

Cape Light Compact

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www.capelightcompact.org

POST OFFICE BOX 427 • BARNSTABLE SUPERIOR COURT HOUSE • BARNSTABLE, MASSACHUSETTS 02630

Cape Light Compact Governing Board Meeting

DATE: Wednesday, June 12, 2013
LOCATION: Rooms 11&12, Superior Courthouse, Barnstable
TIME: 2:00 – 4:30 p.m.

AGENDA

- 2:00 – 2:10 Public Comment
- 2:10 – 2:15 Approval of Minutes
- 2:15 – 2:25 Treasurer's Report
- 2:25 – 3:40 FY14 Operating Budget Discussion and Vote
- 3:40 - 4:00 Energy Efficiency Update
 - 1. MA Energy Education Awards Announcement and Program Update
 - 2. Efficient Neighborhoods Plus Discussion and Potential Vote
 - 3. Cape Cod Commercial Linen Business Leadership Award
- 4:00 Chairman's Report
 - 1. Discussion and Potential Vote on Compact Representative to CVEC
 - 2. Update on Upcoming Meeting with Assembly of Delegates to Discuss AUP and Audit
- Administrator's Report
 - 1. Year-end procedures – travel
 - 2. Status of Audits
- 4:15 Open Session Vote on Entry into Executive Session and Required Declarations of the Chair
 - 1. Update on DPU Regulatory Litigation - M.G.L. c. 30A, Section 21(a)(3)

2013 Budgeted (Based on Three-year Plan)

Program	PA Costs					Total PA Costs
	PPA	Marketing	Incentives	STAT	EMV	
Residential (total)	\$677,788	\$583,373	\$9,856,578	\$1,743,262	\$457,652	\$12,900,648
1. Residential Whole House	\$ 414,750	\$ 178,489	\$ 7,742,657	\$ 856,092	\$ 396,456	\$ 9,557,333
Residential New Construction	\$ 20,792	\$ 15,012	\$ 329,250	\$ 137,652	\$ 7,011	\$ 484,717
Residential Multi-Family Retrofit	\$ 20,488	\$ 12,852	\$ 288,414	\$ 38,565	\$ 378,451	\$ 668,768
Residential Home Energy Services	\$ 373,570	\$ 148,905	\$ 7,102,993	\$ 880,485	\$ 343,203	\$ 8,649,056
Residential Behavior/Feedback	\$ -	\$ -	\$ 22,000	\$ -	\$ -	\$ 22,000
2. Residential Products	\$ 108,484	\$ 159,718	\$ 1,870,919	\$ 497,270	\$ 76,806	\$ 2,626,178
Residential Cooling & Heating Equipment	\$ 30,261	\$ 20,424	\$ 483,175	\$ 89,558	\$ 10,658	\$ 643,974
Residential Lighting	\$ 58,883	\$ 100,794	\$ 1,001,984	\$ 272,120	\$ 55,887	\$ 1,498,678
Residential Consumer Products	\$ 19,200	\$ 29,500	\$ 285,750	\$ 135,684	\$ 13,382	\$ 483,520
3. Residential Hand-to-Measure	\$ 94,563	\$ 247,185	\$ 65,000	\$ 389,000	\$ 11,389	\$ 907,137
Residential Statewide Marketing	\$ -	\$ 122,185	\$ -	\$ -	\$ -	\$ 122,185
Residential DOER Assessment	\$ 88,134	\$ -	\$ -	\$ -	\$ 11,389	\$ 100,523
Residential EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential Sponsorship & Subscriptions	\$ 5,429	\$ -	\$ -	\$ 300,000	\$ -	\$ 305,429
Residential HEAT Loan	\$ -	\$ -	\$ -	\$ 89,000	\$ -	\$ 89,000
Residential Workforce Development	\$ -	\$ -	\$ 85,000	\$ -	\$ -	\$ 85,000
Residential R&D and Demonstration	\$ -	\$ 125,000	\$ -	\$ -	\$ -	\$ 125,000
Residential Education	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Low-Income (total)	\$180,742	\$49,242	\$2,333,589	\$596,709	\$116,638	\$3,306,419
4. Low-Income Whole House	\$ 133,655	\$ 24,880	\$ 2,333,589	\$ 596,709	\$ 113,868	\$ 3,202,701
Low-Income New Construction	\$ 2,061	\$ 228	\$ 40,000	\$ 1,877	\$ 5,920	\$ 50,087
Low-Income Single Family Retrofit	\$ 110,614	\$ 22,337	\$ 1,844,480	\$ 576,910	\$ 83,323	\$ 2,848,665
Low-Income Multi-Family Retrofit	\$ 20,780	\$ 2,313	\$ 449,109	\$ 18,922	\$ 14,825	\$ 505,750
5. Low-Income Hand-to-Measure	\$ 57,887	\$ 43,862	\$ -	\$ -	\$ 2,970	\$ 103,718
Low-Income Statewide Marketing	\$ -	\$ 20,384	\$ -	\$ -	\$ -	\$ 20,384
Low-Income DOER Assessment	\$ 18,258	\$ -	\$ -	\$ -	\$ 2,970	\$ 21,228
Low-Income Energy Affordability Network	\$ 38,929	\$ 23,297	\$ -	\$ -	\$ -	\$ 62,126
Commercial & Industrial (total)	\$486,742	\$110,265	\$1,080,318	\$1,426,478	\$477,782	\$15,691,802
6. C&I New Construction	\$ 89,348	\$ 9,947	\$ 1,702,898	\$ 281,028	\$ 143,037	\$ 2,225,948
C&I New Construction	\$ 89,348	\$ 9,947	\$ 1,702,898	\$ 281,028	\$ 143,037	\$ 2,225,948
7. C&I Retrofit	\$ 342,296	\$ 38,107	\$ 9,387,730	\$ 1,448,447	\$ 326,135	\$ 11,238,704
C&I Retrofit	\$ 159,738	\$ 17,784	\$ 6,186,739	\$ 659,118	\$ 183,270	\$ 7,206,688
C&I Direct Install	\$ 182,547	\$ 20,323	\$ 3,200,972	\$ 489,329	\$ 142,865	\$ 4,032,038
8. C&I Hand-to-Measure	\$ 55,109	\$ 62,450	\$ -	\$ -	\$ 9,691	\$ 127,150
C&I Statewide Marketing	\$ -	\$ 62,450	\$ -	\$ -	\$ -	\$ 62,450
C&I DOER Assessment	\$ 50,537	\$ -	\$ -	\$ -	\$ 8,591	\$ 60,128
C&I EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
C&I Sponsorship & Subscriptions	\$ 4,571	\$ -	\$ -	\$ -	\$ -	\$ 4,571
GRAND TOTAL	\$1,295,289	\$782,419	\$32,012,483	\$3,769,447	\$1,032,252	\$29,868,917

