Position title under Administration and placed above the Projects Administrator title. Anne Carroll seconded the motion. The motion was unanimously approved by the Board.
- E: **Annual Operations Report Template:** The Board will discuss and vote on final template for early submission of 2009 mosquito control season operations.
- E.1: **Background:** Chairman Corte-Real asked Mr. Buffone to open this item and provide background to the Board. Mr. Buffone stated that Gary Gonyea had requested that Mr. Buffone distribute the annual report template and that the Board approved a motion for the annual reports to be submitted no later than the Board's January meeting.
- E.2: **Questions and Discussions:** Gary Gonyea made some recommendations to modify the template by adding several additional items such as ditch maintenance along with how many projects were accomplished by the mosquito control projects, monitoring details, and include the FY 09 and FY 10 budgets broken down by spending category, add section on cooperative research/restoration projects, add section on State/Regional/National workgroups or panels with mosquito control projects participation, and of course what the Board agreed to on October 21, 2009 concerning member municipalities assessments. The Board discussed these suggestions, if the current template contained these items already under different headings, and where the new modification refinements should be placed in the template.
- E.3: **Action Taken:** Gary Gonyea made a motion that the Board would add a section on monitoring and describe pre and post monitoring efforts for each of the following; larvicide, adulticide, source reductions, and Open marsh Water management if applicable and adds under special projects list cooperative research and restoration projects and state and national panel or meetings. Anne Carroll seconded the motion and the motion carried unanimously.

F: Discuss, comment, and vote on a policy for annual mosquito control budget sign off

- F.1: **Background:** Mark Buffone provided background to the Board. Mr. Buffone remarked that at the last meeting, Chairman Corte-Real, as the DAR representative, stated that he was disinclined to support mosquito control projects (MCPs) FY 11 budgets above level funding and that he also stated that if MCPs were to proposed increases that the Board would weigh the request for increases if local communities supported such increases most likely from the chief elected officer. However, Mr. Buffone noted that Chairman Corte-Real stated he would seek clarification from MDAR General Counsel. Mr. Buffone highlighted that Bob Ritchie is in attendance at this meeting.

Mark Buffone explained to the Board that although the cherry sheet assessment is not an appropriation, for example, that a town meeting or city council would vote upon, it is still closely akin to an appropriation in that it is a release of money to which the town would expend for some specific service such as mosquito control. He further stated that within that context, the chief executive officer that Chairman Corte-Real referred to at the last meeting is defined by statute as the Board of Selectman or otherwise define by municipal charter. As a result, Mr. Buffone emphasized that what has been suggested might not be the preferred sign off for the Board to evaluate or weigh when making decisions about budget increases although obviously a practical outcome of the process. Nonetheless, this support or sign off by the chief executive officer may not be binding. On the other hand, Mr. Buffone noted that if the legislative body of the municipality such as defined as the town meeting for towns and for cities (the city council vote), this sign off would be far more binding and the Board could be confident and weigh more in favor of this sign off entity.

Mr. Buffone concluded his comments by saying that the Board has an obligation to make clear the budget process so that towns and MCP can understand it. He distributed a rough draft of a policy for the Board's consideration.

F.2: Questions and Discussions: The General Counsel made several remarks. He stated that state statute assigns the Board an important function in that the certification/approval responsibility is important as the Board is looking at the interest of the Commonwealth and the local citizens of the member communities of the MCP. Rather than refer to Board of Selectman or chief elected official, he suggested we use the categorical reference, **the chief executive officer of the town or city**. The reason being is that the Board could tap into whatever the city or town may structure themselves as.

He noted that the goal should be to make certain that when the Board carries out its statutory function with respect to the budgets of the MCPs, that it do so with the clear understanding that it is a reasonable budget and that it is well understood and supported locally. He emphasized the very best way to do this is to put it on a ballot question and have it be a referendum for every city and town. However, he commented that this is not practical. Also, he mentioned that the budgets could be put on the agenda for every town or city council meeting as a separate warrant article similar to school budgets but again noted that mechanically it would be awkward. Nonetheless, he explained that a process like this would help the Board gauging the pulse of the community to its desire to spending of this money for the service of mosquito control.

