

**Cape & Vineyard Electric Cooperative, Inc.**  
**Board of Directors/Executive Committee**  
**Executive Session Meeting Minutes**  
**Thursday, April 16, 2015**

The Board of Directors and Executive Committee of the Cape & Vineyard Electric Cooperative, Inc. met in Open Session on Thursday, April 16, 2015 at 1:35 p.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 @ 1:44 p.m.
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. Greg Rounseville, Director, Dennis
7. Richard Toole, Director, Oak Bluffs
8. Ronald Collins, Director, Orleans
9. Austin Brandt Director, Provincetown
10. William Straw, Director, Tisbury
11. Jennifer Rand, Director, W. Tisbury
12. Steven Gavin, Director, Yarmouth

**ABSENT WERE:**

13. Jon Nelson, Director, Bourne
14. John Scott, Director, Chatham
15. Timothy Carroll, Director, Chilmark
16. Vacant, Harwich
17. James Killion, Director, Sandwich

**LEGAL COUNSEL:**

Audrey Eidelman, Esq., BCK Law, P.C.

**STAFF PRESENT:**

Liz Argo, Special Projects Coordinator

Karen Loura, Assistant Clerk

**19. OPEN SESSION VOTE TO ENTER INTO EXECUTIVE SESSION**

At 1:35 p.m. Pres. Checklick requested a motion to enter into executive session for the following purposes:

- a. Approval of Meeting Minutes (Full Board & Exec Committee Exec Session Minutes) pursuant to M.G.L. c. 30A, § 21 (a) (10)
- b. Discussion of litigation strategies and potential voting regarding American Capital Energy, Inc. vs. Redwood Solar Development LLC, et al. filed in Barnstable Superior Court, pursuant to Mass. General Laws Ch. 30A § 21(a)(3)
- c. Discussion of litigation strategies and potential vote regarding Fischbach & Moore Electric Group vs. RNK Capital, LLC, et al. filed in Barnstable Superior Court, pursuant to Mass. General Laws Ch. 30A § 21 (a) (3)
- d. Adjourn without returning to Open Session

*J. Rand so moved, seconded by C. Hanson. He said the Board would not return to Open Session this day at the conclusion of the Executive Session. He declared an open session may have a detrimental effect on CVEC's bargaining or litigating position. The Committee then voted by roll call as follows:*

- |                                      |     |                             |     |
|--------------------------------------|-----|-----------------------------|-----|
| 1. J. Checklick, Falmouth            | Yes | 7. S. Gavin, Yarmouth       | Yes |
| 2. A. Brandt, Provincetown           | Yes | 8. C. Hanson, Brewster      | Yes |
| 3. S. Wollenburg, Cape Light Compact | Yes | 9. R. Toole, Oak Bluffs     | Yes |
| 4. G. Rounseville, Dennis            | Yes | 10. W. Straw, Tisbury       | Yes |
| 5. R. Collins, Orleans               | Yes | 11. P. Cabana, Dukes County | Yes |
| 6. J. Rand, W. Tisbury               | Yes |                             |     |

*(Motion carried in the affirmative (11-0-0)).*

#### **19 (A) CONSIDERATION OF EXECUTIVE SESSION MEETING MINUTES**

The Board considered the November 20, 2014 Executive Session Meeting Minutes. *J. Rand moved the Board vote to accept the minutes as presented, seconded S. Wollenburg. The Board then voted by roll call vote as follows:*

- |                                      |     |                             |     |
|--------------------------------------|-----|-----------------------------|-----|
| 1. J. Checklick, Falmouth            | Yes | 7. S. Gavin, Yarmouth       | Yes |
| 2. A. Brandt, Provincetown           | Yes | 8. C. Hanson, Brewster      | Yes |
| 3. S. Wollenburg, Cape Light Compact | Yes | 9. R. Toole, Oak Bluffs     | Yes |
| 4. G. Rounseville, Dennis            | Yes | 10. W. Straw, Tisbury       | Yes |
| 5. R. Collins, Orleans               | Yes | 11. P. Cabana, Dukes County | Yes |
| 6. J. Rand, W. Tisbury               | Yes |                             |     |

