

**Cape Light Compact
Governing Board
Open Session Meeting Minutes
Wednesday, January 27, 2016**

The Cape Light Compact Executive Committee and Governing Board met on Wednesday, January 27, 2016 in the Innovation Room, Open Cape Building, Barnstable County Complex, 3195 Main Street, Barnstable MA 02630 at 2:00 p.m.

PRESENT WERE:

1. Dr. Joyce Flynn, Chairwoman, Yarmouth–by phone
2. Robert Schofield, Vice-Chair, Bourne
3. Peter Cocolis, Treasurer, Chatham
4. Barry Worth, Secretary, Harwich
5. David Anthony, Barnstable
6. Frederick Fenlon, Eastham
7. Paul Pimentel, Edgartown
8. Ronald Zweig, Falmouth
9. Richard Toole, Oak Bluffs
10. Thomas Donegan, Provincetown
11. Joshua Peters, Sandwich
12. Joseph Buteau, Truro
13. Richard Elkin, Wellfleet
14. Sue Hruby, W. Tisbury
- Valerie Bell, Harwich Member Elect

ABSENT WERE:

15. Michael Hebert, Aquinnah
16. Sheila Lyons, Barnstable County
17. Deane Keuch, Brewster
18. Tim Carroll, Chilmark
19. Brad Crowell, Dennis
20. John Ally, Dukes County Member elect
21. Thomas Mayo, Mashpee
22. Raymond Castillo, Orleans
23. Tisbury – vacant

Members physically present: 13
Members participating by phone: 1

LEGAL COUNSEL

Audrey Eidelman, Esq., BCK Law, PC
Jeffrey Bernstein, Esq., BCK Law, PC – by phone from 2:58 pm. – 4:00 p.m.

STAFF PRESENT:

Maggie Downey, Administrator
Meredith Miller, EM&V Manager
Margaret Song, Commercial & Industrial Program Manager
Austin Brandt, Power Supply Planner
Lindsay Henderson, Analyst
Karen Loura, Administrative Assistant

V. Chr. Schofield called the meeting to order at 2:00 p.m. stating the meeting [notice/agenda](#) had been duly posted on the Cape Light Compact website in accordance with the Open Meeting Law. The Chair acknowledged remote participation of Dr. Joyce Flynn by phone due to illness.

2016 EXECUTIVE COMMITTEE NOMINATIONS AND VOTE

M. Downey reviewed the slate of candidates nominated to serve on the Cape Light Compact Governing Board Executive Committee at the December 9, 2015 meeting.

CHAIRMAN:

- T. MAYO NOMINATED JOYCE FLYNN TO THE POSITION OF CHAIRPERSON, SECONDED BY R. SCHOFIELD AT THE DECEMBER 9, 2015 MEETING. With no additional nominations, R. Schofield moved to close nominations for the position of Chairperson, seconded by P. Cocolis and voted unanimously in favor.

VICE CHAIRMAN:

- T. MAYO NOMINATED **ROBERT SCHOFIELD TO THE POSITION OF V. CHAIRPERSON**, SECONDED BY B. WORTH AT THE DECEMBER 9, 2015 MEETING. With no additional nominations, R. Zweig moved to close nominations for the position of Vice Chairperson, seconded by P. Pimentel and voted unanimously in favor.

TREASURER:

- T. MAYO NOMINATED **PETER COCOLIS TO THE POSITION OF TREASURER**, SECONDED BY R. SCHOFIELD AT THE DECEMBER 9, 2015 MEETING. With no additional nominations, R. Elkin moved to close nominations for the position of Treasurer, seconded by J. Buteau and voted unanimously in favor.

SECRETARY:

- P. COCOLIS NOMINATED **RONALD ZWEIG TO THE POSITION OF SECRETARY**, SECONDED BY R. SCHOFIELD AT THE DECEMBER 9, 2015 MEETING. With no additional nominations, S. Hruby moved to close nominations for the position of Secretary, seconded by J. Buteau and voted unanimously in favor.

