

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, SEPTEMBER 29, 2014
7:00 P.M.**

APPROVED

SELECTMEN PRESENT: Ballantine, Cebula, Hughes, LaMantia, McManus

OTHERS PRESENT: Town Administrator Christopher Clark, Assistant Town Administrator Julie Quintero-Schulz, David Ryan, Officer Burns, John Giorgio, Allin Thompson, David Young, David Purdy, Jeremy Gingras, Matt Hart, and others.

MEETING CALLED TO ORDER at 7:00 p.m. by Chairman Ballantine.

PUBLIC COMMENT/ANNOUNCEMENTS

Mr. Clark introduced new Building Commissioner David Riquinha.

CONSENT AGENDA

- A. Approve Minutes –
 - 1. June 2, 2014 Executive Session
 - 2. July 28, 2014 Executive Session
 - 3. August 11, 2014 Executive Session
 - 4. September 15, 2014 Regular Meeting
- B. Approve committee appointments as recommended
- C. Approve application by A.J. Luke's of Harwich for 10:00 a.m. opening time on Sundays effective October 23, 2014

Mr. McManus moved to approve the Consent Agenda and the recommended actions thereon. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

PUBLIC HEARINGS/PRESENTATIONS

- A. Special Legislation on Wastewater Issues Update – John Giorgio, David Young

David Young of CDM Smith Inc. noted that recent meetings have put forth 10 conceptual business items which he discussed with the Board (see attached). Mr. Giorgio stated that the first step is to see if the Chatham and Harwich Boards can reach a conceptual agreement on the business terms. He noted that if the Board gives authorization they will send a proposed Memorandum of Understanding to Chatham setting forth these business terms and if the two Boards can reach a conceptual agreement then he and Chatham's counsel will draft a legally binding Intermunicipal Agreement (IMA). Mr. Giorgio reported that in 2008, the Legislature amended the statute on IMA's so that Town Meeting approval is no longer required, however, there is nothing to prevent us from putting into the agreement that it is conditioned on Town Meeting approval. Mr. LaMantia stated that Town Meeting will want to see two sets of numbers – what would it cost if we did this through agreement with Chatham and what would it cost if we built it ourselves. He stressed the importance

of having these numbers when we meet with Chatham. Mr. LaMantia added that we need to find out what grants are out there and what would it cost if we got the effluent recharged in Chatham. Ms. Cebula asked to get the current operating expenses of the Chatham plant. Mr. Hughes argued that since we are approximately 6 years from tying in, the plant will have depreciated so the value should be somewhat diminished and said we should pursue that option in the interest of getting a better deal. Mr. Young responded that they could argue the flip side that we need to consider inflation. Mr. Giorgio recommended that the Town propose a percentage of 30% to Chatham and at the 2017 Annual Town Meeting we appropriate at least the 30% cost and that payment would be made on July 1, 2017 with the remaining balance being made upon substantial completion of the sewers, the pumping station going in and the connection. Ms. Cebula stated that she would like the 30% out and Mr. Giorgio said he would delete it. Mr. Hughes said we can think about a series of payments. Mr. Giorgio said he would draft a Memorandum of Agreement and send it to Chatham's counsel with the percentages left blank.

Mr. Giorgio discussed that governance structure must be addressed and recommended creating a Water and Wastewater Commission under the Charter through special legislation which he drafted for the Board, as well as the establishment of a Municipal Water Infrastructure Fund. He further outlined the Town meeting votes that will be required to implement the recommendations of the draft Comprehensive Wastewater Management Plan (see attached). Mr. Giorgio and the Board took questions and comments from Mr. Ryan and Mr. Thompson.

Mr. LaMantia recommended taking up each of the components Mr. Giorgio discussed at separate Board meetings to allow for public input and Chairman Ballantine agreed.

B. Annual Meetings:

1. Housing Committee

David Purdy delivered the annual report of the Housing Committee.

2. Brooks Academy Museum Commission

Jeremy Gingras delivered the annual report of the Brooks Academy Museum Commission.