2013 Actuals (January Through April)

Program	PA Costs					Total PA Costs
	PPA	Marketing	Incentives	STAT	EMV	
Residential (total)	\$64,167	\$66,190	\$498,185	\$184,737	\$24,812	\$840,339
1. Residential Whole House	\$ 38,026	\$ 28,732	\$ 60,384	\$ 90,027	\$ 24,812	\$ 251,539
Residential New Construction	\$ 1,978	\$ 1,425	\$ 1,500	\$ 4,600	\$ 439	\$ 9,943
Residential Multi-Family Retrofit	\$ 1,958	\$ 1,409	\$ 88	\$ 4,587	\$ 1,946	\$ 9,987
Residential Home Energy Services	\$ 34,689	\$ 25,899	\$ 58,798	\$ 86,860	\$ 22,428	\$ 231,972
Residential Behavior/Feedback	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2. Residential Products	\$ 10,387	\$ 7,760	\$ 437,781	\$ 42,302	\$ 5,286	\$ 503,468
Residential Cooling & Heating Equipment	\$ 2,892	\$ 2,081	\$ 235,882	\$ 12,082	\$ 637	\$ 263,484
Residential Lighting	\$ 5,628	\$ 4,338	\$ 182,447	\$ 19,746	\$ 3,519	\$ 215,678
Residential Consumer Products	\$ 1,947	\$ 1,331	\$ 19,752	\$ 10,464	\$ 913	\$ 34,336
3. Residential Hand-to-Measure	\$ 15,184	\$ 32,717	\$ -	\$ 43,408	\$ -	\$ 91,286
Residential Statewide Marketing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential DOER Assessment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential Sponsorship & Subscriptions	\$ 15,184	\$ -	\$ -	\$ -	\$ -	\$ 15,184
Residential HEAT Loan	\$ -	\$ -	\$ -	\$ 43,408	\$ -	\$ 43,408
Residential Workforce Development	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential R&D and Demonstration	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Residential Education	\$ -	\$ 32,717	\$ -	\$ -	\$ -	\$ 32,717
Low-Income (total)	\$12,776	\$2,020	\$0	\$29,986	\$7,843	\$52,633
4. Low-Income Whole House	\$ 12,775	\$ 2,020	\$ -	\$ 29,985	\$ 7,843	\$ 52,633
Low-Income New Construction	\$ 197	\$ 31	\$ -	\$ 444	\$ 345	\$ 1,017
Low-Income Single Family Retrofit	\$ 10,592	\$ 1,875	\$ -	\$ 24,000	\$ 8,421	\$ 43,877
Low-Income Multi-Family Retrofit	\$ 1,986	\$ 314	\$ -	\$ 4,561	\$ 1,077	\$ 7,838
5. Low-Income Hand-to-Measure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Low-Income Statewide Marketing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Low-Income DOER Assessment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Low-Income Energy Affordability Network	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Commercial & Industrial (total)	\$6,383	\$6,594	\$125,031	\$100,817	\$29,127	\$310,891
6. C&I New Construction	\$ 6,540	\$ 1,350	\$ 60,008	\$ 19,553	\$ 8,473	\$ 99,523
C&I New Construction	\$ 6,540	\$ 1,350	\$ 60,008	\$ 19,553	\$ 8,473	\$ 99,523
7. C&I Retrofit	\$ 32,717	\$ 5,173	\$ 64,423	\$ 81,264	\$ 19,854	\$ 203,231
C&I Retrofit	\$ 15,288	\$ 2,414	\$ 23,298	\$ 41,787	\$ 11,284	\$ 94,051
C&I Direct Install	\$ 17,448	\$ 2,759	\$ 41,128	\$ 39,477	\$ 8,570	\$ 109,180
8. C&I Hand-to-Measure	\$ 17,136	\$ -	\$ -	\$ -	\$ -	\$ 17,136
C&I Statewide Marketing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
C&I DOER Assessment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
C&I EEAC Consultants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
C&I Sponsorship & Subscriptions	\$ 17,136	\$ -	\$ -	\$ -	\$ -	\$ 17,136
GRAND TOTAL	\$135,325	\$77,743	\$623,186	\$315,549	\$67,048	\$1,218,860