MEMBER-AT-LARGE:

- S. HRUBY NOMINATED **R. TOOLE TO THE POSITION OF MEMBER-AT-LARGE AT THE DECEMBER 9, 2015**. R. TOOLE DECLINED TO ACCEPT THE NOMINATION AT THAT TIME BUT AGREED TO GIVE IT CONSIDERATION. P. Pimentel nominated R. Toole to the position of Member-at-Large, seconded by P. Cocolis. R. Toole indicated he is willing to accept the nomination. With no additional nominations, R. Elkin moved to close nominations for the position of Member-at Large and vote in favor of the foregoing slate of nominees to the 2016 Executive Committee, seconded by Sue Hruby and voted by roll call vote as follows:

1. D. Anthony, Barnstable	Yes	8. R. Toole, Oak Bluffs	Yes
2. R. Schofield, Bourne	Yes	9. T. Donegan, Provincetown	Yes
3. P. Cocolis, Chatham	Yes	10. J. Peters, Sandwich	Yes
4. F. Fenlon, Eastham	Yes	11. J. Buteau, Truro	Yes
5. P. Pimentel, Edgartown	Yes	12. R. Elkin, Wellfleet	Yes
6. R. Zweig, Falmouth	Yes	13. S. Hruby, W. Tisbury	Yes
7. B. Worth, Harwich	Yes	14. J. Flynn, Yarmouth	Yes

Motion carried in the affirmative (14-0-0).

PUBLIC COMMENT

There were no members of the public present. There were no public comments.

CONSIDERATION OF MEETING MINUTES

B. Worth, Secretary presented the December 9, 2015 Meeting Minutes for approval. S. Hruby offered a correction to the Call letters of the Radio Station she mentioned on Page 2 to Radio WCAI, D. Anthony requested “sec” be replaced with “seconded” on page 4, under nominations for Secretary. D. Anthony then moved the Board vote to accept the December 9, 2015 Meeting Minutes as corrected, seconded by P. Pimentel and voted unanimously by roll call vote as follows:

1. D. Anthony, Barnstable	Yes	8. R. Toole, Oak Bluffs	Yes
2. R. Schofield, Bourne	Yes	9. T. Donegan, Provincetown	Yes
3. P. Cocolis, Chatham	Yes	10. J. Peters, Sandwich	Yes
4. F. Fenlon, Eastham	Yes	11. J. Buteau, Truro	Yes
5. P. Pimentel, Edgartown	Yes	12. R. Elkin, Wellfleet	Yes
6. R. Zweig, Falmouth	Yes	13. S. Hruby, W. Tisbury	Yes
7. B. Worth, Harwich	Yes	14. J. Flynn, Yarmouth	Yes

Motion carried in the affirmative (14-0-0).

TREASURER'S REPORT

ENERGY EFFICIENCY BUDGET & OPERATING FUND UPDATE

P. Cocolis provided review of the [January-November, 2015 Energy Efficiency Budget Report](#). He said that 2015 invoices are still being processed, and a 2015 final report will be presented in 2016. Funds remaining roll into next year's budget, and are fully reconciled each year by the DPU. He projects spending will be close to 99% at reconciliation. There was a question regarding whether the total budget could be exceeded. M. Downey explained that this is the end of a 3-year budget and overages cannot occur in the total budget amount. She reviewed the Mid-term Modification process.

R. Zweig commended the staff for administering such a complex program/budget and for having it come in so close to balance. M. Downey also commended her staff adding the Compact has exceeded all 2015 savings goals and also for their good work on the new 3-year plan. There will be a presentation at the March Meeting. M. Downey reviewed acronyms and provided an overview of the coding process. P. Cocolis noted that out of a 39-million dollar program budget, the administrative expense is around 6% for 2016. The Cape Light Compact's Home Energy Services closure rate is highest in state.

P. Cocolis then reviewed the [FY16 Operating Budget Expenditures Report as of 1/27/16](#). A supplemental budget adjustment will be needed to cover overages in staff and retirement due to employee overlapping for training and continuity purposes.

P. Cocolis said there will be a marketing plan review later which may also trigger a supplemental budget adjustment

VOTE TO RATIFY TREASURER'S APPROVAL OF CONTRACTS

P. Cocolis reviewed the Contract Tracking Process and the procurement process. *R. Elkin moved the Board vote to ratify the actions of the Compact Treasurer relative to Compact contracts from November 13, 2015 through January 27, 2016, seconded R. Zweig and voted by roll call as follows:*

- | | | | |
|---------------------------|-----|-----------------------------|-----|
| 1. D. Anthony, Barnstable | Yes | 8. R. Toole, Oak Bluffs | Yes |
| 2. R. Schofield, Bourne | Yes | 9. T. Donegan, Provincetown | Yes |
| 3. P. Cocolis, Chatham | Yes | 10. J. Peters, Sandwich | Yes |
| 4. F. Fenlon, Eastham | Yes | 11. J. Buteau, Truro | Yes |
| 5. P. Pimentel, Edgartown | Yes | 12. R. Elkin, Wellfleet | Yes |
| 6. R. Zweig, Falmouth | Yes | 13. S. Hruby, W. Tisbury | Yes |
| 7. B. Worth, Harwich | Yes | 14. J. Flynn, Yarmouth | Yes |

Motion carried in the affirmative (14-0-0).