Bob continued to explore with the Board a process saying the next thing is to bring it back to the chief executive officer (typically, the Board of selectman in a town, and mayor and council of a city) since those individuals being elected will be sensitive to what their constituents want.

He asked the question: how can the Board compel grass roots input into a major economic decision about mosquito control budgets where cities and towns may not have as much awareness about the allocation of fiscal resources as they would if the matter came up at the warrant at a public meeting or on the agenda of a city council meeting? He noted that deductions will be made in the flow of local aid distributions as reflected on the "Cherry Sheet," and at the end of the fiscal pipeline it has as much of a fiscal impact on individual citizens as local taxes. So the question is how to get the grass roots sentiments of the communities' willingness to spend the money that the MCPs want? The current process was discussed being primarily that the Commissions vote on the budget and then send a bottom line number to the Board. Then the Board says yes or no and determines how much of the anticipated local aid distribution "Joe citizen's" municipality is going to relinquish.

The Board agreed that what is driving this discussion is that adequate scrutiny is not given to the proposed budgets at the local level, and that the Board required by law to certify money to DOR and the Comptroller how much money will be taken away from local aid for mosquito control. The Board agreed as well that the flipside is to make certain that the budgets of MCPs is a prudent fiscal plan for the use of public money to do mosquito control.

The question was asked: how does this budget get created? Bob Ritchie answered stating well or poorly depending on the quality of the work of the MCP Commission. He emphasized that when the Commissions do this, there is no local inputs that even come close to for example being the kind of input for example that a school committee has. He explained that school committee process includes public meetings well in advance of budget approval to debate and get feedback. In the same way, some kind of discussion would ensure that some MCP may have more transparency than other to local communities.

Bob mentioned that cross MCPs consistency should be a goal of the Board. The Board is left with a variety of approaches to a core problem and the problem is in exercising the authority and duty of this Board has to certify the budget to DOR when not enough information is received either as the details of the budget itself or to the very important fact that this represent what the communities involved want to do.

He continued to discuss the issue with another question as how does the Board get to that level of confidence in reviewing the budget that this represents what the people involve want. There is no plan for all of the MCPs to take the question to the public.

He suggested a process where we back away from the actual Board certification date and start with the Commissioners. Inform and direct them to start with a plan (that is reducing to print in the form of proposed budget) for the ensuing fiscal year. That plan would be mandated to go before a public hearing somewhere with the MCP. Thereafter the budget will be advance for public discussion with a 14 day notice of that public hearing and copies of the budget go to the chief executive officer of each city and town and the Board. It would be advertised in notice such as a meeting will be held 14 days from this date at an advertised location to discuss the proposed MCP at a particular time and copies made available at the MCP.

The Commission would be required to explain their budget, make copies available for discussion, take input, and after that event was over, the Board would allow time for anyone such as citizens or elected people even Commissioners themselves to file a report as to what happened at the local level . Now the Board can review and carry out the budget with a certain level of confidence that the Board has a detail budget, the knowledge that it went before the public, and that the Board has some reason to believe that the budget can be approved.

The Board agreed that we need to find a mechanism to achieve a level of confidence that the local will is there but the mechanism is unsure. There was concern that the Commission was reviewing their budget in a vacuum.

The general counsel cautioned the Board saying that no matter what comes up from the community the Board makes its own independent decision and it is not bound by what comes up locally but that it will help to have escalating levels of confidence in approving the budget.

The Board needs to have some means by which we are confident that these budgets are thoroughly vetted and are acceptable at the local level.

We did not exercise the kind of oversight that 252 says we should. We are trying to elevate the quality of information that the decision to certify is based but at the same time administratively we do not have lots of people to conduct reviews. We do want to stimulate the finance committee to look with scrutiny early enough in the process to have an opportunity to influence the local aid distribution.

Mark Buffone stated that the Board needs to have a clear policy as discussed and then have a process of how the policy should be implemented. M. Buffone distributed a proposed draft policy.

The General Counsel stated that the Board could require that the propose budget be posted in a newspaper. Force some form of transparency where we have assurance of local input.

