

Cape & Vineyard Electric Cooperative, Inc.
Board of Directors
Open Session Meeting Minutes
Thursday, November 20, 2014

The Cape & Vineyard Electric Cooperative, Inc. Board of Directors met in Open Session on Thursday, November 20, 2014 @ 9:30 a.m. in Conference Room 11/12, Superior Court House, 3195 Main Street, Barnstable MA 02630

PRESENT WERE:

1. John C. Checklick, President/Executive Committee Member/Director, Falmouth
2. Charles McLaughlin, V. President/Executive Committee Member/Director, Barnstable
3. Stephan Wollenburg, Executive Committee Member/Director/Cape Light Compact
4. Peter Cabana, Member at Large/Executive Committee Member/Director, Dukes County
5. Charles Hanson, Clerk/Director, Brewster
6. John Scott, Director, Chatham
7. Joseph Bayne, Director, Eastham
8. Lawrence Cole, Director, Harwich
9. Richard Toole, Director, Oak Bluffs
10. Austin Brandt Director, Provincetown
11. William Straw, Director, Tisbury
12. Jennifer Rand, Director, W. Tisbury
13. Steven Gavin, Director, Yarmouth

ABSENT WERE:

14. Sheila Lyons, Executive Committee Member/Director, Barnstable County
15. Jon Nelson, Director, Bourne
16. Timothy Carroll, Director, Chilmark
17. Richard White, Director, Dennis
18. Barbara Conroy, Director, Edgartown
19. Michael Richardson, Director, Mashpee
20. Ronald Collins, Director, Orleans
21. James Killion, Director, Sandwich

LEGAL COUNSEL:

Audrey Eidelman, Esq. BCK Law

STAFF PRESENT:

Liz Argo, Special Projects Coordinator
Karen Loura, Assistant Clerk @ 11:05 a.m.

PUBLIC PRESENT:

Peter Baldwin, Orleans
Charles Sumner, Brewster
Richard Wolf, Brewster
Robert Palmeri, Yarmouth Energy Committee until 11:50 a.m.
William Peltz, Clean Focus @ 10:30 a.m.

1. CALL TO ORDER

With a quorum of the Board of Directors present, Pres. Checklick called the meeting to order at 9:38 a.m. He noted a portion of the meeting will be audio recorded in the absence of Karen Loura until she is present at the meeting. Ms. Loura will create meeting minutes from the recording. He said the meeting notice/agenda was posted pursuant to the Open Meeting Law on the CVEC Website and exterior meeting notice posting board at Superior Courthouse, 3195 Main Street, Barnstable at 1:15 p.m. on November 17, 2014. W. Straw proposed

posting the recorded portion of the meeting to the CVEC website. Pres. Checklick agreed to take this under advisement and table discussion to the next meeting.

3. CONSIDERATION OF MEETING MINUTES

The Board considered the September 18, 2014 Board of Directors Annual Meeting Open Session Minutes. *J. Bayne moved to accept the minutes as presented, seconded by S. Gavin. It was requested that ombudsman be capitalized. The Board then voted unanimously in favor to accept the minutes as amended with P. Cabana, R. Toole and W. Straw abstaining. (10-0-3).*

The Executive Committee then considered the October 24, 2014 Executive Committee Open Session Meeting Minutes. *C. McLaughlin moved to accept the minutes as presented, seconded by S. Wollenburg and voted unanimously in favor. (4-0-0)*

2. PUBLIC COMMENT PERIOD

Peter Baldwin introduced himself indicating he has family in the Town of Orleans. He is retired from 33 years in the equipment business for carbon capturing storage. He said he is seeking topics which are intellectually stimulating.

L. Argo distributed bound copies of the CVEC FY14 Annual Report indicating they will be mailed to Town Managers for distribution to Selectmen, Libraries, Town Clerks, Energy Committees, etc.

4. PV ROUND 1: DATA ACQUISITION SYSTEM AND PROJECT STATUS UPDATE

The Board agreed to table this discussion to 10:30 a.m. when Bill Peltz, Clean Focus is scheduled to arrive.

5. PV ROUND 2 UPDATE

L. Argo provided Round 1 & Round 2 - Project Overview. She reported there are Towns which have received checks from Round 1 generation and off-takers who received notices of credits on their electric bills.