3. Historic District / Historic Commission

No one appeared before the Board.

C. Five Year Financial Plan Presentation – *David Ryan and Christopher Clark*

Mr. Ryan and Mr. Clark presented the Five Year Financial Plan and took questions and comments from the Board (see attached).

NEW BUSINESS

A. Request by Conservation Administrator for letter of support for Green Infrastructure for Coastal Resilience Grant Opportunity – discussion and possible vote

At Ms. Usowski's recommendation, Mr. McManus moved to approve the letter of support for Green Infrastructure for Coastal Resilience Grant Opportunity and that we sign it and send it. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

B. Thompson's Field dog leashing issues – discussion

Mr. Clark reported that we have had issues with dogs running loose and it was obvious that the requirement to have dogs under verbal command of the owner was not very enforceable so we asked the Animal Control Officer to look at that. He further noted that we asked the Conservation Commission to look at areas to consider allowing dogs to run loose and the Teixeira property is one that they are looking at but at this point the Conservation Commission is not ready to present anything. Officer Burns said the current law that indicates a dog must be on a leash or under voice control is archaic and the new proposal would specify areas where dogs can be off leash in designated areas which are yet to be specified. No action was taken.

C. Saquatucket Development Plan Committee – discussion

Chairman Ballantine stated that he wanted to form a committee specifically charged with looking at site plans for the Downey Property and Saquatucket Harbor as a whole and then make a recommendation to the Board. The Board took comments from Mr. Hart and recommended changes to the document. It was agreed to bring back next week.

TOWN ADMINISTRATOR'S REPORT

A. Response letter to Mr. Cakounes regarding Cape Light Compact information

Mr. Clark noted that he has responded to Mr. Cakounes' letter and his response has been provided to the Board.

B. Route 39 and Pleasant Bay Road Intersection

Mr. Clark reported that one of the concepts we are looking at is a traffic calming device – a roundabout. He noted that we have done some initial work and it appears that it would fit in that intersection. Ms. Cebula suggested looking at installing better signage and cutting back the bushes to improve the line of sight before we jump to an expensive project. Mr. Clark responded that it is an issue of a major thoroughfare comingling with a minor thoroughfare and not a line of sight issue but said he would come back with additional material.

C. Police Department transition issues

Mr. Clark reported that Lt. Barry Mitchell has retired so there is a vacancy there and the Chief will be retiring as well. He noted that he has been meeting with members of the department and expects to have a recommendation for a transition plan shortly.

ADJOURNMENT

Mr. McManus moved to adjourn at 10:00 p.m. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel
Recording Secretary



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

September 25, 2014

John W. Giorgio
jgiorgio@k-plaw.com

Hon. Larry G. Ballantine and
Members of the Board of Selectmen
Harwich Town Hall
732 Main Street
Harwich, MA 02645

Re: Implementation of Draft Comprehensive Wastewater Management Plan – Status Report

Dear Members of the Board of Selectmen:

The purpose of this letter is to outline the status of progress on implementing the Draft Comprehensive Wastewater Management Plan ("CWMP"). As you know, the Town Administrator, Selectman Ballantine, David Young of CDM Smith, and Town Counsel have been working on a variety of components of the wastewater plan, including the development of special legislation in the form of a Home Rule Petition to create a Water and Wastewater Commission, preparing a recommended strategy for negotiating with Chatham Town officials on an intermunicipal agreement that would provide the Town with sufficient treatment capacity at the Chatham Water Pollution Control Facility ("WPCF") to meet the wastewater needs of the Pleasant Bay watershed, and identifying other Town Meeting warrant articles to be considered to address governance and financing for the Town's wastewater project.