Source: G112-001 Compact Efficiency 2012013-2015 EEP/20121102 & 12 20 DPU 12-107 Processing/2013 02 21 Compliance Filing/DPU 12-107_CLC_E-01 4
 COMPLIANCE_2013-2015 08-50 Tables Expanded 2013.02.13.xlsx

Cape Light Compact Power Supply Reserve Fund Balance as of 5/31/13
Projected Cape Light Compact Power Supply Reserve Fund Balance as of 6/30/13

\$ 1,228,160.00
 \$ 1,402,466.00

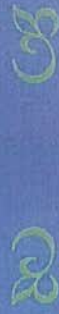
Cape Light Compact Fiscal Year 2014 (July 1, 2013 - June 30, 2014) Proposed Operating Budget

<u>Item</u>	<u>FY 13</u>	<u>Proposed FY14</u>	
Salaries	\$ 145,000.00	\$ 182,219.00	Joe 100%, Maggie 75% Karen 15%, Lindsay 10%
Legal	\$ 315,885.00	\$ 383,105.00	
Contractual	\$ 60,000.00	\$ 45,000.00	RFP for CLC load
Telephone	\$ 1,000.00	\$ 1,200.00	
Travel	\$ 16,000.00	\$ 16,000.00	
Advertising - power supply	\$ 17,900.00	\$ 12,000.00	
Shipping	\$ 250.00	\$ 250.00	
Postage	\$ 9,500.00	\$ 11,000.00	
Assoc. Dues	\$ 6,000.00	\$ 11,000.00	
Subscriptions	\$ 2,500.00	\$ 1,500.00	
Printing	\$ 7,000.00	\$ 7,000.00	
Fringes		\$ 46,764.00	
Equipment Rental	\$ 5,000.00	\$ 5,000.00	
Subtotal CLC Operating Budget	\$ 586,035.00	\$ 722,038.00	

CVEC Operating Grant 402,885 \$ 402,745.00
 Total CLC FY 12 Operating Budget \$ 1,124,783.00



