

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

RICHARD K. SULLIVAN JR
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

Mark S. Buffone
Executive Director

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, December 14, 2011

TIME: 10:00 AM

LOCATION: DEP Boston Offices
One Winter Street, 2nd Floor
Conference rooms B & C
Boston, MA 02760

For more information, please call
(617) 626-1777

Meeting Items:

- A. Call to order with Attendance
- B. Minutes of October 26th
- C. Budget Policy Revision
- D. Public Comment
- E. Adjournment

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

RICHARD K. SULLIVAN JR
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

Mark S. Buffone
Executive Director

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

Subject: Meeting Minutes

Date: Wednesday, December 14, 2011

Place: DEP Boston Offices
One Winter Street, 2nd Floor
Conference rooms B & C
Boston, MA 02760

Present for the:

Board and Administration:

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

Mosquito Control Project Commissioners:

Richard Pollack, Norfolk County
Charles Sumner, Cape Cod

Mosquito Control Project Directors/ Superintendents /Assistants:

Dan Daly, Plymouth County Mosquito Control Project
Tim Deschamps, Central MA Mosquito Control Project
John Doane, Cape Cod Mosquito Control Project
Chris Horton, Berkshire County Mosquito Control Project
David Lawson, Norfolk County Mosquito Control Project
Priscilla Matton, Bristol County Mosquito Control Project
Timothy McGlinchy, Central MA Mosquito Control Project
Gabrielle Sakolsky, Cape Cod Mosquito Control Project
Tony Texeira, Plymouth County Mosquito Control Project
John Smith, Norfolk County Mosquito Control Project

Others:

Ben Nugent for Representative Randy Hunt
Bruce Hansen, DCR

- A. **Start: Call to Order by Chairman Corte-Real, and Attendance.** Chairman Lee Corte-Real called the meeting to order at 10:02 AM. The Chairman began the by conducting the roll call of members. Present were Gary Gonyea representing Commissioner Kenneth L. Kimmel of the Department of Environmental Protection, Anne Carroll representing Commissioner Edward M. Lambert Jr. Of the Department of Conservation and Recreation and Chairman Lee Corte-Real recognized himself representing Commissioner Soares, of the Department of Agricultural Resources and stated there was a quorum. The Chairman asked those present who like to address the Board to wait until called upon and to identify themselves for the tape recorder. Lastly, he noted that the agenda items to be covered both items B and C are related and as a result opened the meeting up to public comments since the budget policy was being taken up by the Board for revision.
- B. **Budget Policy:** The Board proposed the 3rd revision to its mosquito control budget notification and compliance certification policy
- B.1: **Background:** The Chairman introduced the budget revisions and responded to a number of questions and concerns of those present. He remarked that it was significant to him that since the October 26, 2011 meeting that the Board did not receive any comments. He acknowledged that comments sent on the day of the Board's last meeting from Dr. Rich Pollack representing Norfolk County Mosquito Control project and Gabi (Gabrielle Sakolsky) representing the Cape Cod Mosquito Control Project. The Board was informed that a letter had been sent by the Cape Cod's Manager Association but it was determined that the letter was not directed to the Board. Instead, the following letter provided to the Board on December 14th was sent to Undersecretary Phi Griffiths of EOEEA.

December 7, 2011

Undersecretary Phil Griffiths
Executive Office of Energy
and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114

Dear Undersecretary Griffiths,

The Cape Cod Manager's Association, which includes all of the Town Managers and Town Administrators for the fifteen Cape Cod communities, met in November of 2011 to review the proposed budget policy document that is being considered by the State Reclamation Board relative to the Commonwealth's Mosquito Control Districts. As you may be aware the proposed budget policy is suggesting that a two-thirds vote standard of the district's communities will be required for the local approval of the District's annual operating budget. The Cape Cod Manager's Association voted unanimously to not support this proposal. Majority vote approval is the generally accepted standard for adoption of an operating budget for all of our district communities, as well as, the Commonwealth of Massachusetts.

The Cape Cod Mosquito Control District provides an important service to Cape Cod, which has been highly supported by the member communities over a long period of time. The creation of standards as proposed by the State Reclamation Board indicates that this Board does not truly understand the value of the District's operations in terms of public health and economy development.