Special Legislation

Enclosed please find the draft of special legislation that would establish a governance structure for the Town's water, wastewater, and stormwater functions. Since the Town does not currently have a board of sewer commissioners nor has the Town ever voted to authorize the Board of Selectmen to act as sewer commissioners, it is necessary to establish such authority as part of the governance structure. Specifically, the special legislation would amend the Town Charter in several respects and create a new Water and Wastewater Commission. In addition, the recommendation from the staff is that the water and wastewater functions of the Town be combined into a single Town board. Here is a section by section summary of the draft Act:

- Section 1: Establishes a Town agency to be known as the Harwich Water and Wastewater Commission.
- Section 2: Amends the Town Charter in several respects by deleting all references to the current Water Commission, and provides that the Board of Selectmen will exercise all of the powers and duties of the new Water and Wastewater

KOPELMAN AND PAIGE, P.C.

Hon. Larry G. Ballantine and
Members of the Board of Selectmen
September 25, 2014
Page 2

Commission, which will possess all of the powers of a board of water commissioners and a board of sewer commissioners under the General Laws.

- Section 3: Amends the Charter to create a new Division of Water and Wastewater within the Town governmental structure.
- Section 4: Provides that a division director be appointed by the Town Administrator. (Such appointment will be subject to the approval of the Board of Selectmen pursuant to section 4.4.1 of the existing Charter.) Pursuant to Section 12 of the Act, the Board of Selectmen is empowered to create any committees that the Board determines is necessary and appropriate. This would include a Water and Wastewater Advisory Committee, for example.
- Section 5: Authorizes the establishment of sewer districts by Town Meeting vote.
- Section 6: Allows for the expansion of sewer districts by Town Meeting vote.
- Section 7: Establishes separate water and sewer enterprise funds, but allows the Water and Wastewater Commission to consolidate the two enterprise funds in the future.
- Section 8 and 9: Provides various methods for financing the new sewer system. Allows Town Meeting to vote to either pay the entire cost of sewer infrastructure from the tax levy or allows for a portion of the costs to be paid by rate payers through a variety of assessment methods. The last paragraph of Section 9 provides authority to assess betterments for non-traditional methods of pollution mitigation.
- Section 10: Permits extensions of the sewer system beyond an established sewer district without a Town Meeting vote to serve municipal uses, failed septic systems, and areas threatened by sea level rise.
- Section 11: Authorizes the Commission to mandate that properties abutting public or private ways in which a sewer line is installed to connect to the Town's sewer system.
- Section 12: Authorizes the Commission to enact regulations to carry out the purposes of the Special Act, and further authorizes the Commission to delegate all or a portion of statutory authority to any committee established by the Board of Selectmen or the Town Administrator.

KOPELMAN AND PAIGE, P.C.

Hon. Larry G. Ballantine and
Members of the Board of Selectmen
September 25, 2014
Page 3

- Section 13: Provides that the members of the Commission (the Board of Selectmen) are the lawful successors of the members of the existing Board of Water Commissioners.
- Section 14: Provides protection to existing employees of the Water Department.
- Section 15: Provides that all contracts entered into by the existing Board of Water Commissioners remain in effect.
- Section 16: Provides that all property and equipment of the former Board of Water Commissioners are transferred to the new Commission.
- Section 17: Allows the appropriation of money from a Municipal Infrastructure Investment Fund for any purpose authorized by the Act. (See below.)
- Section 18: Repeals Chapter 165 of the Acts of 1935 that created the Board of Water Commissioners.

Negotiation of an Intermunicipal Agreement with the Town of Chatham

The Town's Draft CWMP recommends that the Town enter into an intermunicipal agreement with the Town of Chatham for the treatment of 300,000 gpd of wastewater from the Pleasant Bay Watershed area of the Town. The wastewater would be conveyed to the Town line where, just inside the Town line, a newly constructed pumping station would convey the wastewater to Chatham's WPCF for treatment and disposal. In order to implement this recommendation, we are now at the point where the Town's negotiating team is prepared to recommend to the Board of Selectmen that a set of proposed business terms be adopted by the Board and that they be incorporated into a Memorandum of Understanding ("MOU") and presented to Chatham at the upcoming joint meeting between the two Boards of Selectmen currently scheduled for October 22, 2014. We believe that the most efficient way to move the discussions along would be for both boards to sign the MOU setting forth the basic business terms of an agreement. Once agreement on the business terms is reached, the negotiating team would then negotiate the details of an intermunicipal agreement ("IMA"), the final terms of which would be subject to approval by both Boards of Selectmen.