It appears certified as-built drawings have been completed and the nameplate ratings and Estimated Annual Output (EAO) numbers have changed. BCK Law has requested a full explanation from the Developer. It has been preliminarily reported to CVEC that G&S was unable to develop systems the size called for by Broadway designs due to physical land constraints. Tight timeframes and unavailability of 290 watt modules may have forced use of 280 watt modules. The reason for possible nameplate change is unknown at this time. The related columns on the spreadsheet (handout) have not yet been updated as only EAO changes are known. The matter is under investigation. The Dept. of Energy Resources has indicated the variance in output between project bid and project built is very common. BCK will pursue written documentation.

EAOs are contained in the Contract between the Developer and CVEC and not in the Contracts with the Towns. Atty. Eidelman said the Developer pays damages for production shortfall. There was discussion about the transition from Broadway Electric to G&S Solar and the terms of CVEC's Contract with G&S Solar. Much has changed in the 3 years since the project was bid. A full-year of output is needed to fully assess expected output. If the systems produce more than EAO, Net Metering Credits (NMC's) would be issued to participants according to the distribution tables.

There was discussion about the EPA website providing CO² savings information. Renewable Energy System owners provide data to DOER.

J. Rand asked about the 11/25/14 deadline for the W. Tisbury System. L. Argo said the system is awaiting permission to operate from NSTAR. In fact all Round 2 projects are ready except the larger projects. G&S is working with NSTAR to coordinate interconnection. All Round 1 system EAO's were increased nearly 10% and it seems all Round 2 EAO's have decreased by about 10%. It's been reported that G&S may have stepped in with a stockpile of 280W modules whereas Broadway Electric had planned to use 290W modules – this change would impact output.

There was discussion on Round 1 Data Acquisition System (DAS). ACE is responsible for providing a DAS. The on-line monitoring with DAS has been an issue. Round II DAS is up and running.

There was discussion about system Operation & Maintenance (O&M) contract terms and time for performance. Atty. Eidelman said there may be language in agreements between the Lender and Developer addressing timing of repairs but it is not contained in CVEC Contracts.

There was discussion about when the 120-day interconnection clock starts and whether it is triggered by Interconnection Services Agreement (ISA) documents the utility requires or if it is at payment in accordance with the tariff. It was thought this is an area where an Ombudsman would be helpful. G&S has requested CVEC not involve an Ombudsman at this time because NSTAR has been active with interconnection. L. Argo is monitoring and it may be again a time to propose contacting an Ombudsman.

L. Argo reported Peregrine Energy Group is contracted to develop the data base and integrate it into QuickBooks Accounting Software. They have worked on ensuring accuracy of all Schedule Z data.

Eastham's system, in service as of April, 2014, has provided 5 months of NMC issued to off-takers. Some towns will never be able to absorb the amount of credits and will need to approach NSTAR to seek payment.

1st invoices to off-takers are complete. Clean Focus is withholding some Round1 invoicing due to DAS issues. L. Argo expressed great appreciation to Joseph Bayne for all of his help with setting up the Quick Books software.

There was discussion about Brewster using their water pump accounts for Net Metering Credits, because they use most of the power. Brewster is displeased with the distribution to their accounts. They wish to ask Peregrine to work with towns to prioritize accounts. Pres. Checklick suggested a conference call including L. Argo, C. Hanson, Paul Gromer, Peregrine and Richard Wolf, Brewster Energy Committee, to see if there can be accommodation for Brewster. S. Wollenburg said there are a number of Towns which do not know which accounts to use. There was discussion about the impact of the 5-month influx of NMC recently distributed. J. Rand said it is a town leadership issue as to distribution within departments. There was discussion about various accounting methods available to towns.

C. McLaughlin asked for a CVEC cash-flow update. L. Argo said currently there is a healthy cash flow compared to expenses and CVEC has not had to access the Cape Light Compact's Line of Credit which was set up in the event of a timing scenario where CVEC had to pay the ACE costs but NSTAR issued credits later. However, NSTAR credits are timely. Round 2 systems coming online are largely behind-the-meter with no cash flow concern. Round 2 agreements have a built-in credit process in place.

