

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 02114-2151



DEVAL L. PATRICK

Governor

TIMOTHY MURRAY

Lt. Governor

Mark S. Buffone, Chairman

Department of Agricultural Resources

Anne Carroll

Department of Conservation and Recreation

Gary Gonyea

Department of Environmental Protection

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SCOTT J. SOARES

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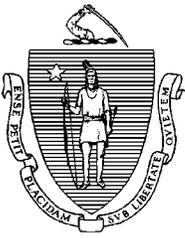
Meeting Agenda

State Reclamation and Mosquito Control Board

Wednesday, September 9, 2009

10:00 A.M. **at 251 Causeway Street, 5th floor**

1. Call to Order and Attendance
2. Vote to approve August 12, 2009 Minutes
3. Cape Cod Mosquito Control Project Commission-CCMCP FY 10 budget
4. 2nd EIR Filing To MEPA on August 14, 2009-Update
5. Other Business
6. Next Meeting Dates October 14th in Boston and October 21st in Waltham @ 10 AM
7. Adjournment



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STATE RECLAMATION AND MOSQUITO CONTROL BOARD (SRMCB)

Subject: Summary Meeting Minutes

Date / Time: Wednesday, September 9, 2009

Place: 251 Causeway Street, 5th floor Conference Room
Boston, MA 02114

Attendees:

SRMCB Board: Mark Buffone, Department of Agricultural Resources /SRMCB, Chairman
Gary Gonyea, Department of Environmental Protection / SRMCB Member

Others

Robert Buchanan, State Auditor
John Doane, Superintendent, Cape Cod Mosquito Control Project
Jere Downing, Chairman of Cape Cod Mosquito Control Project Commission
Arthur W. Neill, Cape Cod Mosquito Control Project Commission
Gabrielle Sakolsky, Cape Cod Mosquito Control Project
Charles Sumner, Cape Cod Mosquito Control Project Commission

1.0: Call to Order and Attendance. Mark Buffone officially called the meeting of the State Reclamation and Mosquito Control Board to order at 10:00 AM on Wednesday, September 9, 2009 at 251 Causeway Street, 5th floor Conference Room A, Boston, MA

He stated that the meeting was posted at both the Secretary of State's office and Executive Office of Administration and Finance pursuant to the Open Meeting Law.

He introduced himself as Chairman and the fact that he was representing the Department of Agricultural Resources. He also recognized Gary Gonyea who represents the Department of Environmental Protection. He remarked that the Board did have a quorum for voting purposes.

- 1.2: **Opening Remarks:** Chairman Buffone asked those present to sign the attendance sheet and as well as introduce themselves and identify their affiliation. The Chairman welcomed everyone in attendance.
- 2.0: **Vote to approve August 12, 2009 minutes**
- 2.1: **Background:** Chairman Buffone stated that the Board needs to approve the minutes of August 12, 2009 and entertained a motion to do so.
- 2.2: **Questions and Discussions:** None.
- 2.3: **Action Taken:** Gary Gonyea moved to approve the August 12, 2009 minutes and the motion was seconded by Mark Buffone. The members unanimously voted to approve the minutes of August 12, 2009.
- 3.0: **Cape Cod Mosquito Control Project (CCMCP) Commission- FY 10 Budget Issue**
- 3.1: **Background:** The Cape Cod Mosquito Control Commission requested that the Board add them to the Board agenda to discuss their FY 10 budget that was level funded by the Board.
- 3.2: **Questions and Discussion:** Jere Downing, Chairman of the Cape Cod Mosquito Control Project (CCMCP) Commission thanked the Board for adding an item to the agenda providing them the opportunity to speak to the Board about their concerns about the FY 10 budget. Mr. Downing felt this issue was important enough to bring three of the five CCMCP Commissioners to this meeting including Charles Sumner, who represents the Administrators Association - an Association that represents all of the municipalities on the Cape. Mr. Downing asked the Board to take action on the Cape's FY 10 budget and increase it by 2 and ½%. He remarked that it was his understanding that the Cape's budget could be revised as late of October. He asked if this assumption was correct.