Efficient Neighborhoods +



Cape Light Compact Board, June 12, 2013



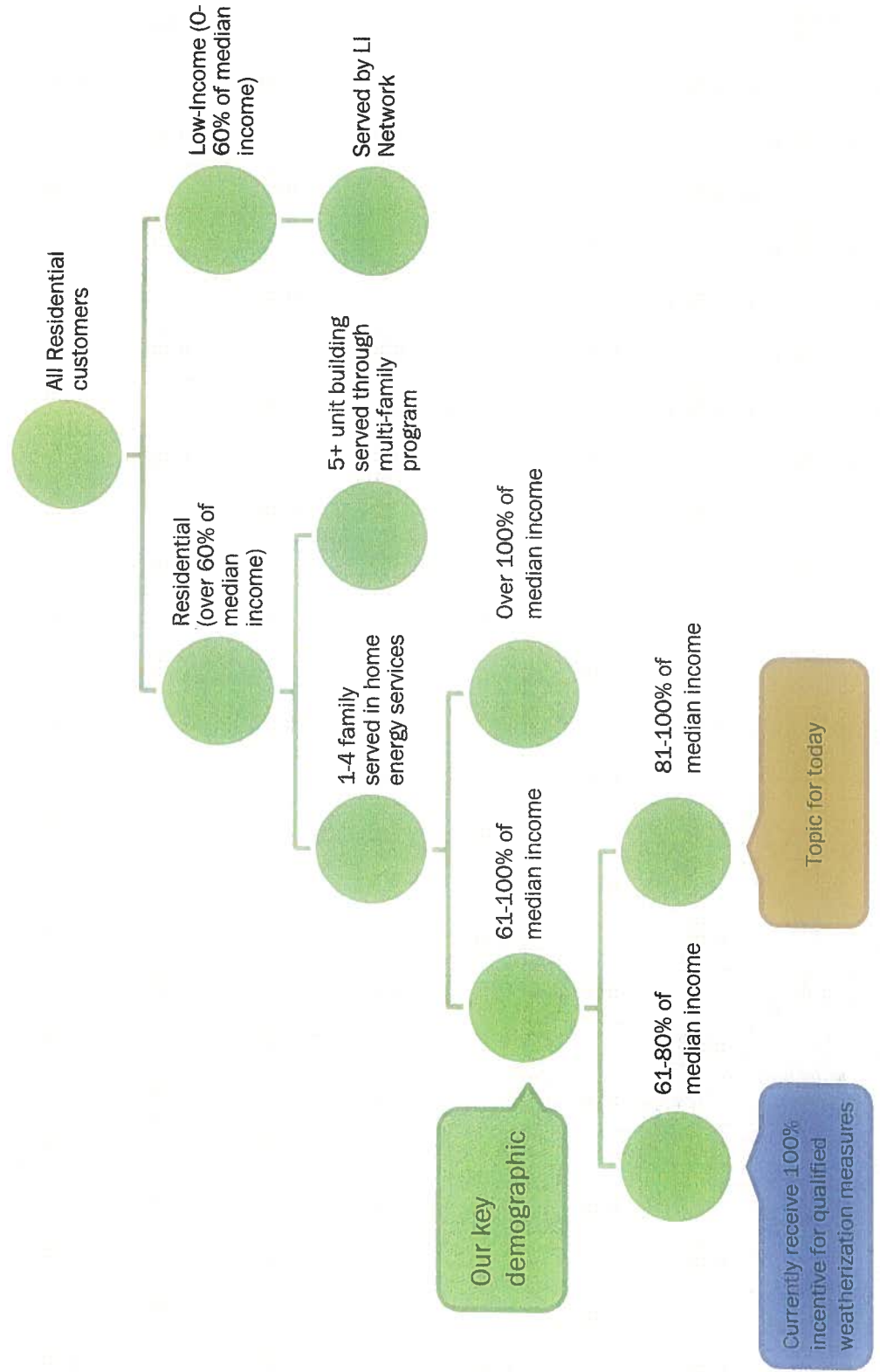
Efficient Neighborhoods + Overview

- ⌘ Required by the MA DPU as part of approval of the 2013-2015 Energy Statewide Energy Efficiency Plan
- ⌘ Offered by electric and gas program administrators across the state
- ⌘ **Objective:** Reach economically hard-to-reach customers in the residential 1-4 family retrofit market (not low-income)
- ⌘ **Target:** Lower to moderate-income consumers in designated communities
- ⌘ **Program Model:** Provide enhanced incentive structure with a whole-building approach
- ⌘ **Milestones:**
 - Define target neighborhoods and finalize design by Q1 2013.
 - Test initiative June – September 2013
 - Assess results

Background

- Met with Compact Executive Committee on May 10, 2013
- Direction from Executive Committee on:
 - Timeframe: Determined not to offer a summer program
 - Target audience: Did not want to limit to a few towns

Who does this address?



What are the income thresholds?

# of household members	60% of state median income	80% of state median income	100% of state median income
1	\$31,271	\$45,100	\$54,475
2	\$40,893	\$51,550	\$66,076
3	\$50,515	\$58,000	\$80,822
4	\$60,137	\$64,400	\$101,523
5	\$69,759	\$70,200	\$103,741

These are the guidelines that we used to screen out customers as the low-income customers are eligible for 100% incentives for cost-effective measures.