Should you have any questions or require additional information do not hesitate to contact me.

Sincerely,

B.2: Questions and Discussions: The revisions to the budget policy generated a myriad of comments and back and forth discussion. The following bullets highlight the concerns expressed and some of the Board's responses.

One significant point of contention was the Board's policy language in the last paragraph on page 2 that gives "great weight" and 'concurrence by two-thirds of the member cities and towns and the additional form titled SRB-3

The Board will give **great weight** to the expression of local support for the budget as proposed. Accordingly, Board will deem unanimous local approval as a compelling basis for it to certify the budget as proposed; and at a minimum, certification of the budget as proposed can be reasonably expected by the District if **the Board receives concurrence by two-thirds of the member cities and towns. For the foregoing, Form SRB-3, attached, shall be signed by the chief executive officer of the city or town and returned to the Board.**

Charles Sumner, Town administrator for the Town of Brewster, stated that the Board's overall budget policy process was fine. However, took issue with the 2/3 language and offered that the language should be expressed as a "majority". He mentioned that the Board should recognize local support of Mosquito Control which is important since the Cape Cod economy is based on tourism. Charles Sumner apologized for not providing the Board with a copy of the support letter from their Association to Undersecretary Phil Griffiths until today.

Dr Rich Pollack expressed serious reservations regarding the signature requirement of the Chief Executive Officer (CEO). He canvassed member communities in his geographic area. Noting his efforts, he emphatically remarked that without exception, mayors, CEO's, or chief fiscal officers noted they do not have authority to sign this document. He told the Board he believed the policy was unnecessary, and unrealistic. He mentioned that however well intentioned the policy, as proposed it was fatally flawed. Dr. Pollack challenged the Board's authority regarding the certification of budgets and did not subscribe to the Board's opinion. He urged the Board to reconsider what has been proposed and replace this policy with something that will work.

He added that the intent of the policy is transparency. He believes that the projects have met the intent since anyone who wants to come to their meetings can come.

Gabi (Gabrielle Sakolsky) told the Board that its policy without the proposed revisions has created an administrative burden by adding many man-hours for the Cape in particular. She felt that the time would be better spent conducting mosquito control.

Chairman Corte-Real responded to some of the comments stating that the Board was only proposing a mechanism for cities and towns to use to express support for mosquito control services or provide feedback that the Board can utilize in its certification obligations. He rejected the notion that the Board does not have the ability to evaluate the budget because it did not attend one of the budget meetings of the Commissioners, in particular, the Norfolk County Mosquito Commission.

The Chairman emphatically reminded those present that the position of the Board is not to "rubber stamp" budgets approved by the various Commissions and that the Board statutorily has a greater oversight responsibility.

John Smith remarked that he agreed with his Commission that they are in a better position to make decisions about budgets expended at the local level.

Tim DesChamps stated that his district is comprised of 39 member communities and that many of these communities have extremely small assessments and would be unlikely to make the signing of the policy a priority. He felt the 2/3 requirement proposed would be burdensome and impossible to obtain based on his service area.

Chairman Corte-Real stated again that if the Board receives information declaring support by 2/3 of the communities that the Board would be hard pressed to deny the budget unless it has a compelling reason do so.

John Doane suggested that the Board change the wording "great weight" to something else and requested that instead of requiring the Chief Executive Officer to sign the declaration form that someone could be designated which would be more practical or suitable.

Dan Daly commented that he asked one of their town administrators about the proposed policy and that this individual would not sign it. He suggested that the Board engage the Mass Municipal Association as to how best to process and get their feedback on what is being proposed.

Charles Sumner commented that if communities are not sending negative feedback, it should be interpreted by the Board as support.

Chairman Corte-real stated that one could not make that assumption since it may or may not be the case.

Dr. Rich Pollack addressed the Board and said that all mosquito control issues in his area are referred back to the Board of Health. He used the municipality of Needham as an example. The Town Manager and the Director of Finance would need to take this policy requirement to the town meeting and that because it was a small issue compared to others that the town handles, they would not put it on the agenda. He supported that the form be modified so that it could be an agent of the CEO of the community.