ADMINISTRATOR'S REPORT

The Board then took up Administrator's Report out of order.

M. Downey recognized Barry Worth who has resigned from the Governing Board effective January 31, 2016 and presented a plaque in appreciation of his commitment and dedication to energy policies and programs & 18 Years of Service on the Cape Light Compact Governing Board.

B. Schofield recognized Valerie Bell, Harwich Alternate, in attendance, who has been appointed to replace Barry Worth.

UPDATE ON 2016-2018 ENERGY EFFICIENCY PLAN

M. Downey reported the Department of Public Utilities (DPU) is required to issue a determination of approval or amendment to the proposed 3-year Energy Efficiency Plan (2016-2018) by January 30th. To date, the Compact has not received notice. As a result the demand response offering (demonstrations with a group of 200 customers for the first year and adding two hundred customers each year) has not been started. The program currently utilizes a device named The Energy Detective (TED) as Eversource is not ready to deploy smart meters. Staff is also participating in a Demand Response Working Group with other Program Administrators.

Staff is also putting together a white paper on Grid Modernization, summarizing 1000's of pages of documents. Questions will be queued up and reviewed with the Board for discussion to determine the Board's position on significant community matters that the Board will need to consider. The topic will likely be on the February 10th and March 9th Agendas.

ADMINISTRATIVE SERVICES AGREEMENT

M. Downey also reported that there will be a review of the Administrative Services Agreement between Barnstable County and Cape Light Compact on a meeting agenda. She reported on a meeting with the Barnstable County Commissioners Chairperson.

Atty. Bernstein joined the meeting by phone at 2:58 p.m.

CHAIRMAN'S REPORT -No report.

DISCUSSION OF ASSEMBLY OF DELEGATES TELECOMMUNICATIONS & ENERGY COMMITTEE MEETINGS OF DECEMBER, 2015 AND JANUARY, 2016

M. Downey reviewed the history of the Assembly of Delegates (AOD) Telecommunications & Energy Committee and their request to meet with the Compact in December 2015 and a subsequent, [January 6, 2016 Meeting Agenda](#). T. Donegan, who attended the meeting to represent Cape Light Compact reported that he felt the meeting was not on energy markets or the Compact's aggregation plan as posted. T. Donegan reported on topics discussed at the 1/6/16 AOD Telecommunications & Energy Committee meeting which he attended with A. Brandt, P. Cocolis, R. Schofield and S. Ridley:

- Discussion suggesting that Cape Light Compact uses aggregation funds as a bribe and insinuated the Compact offers incentives to towns and taking funds from local business and giving it to towns.

He said in Provincetown, their street lighting electricity bills were \$48,000/yr. but are now \$18,000/yr. He said Provincetown is not asking business to pay for savings. The inference by the Assembly Committee is as if something is wrong with the Compact incentivizing energy savings. In fact, it is the mission of the Cape Light Compact to find opportunities and support energy savings.

- Discussion insinuating that Board members are lining their pockets financially.

The AOD Telecommunications & Energy Committee consists of James Killion, Deborah McCutcheon, Patrick Princi, Suzanne McAuliffe, John Ohman and Teresa Martin. Some of the members have long standing opposition to Cape Light Compact.

- A tone of malfeasance was apparent across the membership.

He was insulted that he drives here from Provincetown, keeps himself informed and spends significant time without compensation to receive such derogatory and accusatory treatment.

- Charges that BCK Law has created a money factory for itself.

T. Donegan said he believes these aspersions and accusations require a response. He said the meeting was a mess and the meeting minutes <http://www.barnstablecounty.org/wp-content/uploads/2014/02/Tele-Energy-1-6-16-Electric-Rates-Discussed-Powicki-2.pdf> do not reflect what actually transpired.

The Board discussed whether to issue a formal response.