Other related issues to budget discussion

The Board also discussed other specific items related to the budget discussion such as a letter recently received from the Cape Cod Mosquito Control Commission. Chairman Corte-Real stated that the Board already voted on this matter and the fact that there is a new Chairman, does not change the Board's vote. The Board agreed to respond to the letter. The Board also agreed that any budget process approved upon should be made clearer to Commissions and others. The Chairman remarked that at a minimum he would like to see a public hearing in which each one of the mosquito control project post the proposed budget to citizens and take comments from local citizens. The MCP would hold the public meeting prior to submission their budget to the Board along with notifying or posting to Finance Committee or newspaper of general circulation by May 1st. 15 days prior that particular MCP public hearing (it can be built into their regular meeting of the MCP as an agenda item,) and at that meeting copy of the budget is available at the MCP, gets posted twice in newspaper, copy of it sent to us, finance committee, and the chief executive officer of the city or town. We ought to require the MCP that they satisfied this process.

Bob Ritchie stated he would give the Board a form that they will require to certify to the Board certifying that they posted the notice with a copy of the notice to the Board, Finance Committee, and chief executive officer. This form can be added to the Board's review. This would be another tool that gives the Board a basis of confidence in reviewing and approving the budget. He advised that the Board needs to make sure that when you go to DOR, you give them a quality piece of analysis, that the Board looked at carefully and the Board has reason to believe it is believe and transparency adopted. Additionally, Bob Ritchie suggested that the Board give the Commissions an adequate budget template or model that they could be free to deviate from it in reasonable manner. He envisioned the budget model to have broad categorical divisions.

- F.3: Action Taken:** The Board was in consensus that the Board prior to the next meeting takes the time to come up with a refined statement of the draft policy distributed accompanied by individual comments and thoughts as to what the process should be that are transparent and practical. Also, the Board would explore the practical mechanical implementation of the policy. The Board also requested that the Executive Director to send the policy electronically to each member and the General Counsel. The Board expressed their gratitude to Bob Ritchie for his thought and input into the budget sign off matter.

Bob Ritchie briefly updated the Board about the Bristol County Mosquito Control Project law suit. He commented that we have not seen hard evidence of being served. Nevertheless, he told the Board that this case would have an extensive progression over the next year.

- G: GEIR Update:** Another extension for comments has been requested and the update lacks monitoring protocols for efficacy
- G.1: Background:** M. Buffone stated at the last meeting that he reported that the Board's 2nd MEPA filing had been posted in the Environmental Monitor and that the date for comments expired on Dec 7th after a request for extension. However, another (a second request for extension has been sent to me) and no objections were made. The extension is driven by the fact that Audubon representatives were not satisfied with the Board's 2nd filing hinting that the document lacked adequate monitoring protocols. M. Buffone informed the Board of the following points sent to him from Dr. Sam Telford the principal author of the GEIR update.

1. The principal environmental organization pointed out that the Certificate made it clear that monitoring protocols for efficacy were required for the Update. Dr. Telford responded by stating that monitoring (pre and post measures) is being done by some MCPs for routine service larviciding and adulticiding, according to available resources (and always for aerial larviciding). However, the organization representative indicated that this was not sufficient (that only some do it...but she does recognize that MCPs vary in their resources) and that the Update must have monitoring protocols. To avoid negative comments to the Secretary, Dr. Telford offered to come up with simple measures of efficacy for service call larviciding and adulticiding, data summaries
2. Dr. Telford wanted the Board to know that the freshwater BMP now has a monitoring protocol that this organization helped to develop and that the OMWM BMP is in progress and recommended that the organization suggest monitoring protocols while all stakeholders are working on this update.
3. According to the organization, the DPH aerial adulticiding plan apparently does not have monitoring to their satisfaction. He suggested that a working group be convened to come up with appropriate protocols; such a working group would have to include DPH too.