To that end, enclosed please find the draft of proposed business terms that the negotiating team is recommending for consideration by the Board of Selectmen. There are certain provisions that are highlighted in bold as they present particular policy questions which the negotiating team would like direction on from the Board of Selectmen. If the Board of Selectmen agrees, we would

Hon. Larry G. Ballantine and
Members of the Board of Selectmen
September 25, 2014
Page 4

further recommend that a draft MOU be prepared and sent to Chatham in advance of the joint meeting. The enclosed set of proposed business terms would form the conceptual basis for an agreement with Chatham. By adopting the proposed business terms and entering into an MOU would not establish any legally binding commitments. The legally enforceable and binding document would come when the Boards agree on and execute an IMA, the terms of which would also not be binding until Town Meeting appropriated the funds necessary to carry out the Town's obligations. Pursuant to G. L. c. 40, §4A, Town Meeting is not required to expressly authorize the Board of Selectmen to enter into an IMA, even though such an IMA can establish legally binding obligations on the Town that are not subject to appropriation. Given the scope and cost of implementing the CWMP, however, the Board of Selectmen may want to consider including a condition precedent in the IMA requiring Town Meeting approval before it takes effect

Establishment of Municipal Water Infrastructure Investment Fund

In August 2014, the Governor signed into law Chapter 259 of the Acts of 2014, an Act Improving Drinking Water and Wastewater Infrastructure. While the new law presents several opportunities for addressing drinking water and wastewater needs, one section of the new law may prove to be particularly useful to a Town such as Harwich that is embarking on a major wastewater infrastructure project that will ultimately benefit the entire Town. The Act adds a new section to the General Laws (G.L. c. 40, s. 39M) which, if accepted by the Town in the manner required, would allow the Town to assess a water infrastructure surcharge on real property at a rate up to, but not exceeding, 3 percent of the real estate tax levy against the property. The amount of the surcharge is not included in the calculation of total taxes assessed for purposes of Proposition 2 and ½. Once the surcharge is collected as part of the regular real estate tax bill, the money is placed in a special fund known as the Municipal Water Infrastructure Investment Fund which is separate and apart from the Town's General Fund. Monies in the Fund may be appropriated by Town Meeting "exclusively for maintenance, improvements and investments to municipal drinking, wastewater and stormwater assets." The collection of the surcharge begins in the first fiscal year following adoption unless the Town specifies in the vote of acceptance that the surcharge will not be assessed until a future fiscal year.

If the Board of Selectmen is interested in pursuing the adoption of this new law, the acceptance procedure is similar to that of the Community Preservation Act. The first step is acceptance by a vote of Town Meeting, and then submission of a question to the voters at the next regular Town election for acceptance of the law. Since the Town cannot place the question on the ballot unless and until Town Meeting votes acceptance, I do not believe it would be possible to vote acceptance at the 2015 Annual Town Meeting and the 2015 Annual Election since there is less than 35 days between Town Meeting and the election. Therefore, if the Board of Selectmen determines that it is in the best interest of the Town to adopt the legislation so that the surcharge may begin to be collected in FY 2016, it would be necessary to hold a Special Town Meeting at least 35 days before

KOPELMAN AND PAIGE, P.C.

Hon. Larry G. Ballantine and
Members of the Board of Selectmen
September 25, 2014
Page 5

the Annual Town Election in May 2015. Since there are a number of other wastewater-related warrant articles, the Board may want to consider dedicating a Special Town Meeting to address in a comprehensive fashion all of the necessary Town Meeting actions, as explained below.