<http://www.census.gov/hhes/www/income/data/statemedian/>

Statewide v. CLC Proposed Process

	Statewide	CLC Proposed
Available Locations	Neighborhood or select towns	All towns
Selection Criteria	By average income in census block groups within towns/neighborhoods	By individual customer
Income Verification	None	Required to submit paperwork to confirm income
Time Period	June - September 2013	September 2013 to January 2014
Incentives	Enhanced	Enhanced

Proposed Enhanced Incentive Structure

Enhanced Incentive Description	Enhanced Incentive	Existing Incentive
Common Area Lighting (LED or CFL depending on fixture)	\$120	\$0
Pre-Weatherization Barrier Incentive	* Up to \$800	\$0
100% up to \$4000 Insulation per unit	\$2200	(Based on historical job costs) \$1,650
Early Retirement Refrigerator (ENERGY STAR® labeled)	\$200	\$150
EN+ Oil or Propane Boiler & Furnace Incentive Adder	\$100	**\$0

*Multiple barriers allowed: Knob & Tube/Dryer Venting = \$250 each, High CO = \$300

**Existing gas boiler rebates \$1,000-\$1,500, Existing gas furnace rebates \$300-\$450. Existing Oil equipment \$400-\$500

Why a limited timeframe?

- The incentive design will test the following:
 - Is the 80-100% of state median income an under-served market?
 - What will be the uptake in participation, and how will it affect our budgets?
 - What will need to be re-designed for a future phase?
- A formal, third-party evaluation will be studying the effects of this limited time promotion.

Potential Vote

- ∞ VOTE to approve the CLC proposed design and incentive structure of the Efficient Neighborhoods +

**Agenda Action Request
Cape Light Compact
Meeting Date: 6/12/13**



- Aquinnah**
- Barnstable**
- Barnstable County**
- Bourne**
- Brewster**
- Chatham**
- Chilmark**
- Dennis**
- Dukes County**
- Eastham**
- Edgartown**
- Falmouth**
- Harwich**
- Mashpee**
- Oak Bluffs**
- Orleans**
- Provincetown**
- Sandwich**
- Tisbury**
- Truro**
- Wellfleet**
- West Tisbury**
- Yarmouth**

Vote to approve Efficient Neighborhood Plus as presented

REQUESTED BY: Margaret Song

Proposed Motion(s)

1) Moved, that the Board vote to approve the Efficient Neighborhoods Plus Residential Energy Efficiency Initiative for 2013 as presented


Additional Information

See power point presentation for additional information

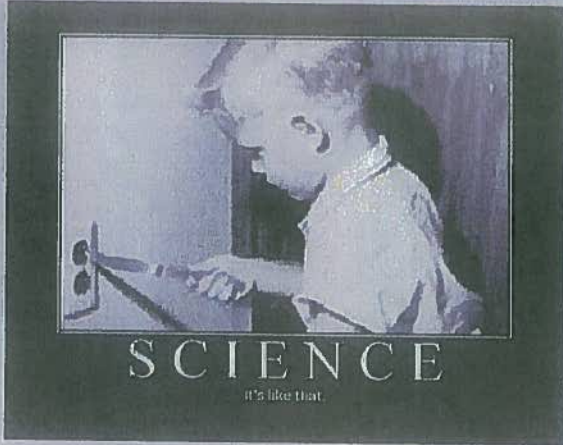
Record of Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

**Cape Light Compact's
Energy Education
Program**



School Year
2012-2013



**Teaching Hands-On Experiential
Energy Education – The Right Way!**

- Bourne Middle School
- Morse Pond School
- Teaticket Elementary
- Cape Cod Reg. Tech
- Oakridge School
- Forestdale School
- Wing School
- Sandwich High School
- Upper Cape Technical
- Cape Cod Technical
- Harwich High School
- Nauset High School
- Barnstable Middle
- Barnstable 5th Grade
- CC Lighthouse Charter
- Harwich Elementary
- Harwich Middle School
- Chatham Middle
- Eastham Elementary
- Eddy Elementary
- Wellfleet Elementary
- Truro Central School
- ME Small School
- D/Y High School
- Mattacheese Middle
- Wixon Middle
- Ezra Baker School
- Quashnet School

School Programs : 2012-13



Participation

Over 6,000 students

Over 300 teachers

In over 38 schools



In Classroom Support



Hydrogen Fuel Cell Class

- Bourne Middle School and Upper Cape Tech
- Forestdale and Sandwich High School
- Oakridge and Sandwich High School
- Wing School and Sandwich High School
- Barnstable 5th grade and Sandwich High
- Eddy School and Ezra Baker School
- Eddy School and Station Ave. School
- Eastham Elementary and Truro Central School
- Harwich High School and Harwich Middle School
- Nauset High School and ME Small School
- Cape Cod Tech at Harwich Middle School
- Upper Cape Tech and ME Small School
- Barnstable Middle and ME Small School