6. CLEAN FOCUS REPORT ON DATA ACQUISITION SYSTEM (DAS)

The Board then met with William Peltz from Clean Focus relative to Round 1 PV Projects. He said the pass off the systems to Clean Focus has reached substantial completion. ACE needs to commission; test and punch list the systems. During this phase, the systems are up and down and there have been issues because they are not automatically re-connected following NSTAR power outages. ACE will transition to O&M at which point they will be required to monitor output 24/7. Each system has an alert and a production monitor. Repairs should occur in days not weeks. The Developer is exceptionally motivated to keep systems operating at maximum production. Investors are also monitoring and notice is sent via email to owner who must respond within 24 hours.

There was discussion about the Draker DAS systems in Brewster & Eastham which were re-synched. Barnstable needs to coordinate with NSTAR to unlock the meter in order to repair its DAS. Clean Focus has not used Draker DAS before.

ACE will retain services of a local electrician for routine issues on Martha's Vineyard. Less routine maintenance requiring travel to the site could be delayed due to Ferry transportation to the Island. There was discussion about notifying the town and installing a light on site to signal if system has gone off-line. There was discussion about providing a degree of access to DAS to towns and day-to-day outage reports. W. Peltz said he believes data including operation and production could be provided to host towns. Protocol to report failure would be having the member contact CVEC and CVEC would contact Clean Focus.

There was discussion about potential variances between site data and NSTAR data which could vary 2-3%. W. Peltz said it is his understanding that auto-re-closers are on sight and NSTAR requires an electrician on sight to re-energize but further information is needed. He agreed to provide a status on outages report in the next few months and informed the Board that in the next few months all systems should be in normal operation.

11:14 a.m. – 11:21 Recess

7. PV PSA AMENDMENTS & WIND POWER SALES AGREEMENTS & AMENDMENTS

L. Argo reported that all off-takers have signed the Power Sales Agreement (PSA) and they can now also purchase wind power generation as all have signed the amendment. A 2nd Amendment has been signed by Barnstable County & Monomoy Schools. Orleans was intending to move forward but decided to build their own PV Solar system. L. Argo was congratulated by the members of the incredible job she did obtaining all of the signed agreements by Future Generation Wind's November 17th deadline.

8. FUTURE GENERATION WIND (FGW) POWER SALES AND POWER PURCHASE AGREEMENTS (PSA & PPA)

Atty. Eidelman presented the final form of PSAs & PPA which were reviewed previously to the Board. She reported minor changes towns requested with did not impact the PSA that were incorporated, but that there is no structural change. *S. Wollenburg moved the executive committee vote to approve the final form of PSA & PPA for wind, seconded by C. Hanson.*

C. McLaughlin expressed his concern about the lengthy term of purchase, the lengthy default period allowed before CVEC members would be in the position to be excused from their obligations to the contract and the Town being bound to this without ability to seek alternatives. He also expressed concern that there has not been a determination as to FGW ultimate financial situation. He said FGW existing level of interest in other projects is unknown. He expressed his concern about purchasing power from off-cape generator; therefore CVEC has no ability to control noise levels. He is concerned this will draw criticism for off-loading to off-cape developer and only enabling the project to go forward and he is not prepared to support the motion.

L. Argo said ConEdison Solutions is the financial partner with FGW. These turbines are equipped with noise reduction technology and the ability to automatically reduce noise levels. The Contract contains protection if a turbine is out of service and, if production is so impacted, CVEC can terminate. Atty. Eidelman said there is no Guaranteed Annual Output in the agreement. But CVEC won a heavily negotiated minimum production clause measured after 3 years of operation. There is a credit if analysis shows a shortfall. This is some protection even if it is not the same as the PV agreements.

S. Wollenburg said two layers (shortfall analysis and 180-day cure period) provide as strong a contract as he has seen, especially considering CVEC is an off-taker and not a host. Atty. Eidelman said no town has asked for any change to the PPA and Town Counsels' have also reviewed it. The magnitude of production is not as large as with solar generation. C. McLaughlin said Barnstable is not at stake but he has contract format concerns. Atty. Eidelman said CVEC is one of approximately 10 FGW off-takers. *The Executive Committee then voted by roll call as follows:*

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|----------------------------|-----|--------------------------------------|-----|
| 1. J. Checklick, Falmouth | Yes | 3. S. Wollenburg, Cape Light Compact | Yes |
| 2. P. Cabana, Dukes County | Yes | 4. C. McLaughlin, Barnstable | Nay |
- Motion carried in the affirmative (3-1-0).*