Chairman Buffone responded that it would depend since this revision would impact the process conducted by the Division of Local Services in the Department of Revenue (DOR) which calculate the estimated and actual amounts of cherry sheet assessments. He stated that the Board would need to formally request from DOR a recalculation of the assessments. Chairman Buffone said that it was his understanding that if the Board did take action to revise the Cape's FY 10 budget, it would impact all of the 193 municipal member communities' assessments for all the mosquito control projects. There would be no guarantee that the other assessments would stay at the same level and even be at risk of reduction since the economic picture has declined further since the Board's vote in May and subsequent assessments were approved. He emphasized that this was not part of the normal protocol and should only take place if something occurred above and beyond the control of the Board or any Mosquito Control Project, such as a city or town which decided to vote for membership at a fall town meeting.

Chairman Buffone stated the Board developed a policy in 2005 with the Department of Revenue (Division of Local Services) to cover these circumstances.

Jere Downing, speaking on behalf of the CCMCP Commission, stated that their budget request with a 2 and ½% was economically feasible and responsible. Further, he commented that the Commission had the support of all its member towns on the Cape. He highlighted the letters sent to the Board from 2 organizations representing these towns. He stated that the CCMCP was in attendance to make the case so that the Board might take action to reverse its vote in May allowing only for a level funded budget.

The CCMCP Commissioners acknowledged and expressed their appreciation to the Board for pursuing fiscally responsible budgets during tough economic times but concluded that on Cape Cod, there is support and enough funds to sustain a 2 and ½ % increase in the CCMCP budget. The CCMCP Commissioners again requested that the Board approve their increase and revise their FY10 budget accordingly.

Chairman Buffone emphasized that the Board has communicated clearly over the past 2 fiscal years of the necessity to be fiscally disciplined and that mosquito control services budget must reflect the current budget uncertainties and economic climate. He stated that since the cities and towns are being assessed to pay for the state services of mosquito control, that the Board strongly believes this matter goes beyond those individuals who are part of municipal associations representing the various Cape Cod municipalities. The Chairman felt that it was reasonable during these economic times to ask each member community whether or not increases were warranted or justified. The Board expressed that it would like to hear from each city or town (not just the representative of the member community) or have some kind of documentation from official town body such as finance committee to convince the Board that both funds and support exist locally for the state service.

Mr. Downing stated he was puzzled by the process described and proposed by Chairman Buffone.

Chairman Buffone responded that this issue is connected to whether or not the mosquito control project is a state entity. He noted that formal legal opinions prepared in 2002 and 2003 reveal that state mosquito control projects are "state" not "municipal" entities. Additionally, he commented that in 2004, the funding was changed from appropriation account set up to state trust funds. At the same time, a number of changes took place at the state level that brought the mosquito control projects into compliance with state auditing, finance, and procurement procedures and regulations.

Charles Sumner made the following remarks:

Cape Cod MCP serves the communities on Cape Cod and as he understands 100% of their cost is financed by local government. He suggested, yes, if you eliminated the Cape Cod Mosquito Control Project, you could save a \$1,700,000 dollars and take the individual assessments of any member community and use it for some other purpose. He contended that the member communities are not interested in doing that because the mosquito control district plays a valuable role regarding the economy of Cape Cod in terms of making it a place where people will want to visit and spend money thus permitting tax money to go back to the Commonwealth just by the very nature of their tourism industry. He added that he was a little offended by the e-mail that was sent by Chairman Buffone and expressed the need to say this publically for the record at this meeting.

He commented on the described process of asking all 15 cities and towns to submit approvals from the legislative body at town meetings. He strongly contended that these cherry sheet assessments don't go to the town meeting. He remarked that no budget via assessments is ever approved by town meeting. He felt the Board was creating a whole new process which could be construed as a punishment to the Cape Commission because they decided to pursue increases that their economy and region could afford as they have determined.