Town Meeting Actions Required

There are several Town Meeting votes that will be required to implement the recommendations of the draft CWMP as follows:

1. Authorizing the filing of the Home Rule Petition to Amend the Town Charter to create a new Water and Wastewater Commission.
2. Authorization for the Board of Selectmen to enter into an IMA with Chatham. (assuming the Board of Selectmen wish to negotiate a provision into the IMA that requires Town Meeting approval).
3. Appropriate additional funds that are necessary to continue the implementation of the recommendations contained in the draft CWMP including design funds for the first phase sewers in Pleasant Bay. (Please note that the appropriation of funds to (1) purchase capacity at the Chatham WPCF; (2) pay the Town's proportionate share of the Chatham pumping station; and (3) construct Phase 1 of the sewerage of the Pleasant Bay Watershed will not be necessary until the 2017 Annual Town Meeting).
4. Authorizing the acquisition of a suitable site for future wastewater effluent recharge needs.
5. Acceptance of G.L. c. 40, §39M, to establish a Municipal Water Infrastructure Investment Fund, should the Board of Selectmen recommend pursuing this financing option.

Please let me know if you have any further questions.

Very truly yours,


John W. Giorgio

AN ACT AMENDING THE CHARTER OF THE TOWN OF HARWICH FOR THE PURPOSE OF ESTABLISHING A WATER AND WASTEWATER COMMISSION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. There is hereby established in the town of Harwich a water and wastewater commission, which shall be an agency of the Town.

SECTION 2. The charter of the town of Harwich, established pursuant to chapter 18 of the Acts of 2006, is hereby amended by striking chapter 6, section 6, and replacing it with the following: -
6-6-1 There shall be a water and wastewater commission. The board of selectmen shall exercise the duties of the water and wastewater commission. 6-2-2 The water and wastewater commission shall possess and exercise all powers given to boards of water commissioners under section 69B of chapter 41 of the General Laws and boards of sewer commissioners under section 1 of chapter 83 of the General Laws, including stormwater management, and any special law pertaining to the operation of a water and wastewater commission in the town of Harwich.

SECTION 3. Said charter is hereby further amended by striking chapter 5, section 1-2 and replacing it with the following: -The divisions shall include: a division of finance, a division of highways and maintenance, a division of water and wastewater, and any other divisions established under clause 4-5-1.

SECTION 4. Said charter is further amended by adding a new section 7 to chapter 5, division of water and wastewater, to read as follows: - 5-7-1. A division of water and wastewater shall be established under the direction of an officer appointed by the town administrator to be known as

the director of water and wastewater. The division shall be responsible for the operation of all water and wastewater facilities within the town.

SECTION 5. In addition to assuming the operation of the town's water system as provided for in the General Laws , the water and wastewater commission may lay out, plan, construct, maintain and operate a wastewater system or systems for a part or whole of the town's territory, as may be from time to time defined and established by adoption by town meeting of one or more by-laws as a designated wastewater district under the jurisdiction and control of the water and wastewater commission, with such capacity limitations, connections, pumping stations, treatment plants and other works, as may be allocated in such by-law to such wastewater district as required for a system or systems of wastewater treatment and disposal, and may construct such wastewater and related works in said wastewater districts defined and established by by-law as may be necessary. No other wastewater system shall be constructed in any public roads or ways of the town which are not within the limits of such designated wastewater districts and which are not under the control of the water and wastewater commission.

SECTION 6. Notwithstanding any provision of law to the contrary, owners of land not within the wastewater districts defined and established pursuant to section 5 of this act shall not be permitted to connect to the town's wastewater system except as is set forth in this act. The territory covered by said wastewater districts may be amended from time to time by the water and wastewater commission, after a public hearing conducted to consider such amendment, upon approval of the department of environmental protection if otherwise required by law and upon enactment by town meeting of a by-law defining or establishing a new or expanded wastewater district.

|

SECTION 7. The financial operation of the water system shall continue as an enterprise fund, and the wastewater system, including stormwater facilities and non-traditional methods of pollution mitigation, shall be operated as a separate enterprise fund pursuant to section 53F½ of chapter 44 of the General Laws. Notwithstanding the foregoing, the water and wastewater commission may establish a consolidated enterprise fund for all water and wastewater facilities and activities. Town meeting may at any time vote to abolish any enterprise funds authorized or established pursuant to this section.