There was discussion that if the Board allows charges of malfeasance to go unanswered that it will be perceived the Board is acquiescing.

T. Donegan urged a response be forwarded to the Speaker of the AOD. T. Donegan said the AOD also needs to understand that they are creating liabilities for themselves by making allegations of criminal activities.

Atty. Bernstein said the AOD has no jurisdiction over or within the Cape Light Compact. Atty. Bernstein expressed the concern that a response would draw the Board in and dignify the AOD Committee's entire process. He said he would be reluctant to engage them because it would likely be fruitless.

M. Downey reported Chris Powicki's Presentation <http://www.barnstablecounty.org/wp-content/uploads/2014/02/1-6-2016-Assembly-Committee-Powicki-1.pdf> is posted on the AOD website.

T. Donegan said the experience raised a bigger issue concerning the relationship between Cape Light Compact and Barnstable County.

S. Hruby expressed her instinct is to do nothing.

P. Pimentel said no good deed goes unpunished and that the Board has to realize there are some people that will find fault no matter what. Typically responding to them empowers them. He urged the members to swallow the insult.

R. Zweig asked if the Compact is obligated to report violations of the Open Meeting Law to the Attorney General's Office.

R. Elkin said he would like to start down the path of replacing the Compact's fiscal agent and to explore available alternative opportunities.

Compact staff requested direction on how to respond to the most recent email request from J. Killion. The Board agreed and instructed A. Brandt to respond to Killion's email request for information and provide the link to LED Streetlight Retrofit Program information posted on the Cape Light Compact website and a link to the Governing Board Meeting Minutes for voting records and inform them to make future requests for information directly to the Cape Light Compact Governing Board for decisions and to take no further action.

There was discussion to curtail AOD meeting attendance and inquiry response.

LETTER TO HARWICH BOARD OF SELECTMEN

The Board then reviewed the [11/16/15 letter from the Harwich Board of Selectmen](#) relative to the amendments to the Cape Light Compact's Intergovernmental Agreement. M. Downey reviewed a [draft response](#) to Harwich Selectmen. B. Worth expressed support of the draft letter. V. Bell said she will be sure to get Selectmen's approval on any major issue. *R. Schofield then moved the Board vote to approve the submission of the letter to the Chairman of the Harwich Board, seconded by P. Pimentel and voted by roll call as follows:*

- | | | | |
|---------------------------|-----|-----------------------------|-----|
| 1. D. Anthony, Barnstable | Yes | 8. R. Toole, Oak Bluffs | Yes |
| 2. R. Schofield, Bourne | Yes | 9. T. Donegan, Provincetown | Abs |

- | | | | |
|---------------------------|-----|---------------------------|-----|
| 3. P. Cocolis, Chatham | Yes | 10. J. Peters, Sandwich | Yes |
| 4. F. Fenlon, Eastham | Yes | 11. J. Buteau, Truro | Yes |
| 5. P. Pimentel, Edgartown | Yes | 12. R. Elkin, Wellfleet | Yes |
| 6. R. Zweig, Falmouth | Yes | 13. S. Hrubby, W. Tisbury | Yes |
| 8. B. Worth, Harwich | Yes | 14. J. Flynn, Yarmouth | Yes |

Motion carried in the affirmative (13-0-1).

BOARD MEMBER ROLES AND RESPONSIBILITIES

M. Downey reviewed the [Members Roles & Responsibilities](#). P. Cocolis asked if the work the Board performs on the budget is included in member Roles & Responsibilities. D. Elkin said each member should clarify their extent of authority with their Board of Selectmen. There was discussion about listed responsibilities. M Downey noted that this topic will be continued at the February Board meeting.

At 4:00 pm Atty. Bernstein disconnected from the phone.