Mr. Sumner stated that the Board is making a judgment or policy decision that oversteps its bounds. As a representative of his community as well as the other represented communities, he felt that they had gone through a process to communicate with other representatives because the Cape acknowledged that the State Reclamation and Mosquito Control Board had a valid point regarding fiscal discipline during tough times. He commented that they wanted to make sure that there was a level of support whereby the communities valued these mosquito control services and were willing to pay for them. The fact of the matter is they were all supported, and he said he didn't feel the Board received any communications from Cape Cod noting that there were objections to the Cape Cod MCP FY 10 budget increased by 2 and ½%.

Mr. Sumner expressed his opinion that the Board was inserting themselves into a major policy issue which they as a region on the Cape could afford. Even the town of Brewster is operating at more than level funded amount over FY 2009, he said. Why, he asked? Because we had a capacity to afford that amount, he said.

John Doane, Superintendent of the Cape expressed that they have unforeseen items that need attention such as increases in Retirement Board expenses (\$16,000 higher than was budgeted), Arbovirus surveillance/DPH testing costs (\$700) and Worker's Compensation increases by \$2,000 dollars. He noted that you have a little over \$20,000 of expenditure that they have not accounted for because they were not on the table when the budget was put together. He remarked that these items have to be paid for regardless and that they are legitimate cost that they have no control over them. He went on to describe a vehicle accident that would require the purchase of a new vehicle for which they did not budget.

Mr. Doane believed that they were hearing from the towns via the town selectman that set the policies and the town managers who carry out the policies. He felt they have a valid case to keep their service as it is and not have to be level funded or reduce their budget.

Gary Gonyea agreed that everyone is facing some really rough times. He noted that the Department he works for will lose 30 people via cuts. Regardless of the cuts, the Department will need to continue with its work.

Chairman Buffone stated that state agencies were asked to revise proposed FY 11 budgets recently to highlight where potential cuts could be made because revenues are just not there.

Charles Sumner felt this was not applicable to this issue because the member communities pay for those costs.

Chairman Buffone stated that the MCPs are state agencies and need to follow state rules and regulations.

Jere Downing agreed that they are state entity but there is no state money involved. He believed this is the fundamental issue behind these discussions. If there were state monies involved, he felt they would not be able to make an argument. He contended that this is clearly not the case. He voiced his opinion that the funding was all local funding that the State Reclamation and Mosquito Control Board facilitate on behalf of the Cape to provide that service. The fact that there is no state funding for any other MCP, although he emphasized that they are here only to talk about Cape Cod, he thought challenges the absolute decision not to understand and listen to the Commissions case to meet the budget they prepared with the support of the towns who pay for the service, that's the fundamental issue.

Chairman Buffone contended that although funds are assessed off the cherry sheets derived from each locality, it still does not negate that you are still a state entity under the aegis of a state authority. He further remarked, as a Commission, you have certain authorities but reminded them that the Board appoints them as Commissioners to carry out improvements on behalf of that Board and under the direction of the Board.

Gary agreed that the Board has the authority and that the Board has made that decision to level fund mosquito control for FY 10. Given the reality of additional local aid cuts, Gary stated he would be very reluctant to go down the road of making revisions since there would be a potential for cuts in the other districts budgets. All of the other MCP's submitted level funded budgets. Other MCP's budgets could be cut if the Board decided to change its vote for Cape Cod and reopen the budget setting process.

Charles Sumner commented that the Cape Cod communities support this budget and that this budget is important to the product that they provide to the communities in their region. He felt the Board was stuck in a state policy issue that we are focused on when they are talking about their ability to finance it with a level of support from their communities.

Mr. Sumner said that the Board could vote no or yes to increase their budget. He asked the Board to reconsider it on the basis that there is support at the local level. If we are going to change a mechanism for approval of budget for mosquito control, he felt legislation should be drafted to do that. To require going every town meeting when it is not required now, is not right, he contended.