SECTION 8. The town shall, by vote at town meeting, determine whether it shall pay the whole or a portion of the cost of a wastewater system, which may include sewer and stormwater systems, and other facilities or undertakings deemed necessary by the water and wastewater commission to address non-traditional methods of pollution mitigation, and if a portion, what proportion. If the town votes to pay less than the whole cost, in providing for the payment of the remaining portion of the cost of said system or systems, the town, acting through the water and wastewater commission, may avail itself of any or all of the methods permitted by the General Laws; and the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of wastewater assessments or the additional methods set forth in section 9, and as to liens therefor and to interest thereon, shall apply to assessments made pursuant to this act by the water and wastewater commission, except that interest shall be at the rate as may be established by the water and wastewater commission from time to time. At the same meeting at which town meeting determines that any portion of the cost is to be borne by the users of the wastewater system or systems, it may by vote determine by which of such methods as authorized under section 15 of chapter 83 of the General Laws the portion of said cost shall be provided for. The collector of taxes of said town shall certify the

payment or payments of any such assessment or apportionments thereof to the water and wastewater commission.

SECTION 9. The water and wastewater commission may, in its discretion, prescribe for the users of said wastewater systems and disposal works such annual charges, connection fees, assessments, privilege fees, and the like, based on the benefits derived therefrom as such water and wastewater commission may deem proper, subject however, to such by-laws as may be adopted by vote of the town, or as may be provided for in the General Laws. Notwithstanding any law to the contrary, the water and wastewater commission is authorized to impose and collect such charges, fees, or assessments prior to connection or operation of such wastewater systems, and may enter into agreements for the payment thereof over such time as the water and wastewater commission shall determine. In fixing the charges to be imposed for said system, the water and wastewater commission is authorized to make use of any fee, charge, assessment or betterment provided for by the General Laws and further may take into consideration all costs for ongoing removal of infiltration and inflow of non-wastewater into the system as part of the normal operating costs of the system; may include, in setting privilege fees, capital costs and interest charges applicable thereto; may impose late fees for unpaid billings; may assess a capacity utilization fee to new estates and properties added to a wastewater district authorized by this act from outside a designated needs area in addition to any privilege fee; may charge betterments, special assessments, or any other charge to the estates and properties being served by collection system improvements and extensions to pay for all costs for sewer line extensions to serve new connections, both within the wastewater districts authorized by the act and in any areas added to such wastewater district; and may impose such charges on properties within a

wastewater district authorized by the act whether or not such estates and properties are then connected to the wastewater system.

The water and wastewater commission may make assessments on properties that are not connected to the wastewater system for which the Town has expended funds to address stormwater impacts and non-traditional methods of pollution mitigation.

SECTION 10. Notwithstanding anything to the contrary contained herein, the water and wastewater commission may at any time permit extensions, new connections or increases in flow to wastewater systems, subject to capacity, to serve municipal buildings or public restrooms or other public service uses as defined by the water and wastewater commission pursuant to duly adopted regulations. In addition, the water and wastewater commission may extend a wastewater system beyond the limits of any district approved by town meeting (1) for the purpose of abating pollution in any "needs areas" as identified in a comprehensive wastewater management plan approved by the department of environmental protection, (2) to serve properties where the board of health has certified in writing that the on-site system is in failure, or (3) to serve properties in areas where due to emergency conditions such as sea level rise, on-site systems pose a threat of failure.

SECTION 11. The water and wastewater commission shall have all the powers of a board of health to order the connection of land to a wastewater system as set forth in section 3 of chapter 83.

SECTION 12. The water and wastewater commission may, consistent with section 10 of chapter 83, prescribe regulations to implement the purposes of this act, and is hereby authorized

to delegate all or a portion of its statutory authority to any committee established by the board of selectmen or to the town administrator.