*(Motion carried in the affirmative (11-0-0)).*

#### **19 (B) AMERICAN CAPITAL ENERGY VS. REDWOOD SOLAR DEVELOPMENT LITIGATION**

Redwood Solar has requested energy sales payments be placed into an escrow fund instead of payment to American Capital Energy. The Cape & Vineyard Electric Cooperative and each member town were named as a party in their lawsuit. ACE is also trying to enforce a Mechanic's Lien. A hearing on the Reach & Apply measures has been postponed twice and has not been rescheduled. The matter went to mediation 4/1 & 4/2. The next stage in the process is to go to arbitration which if resolved may end their claim to attach payments between the towns and CVEC. Other claims are satisfied by bonds which have been put into place. Clean Focus is indemnifying CVEC and all towns of any legal fees. Town Counsel's are being made whole financially.

*At 1:44 p.m. C. McLaughlin returned to the meeting.*

#### **19 (C) FISCHBACH & MOORE ELECTRIC GROUP VS. RNK CAPITAL, LLC FILING – BARNSTABLE SUPERIOR COURT**

In the matter between Fischbach & Moore & RNK Capital, the reach and apply names CVEC. Individual host Towns were not named. Fischbach and Moore claim RNK owes them payment. G&S Solar's position is that the reimbursement amount is for time and materials and that the F&M amount is inaccurate. F&M did not provide documentation of the time and materials calculations.

#### **YARMOUTH ZBA DENIAL OF DENNIS/YARMOUTH REGIONAL SCHOOL DISTRICT MATTACHEESE MIDDLE SCHOOL PERMIT**

Pres. Checklick requested discussion and review of the status of litigation in the Yarmouth ZBA decision to deny the permit for the solar system installation at Mattacheese from a public records perspective. He said if CVEC is no longer a part of the litigation, he would like to release executive session minutes containing those discussions. C. McLaughlin said at the CVEC level the Board should withdraw from involvement. S. Gavin said he felt the school expectation would be that CVEC would carry the matter forward. It does not appear that

the town is going to pursue. *C. McLaughlin moved the Board vote to leave it to the President in consultation with Counsel for CVEC to withdraw from the lawsuit, seconded by R. Toole. C. McLaughlin suggested L. Argo contact Carol Woodbury to determine if there is any intention to install the system. The Board then voted by roll call vote as follows:*

- |   |            |                                    |            |
|---|------------|------------------------------------|------------|
| 1. <i>J. Checklick, Falmouth</i>            | <i>Yes</i> | 7. <i>J. Rand, W. Tisbury</i>      | <i>Yes</i> |
| 2. <i>C. McLaughlin, Barnstable</i>         | <i>Yes</i> | 8. <i>S. Gavin, Yarmouth</i>       | <i>Abs</i> |
| 3. <i>A. Brandt, Provincetown</i>           | <i>Abs</i> | 9. <i>C. Hanson, Brewster</i>      | <i>Abs</i> |
| 4. <i>S. Wollenburg, Cape Light Compact</i> | <i>Yes</i> | 10. <i>R. Toole, Oak Bluffs</i>    | <i>Yes</i> |
| 5. <i>G. Rounseville, Dennis</i>            | <i>Abs</i> | 11. <i>W. Straw, Tisbury</i>       | <i>Yes</i> |
| 6. <i>R. Collins, Orleans</i>               | <i>Abs</i> | 12. <i>P. Cabana, Dukes County</i> | <i>Abs</i> |
- Motion carried in the affirmative (6-0-6).*

The meeting adjourned at 2:04 p.m.

Respectfully submitted,

Karen E. Loura  
Assistant Clerk

**LIST OF DOCUMENTS & EXHIBITS:**

- Meeting Notice/Agenda
- November 20, 2014 Executive Session Meeting Minutes - Draft