Mark Buffone concluded that the MEPA review period is extended as follows:

Comments due - January 8, 2010
Certificate due - January 15, 2010

- G.2: Questions and Discussions:** Gary Gonyea stated that #3 above was really referring to the Board's operational plan and that the Board responded adequately to this matter and that the board has no resources to do any more than what the Board developed.
- G.3: Action Taken:** The Board asked the Executive Director to follow-up with Dr. Sam Telford and Heidi Ricci representing Audubon.
- H: NPDES Update:** Chairman Corte-Real participated on conference call and will update Board of latest information on development of permit for mosquitoes.
- H.1: Background:** The conference call was focused on answering the cost analysis survey that the EPA is sending out.
- H.2: Questions and Discussions:** Chairman expressed his dismay at the lack of knowledge understanding of what is being suggested to comply with NPDES. He noted especially the unrealistic timelines and the uncertain implications of this matter. He stated under normal circumstances it will take several years to come up with a rule.
- H.3: Action Taken:** None
- I: NPDES and EPA economic analysis for mosquito control:** Gary Gonyea report and lead discussion on recent questionnaire due November 30, 2009.
- I.1: Background:** Mark Buffone distributed an EPA survey on cost analysis of mosquito control activities.
- I.2: Questions and Discussions:** Gary Gonyea stated that he would send a request for an extension. Mark Buffone reminded the Board that the Board requested this information at the October 21st meeting. Gary Gonyea asked if the Board could assist him in answering several questions in the survey before the end of the meeting or after. Gary Gonyea suggested the Board send the survey to the MCPs and ask them to complete the survey as soon as possible.

I.3: **Action Taken:** Board agreed that the Board send out the survey to the MCPs requesting they submit the information to the Board no later than December 8th and have EPA compile the information.'

J: Commissioner Appointments and Reappointments: Update

J.1: **Background:** Mark Buffone informed the Board that he would be sending them candidate packages for their review for January. He also noted that the Assistant Commissioner of MDAR, Nathan L'Etoile had asked if the Board could consider a process to outreach to others such environmentalist.

J.2: **Questions and Discussions:** Chairman Corte-Real suggested that the Board reach out to others who might be interested and contact Board's of Health and Conservation Commissions. M. Buffone stated that outreach has occurred and vacancy notices have been posted on the website and no interest has come to date. M. Buffone stated that perhaps the Board would develop a process such as posting the announcements in local newspaper. Chairman Corte-Real said that it would be money well spent. Alisha Bouchard suggested that the Board post it in the newspaper and send the invoice to the Board. M. Buffone asked the Board if this new discussion be incorporated into the new policy recently voted by the Board. Gary Gonyea suggested that the Board look at the existing Commissioner coming up for appointment and the Board does not act to re-appoint, then the Board would direct the Commission to advertise the vacancy. Chairman Corte-Real mentioned that one drawback would be if no one came forward to fill the vacancy would create a void for that particular Commission.

J.3: **Action Taken:** None

K: **Location of Meeting for May 26, 2010 date:** The Board will vote to have this meeting date *at the UMASS Waltham Center* since Central MA Mosquito is unable to host the Board meeting at their facility. Also, the Board needs to consider October 27th date instead of October 20th voted at the last meeting due to potential conflicts for Chairman.

K.1 **Background:** Mark Buffone informed the Board of a glitch in the date and location of certain meetings voted at the October 21st, 2009 meeting. Also, Mark Buffone informed the Board that the Chairman has a scheduling conflict with the October date previously voted by the Board.

K.2: **Questions and Discussions:** Anne Carroll said she would check on facility at West Boylston office of DCR. She noted that there is plenty of parking at this site.

K.3: **Action Taken:** Gary Gonyea made motion to make the changes to the meeting dates as noted by the Executive Director, Mark Buffone and seconded by Anne Carroll and unanimously voted.

L. Adjournment

L.1 **Background:** Before adjournment, the Chairman Corte-Real asked if there were any other comments or questions before the Board officially adjourned the meeting.

L.2: **Questions and Discussions:** None.

L.3: **Action Taken:** Gary Gonyea made motion to adjourn the meeting at 12:30 PM and seconded by Anne Carroll and unanimously voted.

Respectfully submitted,
Mark S. Buffone, Executive Director