SECTION 13. No contracts or liabilities in force on the effective date of this act shall be affected by abolition of the elected offices as provided for herein, and the newly created appointed offices shall in all respects be the lawful successor of offices and departments so abolished.

SECTION 14. Any person holding an office or position in the administrative service of the town, or any person serving in the employment of the town shall retain such office or position and shall continue to perform his/her duties until provisions shall have been made in accordance with this act for the performance of the said duties by another person or agency; provided, however, that no person in the permanent full-time service or employment of the town, shall forfeit his/her pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do.

SECTION 15. All leases, contracts, franchises, and obligations entered into by the town or for its benefit, prior to the effective date of this act shall continue in full force and effect.

SECTION 16. All records, property and equipment whatsoever of any office, department or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office, department or agency, shall be transferred forthwith to the office, department or agency to which such powers and duties are assigned.

SECTION 17. Upon acceptance of section 39M of chapter 40 in the manner set forth therein, the town may appropriate from the Municipal Water Infrastructure Investment Fund for any purpose authorized by this act.

SECTION 18. Chapter 165 of the Acts of 1935 is hereby repealed. On the effective date of this Act, the board of water commissioners established pursuant to chapter 165 of the Acts of 1935, is hereby abolished, and the unexpired terms of said board members shall terminate.

SECTION 19. This act shall take effect upon passage.

Harw/501893v.2/Wastewater

DRAFT

Proposed Business Terms For an Intermunicipal Agreement Between Harwich and Chatham for Wastewater Treatment and Disposal

Background

The Harwich CWMP describes a recommended program to meet watershed nitrogen removal goals. This plan includes a multi-phased sewerage program for the Pleasant Bay watershed with wastewater conveyed to the Chatham WPCF for treatment. The two main initial phases result in a need for approximately 300,000 gpd of average day wastewater capacity. Effluent would at least initially be recharged in Chatham with the potential for long-term recharge to be determined in the future with a back-up plan being to recharge back to the Pleasant Bay watershed within the Town of Harwich.

Proposed Business Terms for the Intermunicipal Agreement

The following points represent in principle the conceptual basis for Harwich to present to Chatham to begin the negotiation of an intermunicipal agreement (IMA). The goal would be to negotiate the specific terms of, and execute an IMA by December 31, 2014.

1. **Purchase Capacity:** Chatham recently completed a substantial upgrade to its WPCF at a reported total cost of \$40.3 Million. See memorandum from GHD dated February 13, 2013, attached hereto as Exhibit A. Harwich will be given an opportunity to review the backup documentation to verify the construction costs. The upgraded WPCF has a capacity to treat 1.3 mgd with a current recharge permit limit of 1.0 mgd. Harwich would offer to purchase 300,000 mgd (average daily flow) of the current capacity of the WPCF, which represents **23.07%** of total capacity, or about \$9.3 Million. Subject to final verification of **net cost to Chatham after deducting all grants received by Chatham**, Harwich will make an initial payment of 30% of its capacity purchase on July 1, 2017. The remaining 70% payment will be made upon substantial completion of the interconnection and acceptance of the pumping station by the Town of Chatham. **The Harwich Board of Selectmen should focus on this proposed timing of making the capital contribution.**

gndh
Timing or
Payment

In order to complete sewerage of the entire Town of Chatham, it is anticipated that Chatham will be required to expand the capacity of the WPCF to 2.2 mgd. It is understood that the entire cost of any plant expansion will be the responsibility of Chatham unless the Towns agree in the future for an additional purchase of capacity by Harwich above 300,000 mgd. Notwithstanding the foregoing,

Harwich will be responsible for its proportionate share of any future WPCF capital costs required to meet new treatment regulations or requirements of the Massachusetts Department of Environmental Protection, or other permitting agencies.