R. Toole moved the Board vote to approve the final form of the wind Power Purchase Agreement and Power Sales Agreement, seconded by A. Brandt. It was noted that the production from FGW will not fill all the needed municipal Net Metering Credits of the Cape & Martha's Vineyard. C. Hanson said it takes 2-3 years to complete renewable energy projects. *The Board then voted by Roll Call vote as follows:*

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|--------------------------------------|-----|-----------------------------|-----|
| 1. J. Checklick, Falmouth | Yes | 8. J. Rand, W. Tisbury | Yes |
| 2. C. McLaughlin, Barnstable | Abs | 9. J. Scott, Chatham | Yes |
| 3. J. Bayne, Eastham | Yes | 10. S. Gavin, Yarmouth | Yes |
| 4. C. Hanson, Brewster | Yes | 11. R. Toole, Oak Bluffs | Yes |
| 5. A. Brandt, Provincetown | Yes | 12. W. Straw, Tisbury | Yes |
| 6. S. Wollenburg, Cape Light Compact | Yes | 13. P. Cabana, Dukes County | Yes |
| 7. L. Cole, Harwich | Yes | | |

Motion carried in the affirmative (12-0-1).

9. PROPERTY TAX ASSESSMENT – DENNIS-YARMOUTH REGIONAL SCHOOL DISTRICT & BARNSTABLE FIRE DISTRICT

Atty. Eidelman explained the arrangement within the agreements for paying property taxes for ground-mounted PV Systems. The town must assess for property tax and bill the developer. The developer will then bill CVEC and CVEC would bill the town in cases where the site host is the taxing authority. In the case of non-taxing authority, a plan must be devised to pay the taxes. BCK will investigate for court cases to see if cases exist where the tax assessment on municipal PV was waived and notify. If not, then L. Argo, with assistance from local Directors and BCK Law will contact DYRSD and start the discussion with Dennis, Yarmouth and the School District.

12:15-12:25 Lunch Recess

10. BOARD OF DIRECTORS MEETING ATTENDANCE UPDATE

Pres. Checklick provided the history of tracking meeting attendance. Directors and Appointing Authorities will be provided attendance information and those failing to attain minimum attendance according to the policy will

automatically enter suspended status unless an exemption for cause is requested. The Suspension is to the Director and not the member. Removal is at the discretion of the Board.

11. FUTURE PV INITIATIVES

Some members and non-members have inquired about installing small roof mounted PV Systems. The Board discussed possibility of issuing an RFP for MGL Ch. 30B Procurement for behind the meter installs at no cost to CVEC. There is no room left in the queue for larger projects. J. Rand expressed concern about ability of limited staff to complete. L. Argo indicated it is something doable within her work load. C. McLaughlin recommended a subcommittee to consider a variety of opportunities and make a recommendation to the Executive Committee. A. Brandt, C. Hanson, P. Cabana, C. McLaughlin and J. Bayne (Procurement Officer) were appointed to form a Procurement Officer's Advisory Committee.

12. CONEDISON SOLUTIONS PV SYSTEMS O&M CONTRACT

Updated Contract Form has not yet been received. Topic tabled to next meeting.

13. INSPECTOR GENERAL'S LETTER TO CVEC & ANDERSEN & KREIGER ATTORNEYS

Pres. Checklick provided the history of the matter. BCK Law could not represent CVEC because they are representing Cape Light Compact in the Inspector General investigation as CVEC's interests may diverge from CLC's and since it was not contemplated or included among anticipated matters listed with the request for dual representation. The law firm of Andersen & Kreiger has provided outside counsel to the Town of Barnstable on a number of issues. The Executive Committee agreed to contract with them for services as they pertain to the Inspector General and estimated \$25,000 would be needed. C. McLaughlin and J. Checklick met with Andersen & Kreiger last week and established an action list. The firm has requested designation as Special Municipal Employee which the Executive Committee also did. C. McLaughlin reviewed highlights of Special Municipal Employee Status. There was discussion about email messages. Pres. Checklick asked Directors to please preserve emails until whether or not request relates to personal computers.

14. EXECUTIVE SESSION MINUTES REVIEW

Pres. Checklick reported review of 56 sets of Executive Session minutes. 4 sets have been released in their entirety; 23 sets have been redacted and released; 5 sets of minutes have not been found and CVEC will be obligated to reconstruct them. There was discussion relative to the process and time needed to upload redacted minutes. E. Bibler viewed 23 sets of redacted minutes at Superior Courthouse yesterday. Pres. Checklick is reviewing Round I & Round II Discussions with Atty. Eidelman.

