

Cape & Vineyard Electric Cooperative
Meeting of the Board of Directors
Executive Session
Meeting Minutes
Thursday, December 16, 2010

On a motion duly made and seconded in the Regular Session, the Board of Directors of Cape & Vineyard Electric Cooperative, Inc. met in Executive Session on Thursday, December 16, 2010 at 9:44 a.m. in Conference Room 11/12 at the Barnstable Superior Courthouse, 3195 Main Street, Barnstable, Mass.

Present were: Charles McLaughlin, President; Barnstable
Mark Zielinski, Treasurer;
Margaret Downey, Clerk;
Peter Hefler, Dukes County;
Peter Cabana, Tisbury;
John Scott, Chatham;
Barry Worth, Harwich;
Paul O'Keefe, Bourne;
John Cunningham, Brewster;
S. Kitt Johnson, Edgartown;
Martin McDonald, Eastham

Absent were: John Jannell, Orleans;
Steve Gavin, Yarmouth;
Richard White, Dennis;
Heather Harper, Falmouth;
Michael Richardson, Mashpee;
George Dunham, Sandwich;
David Gardner, Provincetown

Staff present: Ron Collins, Project Manager
Karen Loura, Administrative Assistant

Counsel Present: Jeff Bernstein, Esq., BCK Law.

Public Present: Liz Argo, Consultant
David Anthony, Procurement Officer, Barnstable, Mass. and CLC Governing Board Member
Neil Andres, Eastham, DPW @ 10:18 am

By teleconference: Patterson @ 10:17 am

PV PROJECT

M. Downey informed the Cooperative that the review committee has shortened the list of prospective developers to 4 companies. Axio Power, American Capital Energy, Berago and ConEdison.

The Cooperative together with Counsel reviewed and discussed areas in general and in specific concerning forms of agreements, the various proposals received and the qualifications of the bidders financially and otherwise.

Atty. Bernstein recommended providing the Bidders with copies of the EMS Agreement which is modeled on the State's. He informed the Cooperative of feedback he'd received from the various Towns' Counsel and slight changes in the areas of financing, guaranteed electric outputs, shortfalls, local taxes, decommissioning, decommissioning amounts, performance guarantees, bonding and how to determine what is the ability of the developer to keep to schedule and the penalties for failure to meet milestones.

There was discussion concerning the 1603 grant funding. Is in the House today and is likely to be extended. Developers can choose 1603 funding or take the tax credit – not both.

At 10:17 a.m. Bob Patterson Consultant to the Town of Barnstable joined the meeting via teleconference speaker phone. He said he agrees with the issues being discussed.

At 10:17 a.m. J. Cunningham left the meeting room.

At 10 18 a.m. Neil Andres, Eastham DPW joined the meeting.

At 10:20 B. Worth left the meeting room.

Patterson said settling of the landfill may be one issue depending upon how recently it was closed. If recent, there will be settling and maintenance needs. Axio will provide the maintenance and technical needs with subcontractors. Berago will provide most with their own staff.

At 10:26 a.m. Cunningham and Worth rejoined the meeting.

At 10:29 a.m. Neil Andres left the meeting room.

There was discussion concerning the developers' ability to develop local bank relationships.

At 10:36 a.m. B. Worth left the meeting room.

At 10:37 a.m. J. Scott left the meeting room.

Patterson said in Greenfield if the SRECS Market went up it would be 50/50 between the developer and the town. He said Pittsfield is in the same position as CVEC.

At 10:40, Chrm. McLaughlin thanked B. Patterson for his input and the teleconference call was ended.

There was discussion concerning two-tier pricing and validity of using that method.

There was discussion concerning price differences.

There was review of scopes and extent of bids as to locations.

It was determined that the Town's relationship is with CVEC for the Solar Project. Towns are not able to withdraw and could only refuse to execute a lease. It will be up to the individual Directors to present the project to their Town Council or Selectmen.

It was determined that award is not driven by the low bidder.

There was discussion about Chapter 25A language.

There was discussion concerning ways of shaping the projects / vendors. CVEC may need to incorporate a couple of vendors.

There was development of canned questions to forward to short list of vendors.

C. McLaughlin moved to send contracts to all four bidders on the short list and stipulate the response is due January 6, seconded by Mark Zielinski.

K. Johnson offered an amendment to table this motion. He said by sending to all four parties, it creates extra work for the staff and really wastes time. If there are 2 leading vendors, he suggested sending the other two a note indicating that because they are on the back shelf, material is being provided but they are not required to respond.

M. Downey said the idea has merit and suggested to narrow by eliminating one due to increased pricing and information that price will not hold if CVEC fails to commit by 3/30/11 in which case they will not re-submit. All other bidders have committed to hold price until Town Meeting Votes. She suggested amending the motion to contact Axio, Berago and ACE.

M. Zielinski withdrew his second to the motion. McLaughlin withdrew his motion.

K. Johnson moved that we sent contracts to 2 vendors for treatment, seconded by P. Cabana. R. Collins suggested also including revised site criteria and provide new maps. Discussion followed.

Cunningham suggested requesting vendors to sharpen their pencils at the same time as they are asked the 8 questions.