2. ***O&M Cost Payments:*** Terms for paying these costs would be defined into two categories; fixed and flow variable. Harwich would pay Fixed O&M costs based on its share of total purchased capacity (23.07%). Flow variable O&M costs (such as chemicals, electricity and sludge disposal) would be paid based on actual percentage of wastewater flow received at the WPCF. Harwich O&M cost payments would begin once the WPCF begins to receive Harwich wastewater.
3. ***Effluent Recharge:*** Chatham would agree to recharge effluent originating in Harwich at the Chatham WPCF site during the initial years. This would enable Harwich to avoid having to construct a pumping station, forcemain and infiltration basins at a site in Pleasant Bay to recharge effluent. Chatham would benefit as well in that it will be able to better track the effluent flow and evaluate long-term down-gradient potential impacts to hopefully allow more effluent to be recharged at the WPCF site in the future (currently limited to 1.0 mgd). It also keeps the effluent recharge out of Zone II recharge areas which potentially reduces treatment costs and impacts. The duration of the initial recharge of Harwich effluent at the Chatham WPCF would be at least until the Chatham facility reaches 80% of its permitted flow capacity. At that time a decision would be made as to whether Harwich can continue recharging at the Chatham facility or if Harwich needs to construct infrastructure required to redirect the effluent recharge back to the Pleasant Bay watershed site. In that event, Chatham would provide an easement at the WPCF site for locating the effluent pumping station and related facilities, including an effluent forcemain easement from the WPCF to the Harwich town line.
4. ***Connection to Chatham:*** Harwich would pay its proportional share of the pumping station (PS6) and forcemain project costs to convey the collected wastewater at or near the Chatham town line from sewers in Pleasant Bay to the Chatham WPCF. These costs are estimated to be about \$2.4 Million. See Exhibit A. Harwich would make its payment prior to construction of the pumping station. A joint State Revolving Fund (SRF) loan (or any other funding mechanisms) would be sought to assist in financing this project.
5. ***Metered Flow:*** Harwich wastewater flow would be metered prior to connecting to the Chatham system at or near the Chatham pumping station (PS6) so that flows and associated costs are based on "actual" flows. Any Harwich flows that enter the Chatham sewer system directly (unmetered wastewater) would be based on metering of actual water use and those flows would be added to the "Harwich metered wastewater flow".
6. ***Wastewater Flow:*** Flow capacities and proportioning would be based on average daily flow in gallons per day (gpd) as measured by the flow meter at the interconnection point.

7. **Billings:** Harwich would receive one bill quarterly from Chatham for wastewater system O&M costs. Harwich would issue sewer bills to Pleasant Bay sewer system users directly.
8. **Sewer System Maintenance:** Chatham currently contracts out operation of its sewer system. When and if that contract is extended, or sooner if the current vendor is amenable, Chatham would, at the request of Harwich, expand the scope of services to cover operation of the sewer system in the Pleasant Bay watershed and Harwich would be responsible for that portion of the increased costs.
9. **Advisory Board:** The Sewer Commissions from Chatham and Harwich would meet together quarterly to review finances of the Chatham WPCF and other appropriate operational issues.
10. **Timeframe for Implementing IMA:** Harwich is intending to bring at least three warrant articles before the 2015 Annual Town Meeting. The first article is a Home Rule Petition that would amend the Town Charter to create a Water and Wastewater Commission and to authorize the Board of Selectmen to serve in that capacity. The second article will request funds to continue the Pleasant Bay watershed water quality improvement program by requesting initial phase sewer design costs. The third article will seek authorization for the Town to acquire a site in the Pleasant Bay watershed for effluent recharge. **The Board may wish to consider bringing an article to accept G.L. c. 40, §39M, to establish a Municipal Water Infrastructure Investment Fund and an article to approve the intermunicipal agreement.** It is not anticipated that Harwich will seek an appropriation for the purchase of treatment capacity at the Chatham WPCF until the 2017 Annual Town Meeting. Furthermore, Harwich anticipates that it will take at least three years or more to design and construct the initial sewerage of the Pleasant Bay watershed in accordance with the CWMP. In this same timeframe, Chatham would be required to construct the connection pumping station and forcemain to the WPCF. The Towns agree to coordinate their respective construction projects to maximize SRF and other potential funding sources.

ATM & Election
Rule Election