15. OPEN SESSION VOTE TO ENTER EXECUTIVE SESSION

At 1:30 p.m. Pres. Checklick requested a vote to enter into executive session for the purpose of approving Executive Session Meeting Minutes pursuant to MGL Ch. 30A§21(a)(10). He stated that an open session may have a detrimental effect on CVEC's ability to conduct business in relation to other entities making, selling or distributing electric power and energy and a detrimental effect on the bargaining or litigating position of the public body. He said the Board would return to Open Session at the conclusion of Executive Session. J. Rand moved the Board vote to enter into Executive Session, seconded by S. Wollenburg and voted by roll call vote as follows:

- | | | | |
|------------------------------|-----|--------------------------|-----|
| 1. J. Checklick, Falmouth | Yes | 8. J. Rand, W. Tisbury | Yes |
| 2. C. McLaughlin, Barnstable | Abs | 9. J. Scott, Chatham | Yes |
| 3. J. Bayne, Eastham | Yes | 10. S. Gavin, Yarmouth | Yes |
| 4. C. Hanson, Brewster | Yes | 11. R. Toole, Oak Bluffs | Yes |

- | | | | |
|--------------------------------------|-----|-----------------------------|-----|
| 5. A. Brandt, Provincetown | Yes | 12. W. Straw, Tisbury | Yes |
| 6. S. Wollenburg, Cape Light Compact | Yes | 13. P. Cabana, Dukes County | Yes |
| 7. L. Cole, Harwich | Yes | | |
- Motion Carried in the Affirmative (13-0-0).

16. RETURN TO OPEN SESSION

At 1:42 p.m., the Board returned to Open Session

17. DIRECTOR UPDATES

J. Bayne, Eastham reported on progress of setting up Quick Books Software to manage accounting. He commended the significant contribution of Liz Argo in the process. C. Hanson seconded J. Baynes's comments adding Liz Argo did a dynamite job working with the Town of Brewster, A. Brant and S. Wollenburg enthusiastically agreed.

L. Cole, Harwich reported receipt of a phone call last Friday. The caller purporting to be representative of NSTAR relative to new, lower power supply rates. He cautioned that there are very many scams aimed to mislead consumers. NSTAR Electric never solicits for customers by phone.

He reported Bank of America and another company have agreements to offer employee benefits for solar projects. He does not know all the details.

J. Scott, Chatham endorsed previous comments relative to the outstanding work of Liz Argo and S. Gavin agreed. B. Straw also agreed adding if not for the efforts of Liz Argo and Maggie Downey, Tisbury would not have solar panels at their landfill. He urged CVEC to seize the opportunity to post signs at the landfill to raise public awareness of CVEC. It was generally agreed there is more marketing work to be done.

P. Cabana, Dukes County reported he has applied for the position of Island-wide Energy Manager created due to receipt of a \$50,000 grant. He said if he is the successful candidate for the position, he will do nothing to impact CVEC or Cape Light Compact nor jeopardize either organization.

L. Cole, Harwich inquired about the number of lawsuits involving American Capital Energy (ACE). Atty. Eidelman said there is no impact as ACE is no longer the developer/operator of CVEC's systems. There is a dispute between ACE and Sunlink Corp. and ACE & Clean Focus in SREC generation but CVEC is not a party to any of those agreements. ACE is closing the loop on permitting, but are otherwise, not involved.

At 2:50 p.m. C. McLaughlin left the meeting

Pres. Checklick reported the next meeting is scheduled for January 15, 2015.

At 2:55 p.m. Pres. Checklick moved to adjourn, seconded by J. Bayne and voted unanimously in favor.

Respectfully submitted,

Karen E. Loura
Assistant Clerk

LIST OF DOCUMENTS & EXHIBITS:

- Meeting Notice/Agenda

Draft minutes subject to addition, correction and Board approval

- CVEC FY14 Annual Report
- 9/18/14 Draft Board of Directors Annual Open Session Meeting Minutes
- 10/24/14 Draft Executive Committee Open Session Meeting Minutes
- CVEC PV Initiative Round 1 & Round 2 Project Overview