Mr. Downey moved to amend Kit's motion to 3 vendors (Axio, Berago & Ace) with a request for comments to be received back by 1:00 p.m. on January 6, 2011 and to also provide a sharpened price, seconded by C. McLaughlin. Discussion followed. The Directors then voted unanimously in favor; M. Zielinski voted opposed. Motion carried in the affirmative by majority.

The Directors then voted unanimously in favor of the main motion.

M. Downey reported receipt of a revised map for Brewster.

J. Cunningham reported on a Meeting scheduled for Monday morning with Brewster Selectmen. He is concerned the Selectmen will rule out the project where clear cutting of trees is needed. M. Downey will provide maps for Monday's meeting.

There was discussion concerning "frost bottom" term and related requirements.

At 11:46 P. O'Keefe left the meeting.

The Directors reviewed maps.
Neil Andres, Eastham DPW submitted maps.

At 11:50 p. O'Keefe re-joined the meeting.

M. Downey said she needs to post all the maps to the CVEC website by Monday.

C. McLaughlin listed 3 questions. 1) Relative to revised schedule and target completion question. 2) development of a matrix and 3) financing with an established timeline to provide satisfactory evidence of

financing and include establishment of set milestones and a phase before the next meeting to pre-think in advance of the meeting. M. Downey suggested meeting on the 10th. M. Zielinski said Vendors should be notified to be available by phone on that day. C. McLaughlin suggested it be later that week. It was agreed to meet on January 13, 2011 at 9:30 a.m. with a goal to identify vendors.

K. Johnson left at 12:03 and returned at 12:15 p.m.

It was announced that the next Regular Monthly CVEC Meeting is scheduled for January 27, 2011.

There was discussion concerning municipalities generating more energy than needed and kWh rebates. There was discussion concerning writing a formula into the Power Purchase Agreements to address this circumstance.

12:16 p.m. – 12:21 p.m. K. Johnson & P. Cabana left the meeting.
Atty. J. Bernstein will send the Member PPA's to Town Counsels.

The Directors discussed potential generation, pricing scenarios and net metering credits among the various participating communities.

At 1:30 the Directors broke for lunch and continued to meet. There was discussion concerning taxes. Atty. Bernstein said if CVEC is the owner, they are tax exempt.

There was discussion about CVEC borrowing from Cape Light Compact. M. Zielinski said if not Cape Light Compact then Barnstable County.

M. Downey said if generation is taxable then it needs to be built into the prices.

There was discussion concerning requesting exemption from Personal Property Taxes from the Municipalities because these will impact prices. C. McLaughlin said Barnstable has no authority to provide an exemption that he could see. He said it would require Special Legislation. K. Johnson said his understanding is that roof-mounted PV systems are exempt.

Atty. Bernstein suggested asking each Town to provide an opinion as to the tax-ability of each system in its jurisdiction and if so what the taxes would be.

It was agreed Atty. Bernstein and M. Downey would draft a letter concerning the PV project's taxation and send it by e-mail.

Atty. Bernstein said the Developer or Generating Owner is responsible to provide insurance. P. O'Keefe said Nstar will look for it from the Host Town. Atty Bernstein agreed.

M. Downey suggested Atty. Bernstein work with M. Zielinski to address excess generation compensation to Host Towns. Discussion concerning the formula followed and the need to establish the delta and provide a net for the year. Atty. Bernstein agreed to draft the language.

M. Downey said she will publish the January 6, 2011 Meeting as a Special Board Meeting in the event the Directors want to take any action.

BREWSTER WIND PROJECT

M. Downey provided the Directors with an update on the Proposed Freeman's Way Wind Turbine Project. A Special Hearing has been continued to January 12, 2011. There were 16 questions to answer. The two most important were the impact on the classical music radio station and the Planning Board members have asked for

a release from area projects. The board decided on no impact and to punt in a way that is legally defensible. Legislation was approved which created a lot of anxiety.

There was discussion concerning development at the Borrows Property. Sumner of Brewster is asking that it be said that CVEC has no intention to build wind turbines there. J. Cunningham said the Selectmen would appreciate a vote by CVEC. Discussion followed. It was moved that CVEC has no plans and has had no discussion with the Town of Brewster on Borrows or any other project except the Commerce Park site, seconded by P. Hefler. K. Johnson said CVEC only becomes involved when invited by the Town and has not been asked and has no plans. M. Downey said to make sure CVEC is not on the Special Legislation. J. Cunningham said Sumner wants to proceed with the legislation which could provide for a back-up if the Commerce Park project does not go forward.

The Directors then voted unanimously in favor.

M. Downey said Weston & Sampson response is due tomorrow. A Planning Board vote of 5 out of 7 is needed on January 12th either to move forward or to consider appeals. She encouraged the Directors to attend to support the project. There was discussion indicating the need to establish a debt limit relative to RWS.

M. Downey submitted a draft cash-out chart. K. Johnson will mark up.

K. Johnson moved that CVEC undertake no project that exceeds 15% of total asset (tax base) base of any host community we are working with. M. Zielinski asked for authorization to look at this and come up with a number with an asterisk that it is not approved by the Board.

K. Johnson withdrew his motion. The Directors then unanimously agreed to authorize M. Zielinski.

At 2:32 p.m. the Directors adjourned to Regular Session.

Respectfully submitted,

Karen E. Loura
ADMINISTRATIVE ASSISTANT