*****At 4:00 pm the Board entered into Executive Session*****

STRATEGY DISCUSSION ON CONTESTED LEGAL ISSUES ON 2016 -2018 ENERGY EFFICIENCY PLAN, DPU 15-166

V. Chr. Schofield requested an Executive Session for the purpose of discussing contested legal issues on the 2016-2018 Energy Efficiency Plan DPU 15-166 pursuant to G.L. c. 30A §21(a)(3). He declared in open session that an open meeting may have a detrimental effect on the bargaining or litigating position of the Cape Light Compact. He said the Board will reconvene in Open Session at the conclusion of the Executive Session. R. Zweig moved the Board vote to enter into Executive Session, seconded by S. Hrubby and voted by roll call vote as follows:

- | | | | |
|---------------------------|-----|-----------------------------|-------------|
| 1. D. Anthony, Barnstable | Yes | 8. R. Toole, Oak Bluffs | not present |
| 2. R. Schofield, Bourne | Yes | 9. T. Donegan, Provincetown | Yes |
| 3. P. Cocolis, Chatham | Yes | 10. J. Peters, Sandwich | Yes |
| 4. F. Fenlon, Eastham | Yes | 11. J. Buteau, Truro | Yes |
| 5. P. Pimentel, Edgartown | Yes | 12. R. Elkin, Wellfleet | Yes |
| 6. R. Zweig, Falmouth | Yes | 13. S. Hrubby, W. Tisbury | Yes |
| 7. B. Worth, Harwich | Yes | 14. J. Flynn, Yarmouth | Yes |

Motion carried in the affirmative (13-0-0 with one member not present to vote). Counsel and Staff were permitted to remain.

*****At 4:24 p.m. the Board returned to Open Session*****

POWER SUPPLY MARKETING PLAN UPDATE

The Board then reviewed the [Power Supply Marketing Plan Campaign](#) and budget provided by A. Brandt. Power Supply Planner. He reported ConEdison Solutions offer to match Cape Light Compact’s contribution to Marketing up to \$40,000 to promote the Compact’s power supply program.

There was discussion about possibly crediting some portion of a customer’s early termination fees imposed by competitors to incent customers to return to Cape Light Compact’s program making it clear this would be a one-time offer.

A. Brandt said historically electric rates are lower for the 2nd half of the year but pricing is not available until May/June.

He said there are three options available to credit termination fees:

- 1) Issue a check to the customer or credit the bill;
- 2) Obtain a signed contract committing participation until 2017 and impose an early cancellation fee or

3) Withhold termination fee reimbursement until after 2016 term to verify the customer participated through December, 2016.

He reported Eversource has procured 50% of their load at about the same price as Cape Light Compact. It is unknown what their remaining 50% load costs will be.

There was discussion about referring customers who were scammed (switched by competitors without the customer's permission) to Attorney General and the Department of Public Utilities.

V. Bell and J. Peters expressed their opposition to offering the incentive to pay termination fees because those who switched away from Cape Light Compact's Program were aware of the competitor's terms and conditions.

S. Hruby stated that she prefers to emphasize the idea of no penalty when participating in our Power Supply Program adding it is our commitment to get the best deal for the consumer. Chr. Flynn also was not in support of paying cancellation fees imposed by other competitors. D. Anthony said not knowing the return on the investment, it is difficult and he suggested tracking the efforts to determine what works.

M. Downey noted that the existing power supply contracts have provisions for joint marketing efforts. She said the Compact has a marketing consulting on contract and L. Henderson will work with radio stations.

OVERVIEW OF MASSACHUSETTS OPEN MEETING LAW - Tabled to next meeting.

Members from Martha's Vineyard left the meeting to catch the 6:15 pm return ferry to the Island. Without a quorum, the meeting adjourned at 4:58 p.m.

Respectfully submitted,

Karen E. Loura
Administrative Assistant

LIST OF DOCUMENTS & EXHIBITS

- Meeting Notice/Agenda
- 12/9/15 Open Session Meeting Minutes – Draft
- Contract Tracking Summary (November 13, 2015 through January 27, 2016)
- January-November, 2015 Energy Efficiency Budget Report
- FY16 Operating Budget Expenditures Report as of 1/27/16
- January 6, 2016 AOD Telecommunications & Energy Committee Meeting Agenda
- 11/16/15 letter from the Harwich Board of Selectmen
- Draft response to Harwich Board of Selectmen
- Cape Light Compact Roles & Responsibilities dated January 27, 2016
- Power Supply Marketing Plan Campaign
- Attorney General Maura Healey's Open Meeting Law Guide dated March 18, 2015
- MGL Ch. 30A §§ 18-25 Open Meeting Law as of July 1, 2015
- Letter of Resignation from Barry Worth, Harwich Cape Light Compact Board Representative
- Copy of the Letter of Appointment of Valerie Bell as Harwich designee to the Cape Light Compact Governing Board from Harwich Board of Selectmen

- Cape Light Compact Staff Organizational Flow Chart