Chairman Buffone reemphasized that the Board has voted to level fund all MCP budgets for FY10 and believed that this vote will stand. He emphasized that if we want to move forward to FY 11, and your presentation today highlights that the Cape Cod municipalities can finance it and support from them, I believe it reasonable to follow a path that convinces the Board. Because the Board is in the position to approve and certify these budgets, the Board has to insure that any increases be supported. The Board needs documentation to base its vote on especially justification of the increases and why they are needed when core services are adequate to meet the mission of the mandate.

The question came up about the letters. The Board felt that the letters were not adequate. The Board felt that there needs to be more transparency. Chairman Buffone stated he felt the Board can ask the Commission to do certain things on behalf of the Board. The Board would support your increases if we have more evidence that your cities and towns can truly afford them.

Jere Downing felt the Board was discounting the validity of the 2 association's letters that represent the Cape Cod towns.

The Board was questioned as to whether we received any objections in proposals in opposition to the budget they submitted. The answer was no. Charles Sumner felt it was important to know this. He stated that it is not a state funded program but locally funded and you have no evidence that the communities have a problem with it; he felt this was a problem. He expressed further that maybe we can't come to agreement at this time and they can pursue other solutions over time which may be legislative. He believed that they might need to go this way because they feel disfranchise from representing their communities from an important mission. He wanted to make point that if their spending capacity goes up 2 and ½ a year that revenue growth is there by law. And they would like to use that money created by proposition 2 and ½.

Chairman Buffone agree that in past meetings the Board has supported 2 and ½ % increases to be use for capital improvement s along with allowing rollover funding to carry over. But the Board believes that it was fiscally prudent to level fund all MCP FY 10 budgets due to the unusual economic times. The Board believes that this issue is not unique to Cape Cod that every MCP has increases not foreseen or planned for in their budgets.

Statements were made about rollover amounts and it was revealed that the Cape is not in the position to absorb increase expenses because of their reduced rollover amount.

The Board mentioned that the projects administrator, Alisha Bouchard would be working closely with the MCP's to set up a budget planning process so that if you need things like a vehicle on a regular basis to plan capital budget out over a period of time.

Gary Gonyea mentioned that as part of the MEPA requirements for the Mosquito Control GEIR the Board may have to go to all the MCPs to present an annual report and as part of that report he felt it would be useful to present budget information to the public.

Chairman Downing stated that the public approved and embraces their program and there has been no controversy. He said that there was no outcry from the public either demanding more or critical of the program they have. The public accepts and supports the program and hence pays for the program. He wants to make sure that their program is explained in any public presentation.

Gary stated that the Board mentioned in its Fall 2008 meeting that the MCP's may need to consider 5-10 % cuts but the Board ultimately requested that MCP's prepare level funded budgets. This is a reflection of the economic times that everyone has to deal with.

Charles Sumner expressed the point that the Board is doing things that affect what they do as local communities and he felt if the Board was going to take that position that we are not elected officials. He felt we don't have a process where they engage with citizens like he does.

Gary Gonyea asked what are the specific impacts of the level funded budget. Representatives responded that the Cape has 22 full time employees and that there is one vacancy and that they would not be able to fill that vacancy. But they might be able to fill it for part of the year. The vacancy is in Barnstable. They will not fill the opening immediately. As a result, they will need to shift employees around from other towns impacting all towns. Additionally, since the accident, they need to replace a 4 wheel drive truck. Currently, they are down one truck and the 2 wheel drive that can't get to all the places it needs to go.

John Doane mentioned winter work which has a great impact to access swamps to treat in the summer time. Also, he noted that their work has been recognized by the federal government as providing mitigation to flooding. As a result, the towns get reductions in flood insurance and individuals get reductions too because of their work. John stated that not receiving a 2 and ½ % increase could have an impact on this federal government approval. He felt it could be in jeopardy if they can't fill the full time vacancy. He felt that the work may not be done as frequently as in the past and the FEMA may decide to not approve. He felt there were many repercussions that the level fund budget will cost the town of Brewster @ \$1,800, the town of Barnstable @ \$5,500 dollars, he thought it was being foolish not to see their point.