Kids teaching Kids



Energy Carnivals Kids Teaching Kids

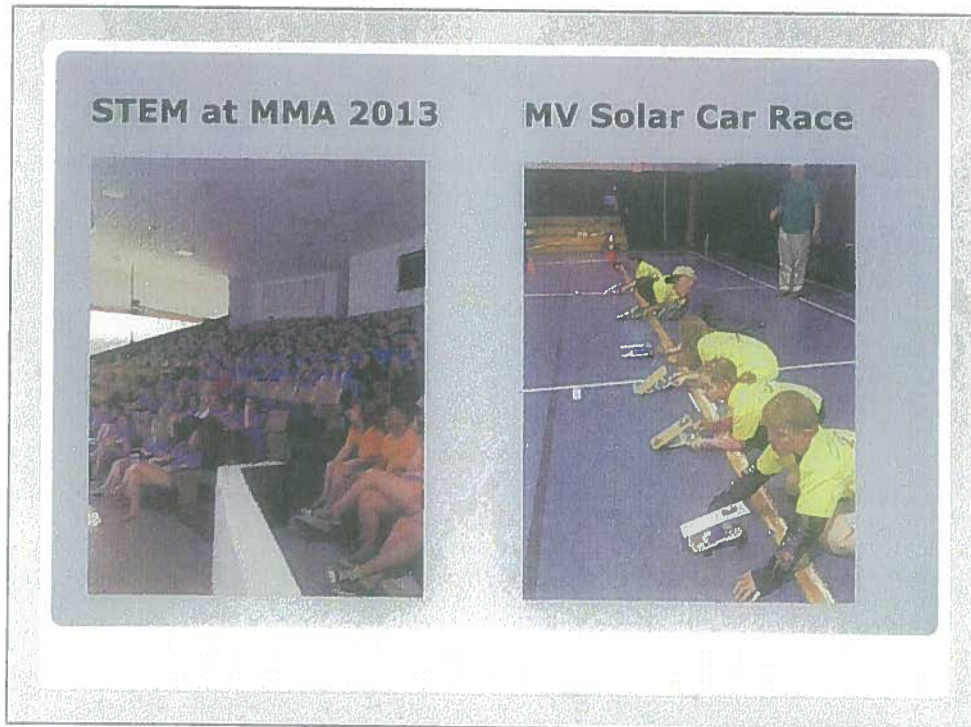


- Sandwich High School Environmental Technology Seminar students hosted Energy Carnivals for all 5th Grade Students at Wing, Forestdale and Oakridge Schools



NSTA Presentation





- Christine Twombly, Orleans
- Sally Andreola, Brewster
- Ed Banks, Harwich
- Andy Morris, Bourne
- Liz Argo, Yarmouth
- Laura Gregorio-Tanguilig, Sandwich
- Charlie Bresnahan, Barnstable
- Kara Gelinis, MV
- Maggie Brown, Eastham

**Special Thanks to the CLC Energy
Education Teaching Team**

June 2, 2013

Amy Kelly


E. Dennis, MA 02638

C. Gorham
Theilsch Engineering, INC
1341 Elmwood Avenue
Cranston, RI 02910

Dear Mr. Gorham,

I am writing to let you know how appreciative I am of the services provided to me recently as the result of an energy audit through Rise Engineering and the Cape Cod Light Compact.

I purchased a home in Dennis, MA in December and shortly after the closing the oil furnace stopped working. We were told during the home inspection that it was on its way out and our hopes of having it limp through the winter were not to be.

A friend suggested contacting MasSave for an energy audit and Rise Engineering was dispatched to review my new home which was now an obstacle course of space heaters. Phone calls and questions to Sandy were handled very professionally and when Darrin Duty and Aidan showed up for the audit more questions and concerns were answered and eased my mind about the process. I was concerned about the money pit that I had bought into when Darrin informed me that the house was very poorly insulated, something that did not come up in the home inspection. Again, this worry was eased when I received the written action plan and the incentives involved in the program.

I cannot praise this program or the people involved in the process of heating and insulating my home enough. I chose to convert the house to gas and went with A & L Heating and Cooling for that process, the insulation was started through McCarthy Construction and Finished by Building Performance Contracting when the strength of the walls of my money pit came into question. Throughout the process these companies and their employees were professional, courteous, polite and BUSY! I am impressed with the attention to detail the customer service and the work ethic of all involved. If there was any person who was a hindrance to the process, it was me. I was staying two hours away at the time and not able to easily coordinate opening the house.

I recently received the final bill for the work completed at my home. I want to thank those involved in the process and wanted to let your company know how thankful I am that the action plan included the names of companies who are professional, knowledgeable and honest. I am a very happy customer and would recommend any of these companies to any future homeowners who are looking into these services.