John Smith stated that the Board should be aware of the logistics of carrying out this policy and that it will coincide with the busy start of the mosquito season. He noted that he had only 11 FTE and this would create burdens.

John Doane made a request that the Board seek an interpretation from MDAR legal counsel pertaining to the issue of the Chief Executive Officer signing the SRB-Form 3. The Chairman told Board members that he would entertain a motion in this regard. John Doane asked the Board to consider his suggestions and echoed his unhappiness with the Board since the Board was not "giving and taking" or negotiating with those expressing concerns about the proposed policy. He indicated that the Board has already made its decision. The chairman emphatically stated that the Board has not made a decision, something echoed by the other members. There is no predefined vote and that the Board has an obligation to brief their appointing authority.

Dr. Pollack noted that the Board was placing this on the shoulders of the Commissions. Chairman Corte-real answered Dr. Pollack stating that the Board appoints Commissioners to carry the work of the Board.

John Smith mentioned that a former Chairman of the Board set a precedent by sending out letters to the cities and towns that the Commissioners represent. Along with Dr. Pollack, he felt the Commission represented the cities and towns in their service area. Chairman Corte-Real responded that the only mosquito control project with direct input of their member communities on budgets is East Middlesex since each city and town has a Commissioner.

Anne Carroll, DCR member noted that the rationale behind the budget scrutiny is that the state has been in a budget crisis. She responded to a comment about whether or not the mosquito control programs are state programs. She stated that this is area of fundamental disagreement but the Board has consistently stated that they are a state program.

Dr. Pollack remarked about the fact that the policy was a moving target since there were no threshold or triggers of action. His feeling was that it should be clearly stated that if the mosquito control program met certain thresholds, then they would automatically have their budget approved.

M. Buffone commented that this would be contrary to the statute. In fact, Mr. Buffone noted that this would be abdication of the Board's obligation and responsibility when certifying the budget.

Charles Sumner provided an example of how small the mosquito control assessment was compared to the total town budget. He stated that the assessment for the Town of Brewster was \$80,000 dollars but that the entire budget addressed was \$34,000,000 million dollars.

The last issue discussed was revolved around the replacing the wording concurrence **by two-thirds of the member cities and towns** with "majority". Board member debated if this wording could be changed. Chairman Corte-Real was firm in his position that the 2/3 was not a legal point but in fact would be more compelling for the Board to certify budgets if 2/3 of the member communities supported a mosquito control budget that was significantly increased. Other members asked if legal counsel could also comment on the 2/3 requirement.

B.3: Action Taken: Two votes were taken at this meeting.

#1: G. Gonyea moved to request that the Board request a legal opinion concerning the policy requirement to obtain the Chief Executive Officer's signature. The motion was seconded by A. Carroll and approved unanimously 3-0. The vote also included that the opinion would be furnish to all mosquito control projects, in particular, Cape Cod Mosquito Control Project.

#2: With no further comments or discussion, G. Gonyea moved to accept the policy as proposed along with changes discussed and agreed upon. In particular, the wording in the last paragraph on page 2 "great weight" would be replaced by "strong consideration" and would add "or their designee after the word town in the last sentence of the last paragraph on page 2. Finally, the new form SRB-3 would be changed to the following:

I, _____ the chief executive officer of Town/City _____
(Print Name/ and Sign Name) (Please Print)
hereby designate _____ to sign this declaration.
(Print Name)

The motion was seconded by A. Carroll and approved unanimously 3-0.

- C:** **Public Comment:** The Board provided an opportunity for the general public to speak and listen to their concerns.
- C.1:** **Background:** The Chairman opened up the meeting to the public concerning the revisions to the budget policy.
- C.2:** **Questions and Discussion:** Chairman Corte-Real acknowledged several individuals.
- C.3:** **Actions Taken:** No action taken
- D:** **Adjournment:** The Board will officially adjourn the meeting.
- D.1:** **Background:** Chairman Corte-Real asked if there was a motion to adjourn.
- D.2:** **Questions and Discussions:** None
- D.3:** **Action Taken:** Gary Gonyea made motion to adjourn the meeting at 12:01 PM seconded by Anne Carroll and unanimously voted 3-0.

Respectfully submitted,



Mark S. Buffone
Executive Director