The Chairman finally emphasized that although the Cape has presented a number of facts or needs to justify a 2 and ½ % increase, these facts are not really unique to Cape Cod and that all MCPs are level funded. Essentially, the bad economy overrides MCP needs or justification. The Chairman also noted that the process is set up to receive this justification prior to annual May budget vote. For better or worse, he felt that these kinds of presentation should happen prior to the annual vote including letters from municipal associations. The Chairman felt it was too late at this point. He did say that he would try to support their anticipated increases for FY 11 depending on conditions and based on some of the facts presented to the Board. The Chairman agreed that it was good that the Commission presented this information and that the Board needed this information.

Chairman Downing responded that they need a clear cut process to understand what the Board wants and when it is needed well in advance. He also stated he was disappointed in the arbitrary basis of our decision making.

Chairman Buffone agreed that improvements could be made to “beef up” the existing budget guidance.

- 3.3: **Action Taken:** Chairman Jere Downing again requested that the Board take action on their request to increase their FY 2010 budget by 2 ½% at this meeting and to approve the budget that they presented which he stated has the support of the cities and town on the Cape. He also noted that the effort the Commission made to be present at this meeting.

Gary Gonyea made a motion not to take action due to the following facts:

- Request to late in the process;
- The Board has already voted to level fund all MCP FY 10 budgets;
- The Board’s is reluctant to reopen the budget process due to the potential impact to other MCP budgets given the way the Division of Local Services calculates assessments.

The motion was seconded by Mark Buffone and voted unanimously.

4.0: **2nd EIR Filing To MEPA on August 14, 2009-Update**

- 4.1: **Background:** Chairman Buffone commented that the Board filed its 2nd filing by the due date as of August 14th, 2009 per MEPA directives. He wanted to go on the record stating that the Board has not heard back from MEPA to date. Nonetheless, the Board has hired a vendor to mail out copies of the 2nd filing to over 600 parties within the 193 mosquito control member municipalities such as Board’s of Health, Conservation Commissions, Town Officials, and major state public libraries. Finally, the entire mailing went to those individuals or organizations that commented on the Board’s 1st filing.

- 4.2: **Questions and Discussions:** The Chairman informed those present that the Board employed the services of Dr. Sam Telford from Turfs University to fill the gap from the last approval in 1998 to the current dates. Gary Gonyea stated that the Board submitted the filing in time for it to be posted in the Environmental Monitor but it was not published in the next issue of the Monitor and the Secretary will set deadline dates for comments. Gary stated that the Board will discuss it at the next full Board meeting on October 21st in Waltham. The Board members stated that anyone can comment on it including mosquito control experts. The Chairman mentioned that annual reports will be due early this year since the Board plans to hold public meetings in the winter but further information will be forthcoming once the Board receives guidance from MEPA.

- 4.3: **Action Taken:** No Action.

5.0: Other Business

5.1: **Background:** None

5.2: Questions and Discussions: None

5.3: Action Taken: None.

6.0: Next Meeting Dates October 14th in Boston and October 21st in Waltham @ 10 AM

6.1 Background: None.

6.2: Questions and Discussions: None.

6.3: Action Taken: None.

7.0: Adjournment

7.1 **Background:** Before adjournment, it was noted that the state audit manager Robert A. Buchanan was present and the Board and the Cape Cod Commissioners thanked him for attending their Commission meeting. The Chairman asked if there were any other comments or questions before the Board officially adjourned the meeting.

7.2: Questions and Discussions: None.

7.3: **Action Taken:** Gary Gonyea moved to adjourn the meeting at 11:25 AM. The motion was seconded by Mark Buffone and voted unanimously.

Respectfully submitted,

Mark S. Buffone
Chairman