Sincerely,

Amy Kelly



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MARTHA COAKLEY
ATTORNEY GENERAL

(617) 727-2200
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June 3, 2013

OML 2013 – 73

Jeffrey Bernstein, Esq.
BCK Law P.C.
One Gateway Center, Suite 809
Newton, MA 02458

RE: Open Meeting Law Complaints

Dear Attorney Bernstein:

This office received two Open Meeting Law complaints from Mr. Eric Bibler, dated July 3, 2012 and July 6, 2012, alleging that the Governing Boards of the Cape Light Compact ("CLC") and the Cape & Vineyard Electric Cooperative, Inc. ("CVEC") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The July 3, 2012 complaint specifically alleges that the CLC Governing Board either "conducted an *unnoticed and illegal meeting* for the purpose of considering, and approving the letter that [Chairman William] Doherty publicly presented to the Assembly as CLC's official response to the Special Committee report" at its May 31, 2012 meeting, or that "Mr. Doherty *misrepresented* his personal views representing the consensus of the CLC board of directors and the organizations as a whole." (emphasis in original). The complaint was originally filed with the CLC on June 26, 2012. The CLC responded to the complaint by letter dated July 3, 2012.

The July 6, 2012 complaint alleges that the CVEC Governing Board or its Executive Committee either conducted "an *unnoticed and illegal meeting* for the purpose of considering, and approving, the letter that [President Charles] McLaughlin publicly presented to the Assembly as CVEC's official response to the Special Committee report" at its June 1, 2012 meeting, or that President McLaughlin "*misrepresented* his personal views as representing the consensus of the CVEC board of directors and the organization as a whole." (emphasis in original). The complaint was originally filed with the CVEC on June 1, 2012. The CVEC responded to the complaint by letter dated July 5, 2012.



Following our review, we find that the Governing Boards of the CVEC and the CLC did not violate the Open Meeting Law. In reaching a determination with regards to the July 3, 2012 complaint, we reviewed the June 26, 2012 complaint filed with the CLC Governing Board; the CLC's July 3, 2012 response; and the July 3, 2012 complaint filed with our office. We also reviewed the CLC Governing Board's July 11, 2012 meeting minutes; an email from Mr. Bibler addressed to our office, dated July 18, 2012, providing additional information with respect to his complaint; an email from CLC Administrator Margaret Downey, dated July 20, 2012, sent to our office in response to Mr. Bibler's July 18, 2012 email; and the minutes of the Board's May 9, 2012 meeting. In reaching a determination with regards to the July 6, 2012 complaint, we reviewed the June 1, 2012 complaint filed with the CVEC Governing Board; the CVEC's July 5, 2012 response; the July 6, 2012 complaint filed with our office; and an email dated September 18, 2012 from CVEC President Charles McLaughlin, provided to our office by the CVEC.

FACTS

The Cape Light Compact was formed in 1997 through an inter-governmental agreement, pursuant to G.L. c. 164, §134; G.L. c. 25A, § 6; and G.L. c. 40, § 4A. The CLC Board is a 23 member body, consisting of Barnstable County, Dukes County, and all of the 21 municipalities located within these counties on Cape Cod and Martha's Vineyard. The purposes of the CLC include aggregating consumers as part of the competitive market for electricity; negotiating the best terms and conditions for electricity supply; and supporting environmental protection, energy efficiency, and renewable energy development. The CLC is funded through ratepayer funds, federal and state grants, county general funds, and administrative charges levied on electricity sold through the CLC's aggregated power supply contract with its private competitive electric supplier. The CLC Governing Board is a public body subject to the Open Meeting Law.

The Cape & Vineyard Electric Cooperative, Inc., was formed out of a strategic planning process commissioned and undertaken by the CLC. The CVEC was organized in 2007 with three members: CLC, Barnstable County, and the Town of Barnstable. Currently, the CVEC has 19 members consisting of 16 towns, Barnstable and Dukes County, and the CLC. The CVEC's long term goal is to develop electric generation projects or contracts to stabilize electric rates for all CLC customers. The CLC does not have the authority to develop electric generation projects. The CVEC Board is a public body subject to the Open Meeting Law.

The CVEC and the CLC have entered into an administrative agreement with Barnstable County so that Barnstable County can perform certain administrative and fiscal functions for both the CVEC and the CLC. The two entities share a close relationship, with some individual municipal representatives serving on both boards. The CLC also finances the CVEC.

In the Spring of 2011, several individuals and groups appeared before the Barnstable County Commissioners and the Barnstable County Assembly of Delegates to complain about the CLC's and the CVEC's alleged lack of transparency. On August 3, 2011, the Barnstable County Assembly of Delegates passed a resolution creating a subcommittee to investigate and create a report regarding the relationship between the CLC and the CVEC. On May 2, 2012, the Special Committee of Inquiry on the Cape Light Compact and the Cape & Vineyard Electric Cooperative (the "Special Committee") approved its final report. During the CLC Governing Board's meeting on May 9, 2012, the Board circulated a draft response to the Special Committee's report.

On May 31, 2012, CLC Chair William Doherty sent the Special Committee a twenty-five page letter in response to the Special Committee's report. The letter included the following heading, "Cape Light Compact's Response to Assembly Committee on Inquiry into Cape Light Compact." The introductory paragraph of the letter states:

The Cape Light Compact ("CLC") Governing Board is in receipt of the *Report to the Barnstable County of Delegates from the Special Committee on Inquiry into Cape Light Compact (CLC) and Cape & Vineyard Cooperative, Inc. (CVEC)* dated May 2, 2012 (the "Report"). I am responding to the Report on behalf of the CLC Governing Board.

During the CLC Governing Board's July 11, 2012 meeting, Chair Doherty explained that he had to respond quickly to the Special Committee, thus he submitted the letter on behalf of the Board without its vote of approval. The Board then discussed the authority of the Chair to act on behalf of the Board.

During the CVEC Board of Directors meeting on May 23, 2012, CVEC President Charles McLaughlin reported that he was in the process of drafting a response to the Special Committee's report. On June 1, 2012, President McLaughlin sent the Special Committee an eleven page letter in response to the Special Committee's report. The letter included the following heading, "Response of CVEC to the Barnstable County Assembly of Delegates." The introductory paragraph of the letter states, in part:

Responding to a request of the County Commissioners for an opportunity to discuss the workings and accomplishments of the Cape and Vineyard Electric Cooperative, Inc. ("CVEC"), its board of directors elected to *voluntarily* participate in the Assembly's Special Committee (the "Committee") hearings.

In an email dated September 18, 2012, President McLaughlin explains that the Special Committee "accelerated the process and the matter was taken up in early June. Alerted to this schedule, I prepared and submitted my response without any consultation with any member of the Board."

DISCUSSION

The Open Meeting Law requires that meetings of a public body be properly noticed and open to members of the public, unless an executive session is convened. See G.L. c. 30A, §§ 20(a)-(b), 21. A "meeting" is "a deliberation by a public body with respect to any matter within then body's jurisdiction." G.L. c. 30A, § 18. A "deliberation" is "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; however, that 'deliberation' shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting [material] or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed." *Id.* A "quorum" is "a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision." *Id.*

In both complaints, Mr. Bibler alleges that the Chairs either deliberated with members of

their respective Governing Boards outside of a meeting, or else acted unilaterally without approval, in issuing a letter in response to the Special Committee's report. The Open Meeting Law does not govern the authority of individual public body members to act, thus we decline to review this allegation and consider only whether there was improper deliberation by the Boards.

The complaint against the CLC alleges that the Chair communicated with a quorum of the Governing Board outside of an open meeting in order to receive approval to issue a response to the Special Committee's report. The minutes of the CLC Governing Board's May 9, 2012 meeting show that the Chair circulated a draft response to the Special Committee's report during that meeting. The Chair then submitted a letter to the Special Committee on May 31, 2012. During the CLC Governing Board's July 11, 2012 meeting, Chair Doherty explained that he had to respond quickly to the Special Committee and that he submitted the letter on behalf of the Board without its vote of approval. In the absence of evidence to the contrary, we credit the Chair's account, and find that the Chair did not communicate with a quorum of the Board members outside of a meeting, thus the Board did not violate the Open Meeting Law.

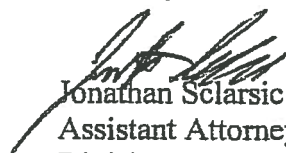
The complaint against the CVEC similarly alleges that the President communicated with a quorum of the Board of Directors outside of an open meeting in order to receive approval to issue a response to the Special Committee's report. The President of the CVEC Board of Directors reported to the Board on May 23, 2012 that he was drafting a response to the Special Committee's report. In an email provided to our office, President McLaughlin explains that he "prepared and submitted [his] response without any consultation with any member of the Board." In the absence of evidence to the contrary, we credit the President's account and find that the President did not communicate with a quorum of the Board outside of a meeting in preparing and sending a letter on behalf of the CVEC to the Special Committee.

CONCLUSION

We find that neither the Governing Board of the CLC nor the CVEC Board of Directors violated the Open Meeting Law when their respective chairs issued letters on behalf of the Boards in response to the Special Committee's report.

We appreciate the patience and cooperation of the parties during this investigation, and now consider this matter closed. This letter does not resolve any complaints that may be pending with our office or the CLC or the CVEC. Please contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,


Jonathan Sclarsic
Assistant Attorney General
Division of Open Government

cc: Eric Bibler, Save Our Seashore
Cape Light Compact

cc: Cape & Vineyard Electric Cooperative, Inc.

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by this order may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of this order.

