

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, AUGUST 20, 2018
6:30 P.M.**

APPROVED

SELECTMEN PRESENT: Ballantine, Howell, Kavanagh, MacAskill, McManus

OTHERS PRESENT: Town Administrator Christopher Clark, Assistant Town Administrator Evan Melillo, Carolyn Carey, Carol Coppola, Ray Chesley, Larry Cole, Cyndi Williams, Leo Cakounes, Liz Argo, and others.

Chairman Kavanagh reported that the Board had just come out of Executive Session which included some litigation matters, a favorable evaluation for the Police Chief, collective bargaining issues and approval of minutes.

WEEKLY BRIEFING

A. Solar MAssachusetts Renewable Target/SMART Program – Larry Cole

Mr. Cole, the Town's representative to the CVEC and member of the Harwich Energy Committee, reported on the SMART program's existence and noted that the Harwich Energy Committee met with SunPower on it. He discussed site preparation for a Town parcel that was designated for a large scale solar array in order to meet one of the Green Communities criteria program and he commented that this could generate \$100,000 per year in lease payments under the best case scenario. He recommended that the Town get moving on this and noted that an RFP would have to be developed. Mr. Clark recommended that they put together an RFP and bring it back to the Board.

PUBLIC COMMENTS/ANNOUNCEMENTS

Mr. Tim Ethier of 500 Old Chatham Road in South Dennis discussed the shooting range at the Cape Cod Fish and Game Club on Depot Street noting that the activity there has picked up dramatically in the past few years. He commented that it is a continual disturbance and he cannot sit outside any longer. He asked the Board to look into and said ultimately he would like to see the range shut down. Mr. Clark said he would get some details and see if we have any ability to regulate it.

Ms. Williams discussed upcoming events sponsored by the Chamber of Commerce.

CONSENT AGENDA

- A. Approve Minutes – July 9, 2018 Regular Meeting
- B. Accept the resignation of Joan Felahi as a full member of the Council on Aging
- C. Accept the resignation of Mark Koopman as a full member of the Treasure Chest Committee
- D. Approve Caleb Chase Request in the amount of \$700.00
- E. Approve Caleb Chase Request in the amount of \$700.00
- F. Approve Caleb Chase Request in the amount of \$580.79
- G. Vote to sign a proclamation in honor of Peter Cobb's 80th birthday

Mr. McManus moved approval of the Consent Agenda Items A and C through G. Mr. Howell seconded the motion and the motion carried by a unanimous vote. With regard to Item B, Mr. Howell explained that

committee members must submit resignation letters to the Town Clerk and also we have nothing in writing from Ms. Felahi. He said he would reach out to her.

PUBLIC HEARINGS/PRESENTATIONS *(Not earlier than 6:30 P.M.)*

A. Public Hearing (continued from August 6) – Building Department Fees

Mr. Clark reported that the Building Commissioner and Finance Director are providing this presentation in response to the Board's questions about whether the fees are in compliance with the Emerson College case. Ms. Coppola provided the attached presentation.

Mr. Howell said he was looking for what it costs to issue a permit in terms of FTE hours. He said the true cost of issuing a permit is different than whether you are exceeding your ability under the law to allocate expenses against this purpose. He noted that some permits are rather express and some are rather complicated. He said this isn't a race to see who can finish first with the most expensive permits. He said this doesn't answer how much it costs to issue a permit. Mr. Chesley responded that there are a number of different permits and the costs vary widely between them so he isn't sure how you could capture that information with a lot of accuracy. Mr. Clark noted that in Mr. Chesley's original analysis he had a cost analysis which resulted in a fee of \$74.09 and Chairman Kavanagh said it also took into account square footage. Mr. Howell reiterated that it is not a competition and is based on what our incurred expenses are to issue the permit. Chairman Kavanagh said she has filed building permits in several towns and these towns aren't incredibly larger towns than ours and they don't have larger workforces and we have lower fees. She pointed out that we are charging less per square foot. She said she is not in favor of charging more money just to charge more but we do need to be able to support the department. Mr. Howell said our first obligation is to see how much it costs us to issue a permit in Harwich and if we are adequately covering that by the expense incurred. Mr. Chesley took questions from the Board regarding last year's budget excess for the Building Department. Mr. McManus pointed out that the figures indicate that the taxpayers are subsidizing the department in the amount of \$184,000 and Mr. Chesley confirmed that this is correct. Mr. Ballantine said he would like to look at ways to reduce our labor internally by looking at the drivers of these costs and ways to increase our efficiency and he challenged Mr. Clark to do so. Chairman Kavanagh cautioned that online applications do not reduce our personnel costs and stressed that these fees haven't been raised since 2007. She commented that we shouldn't be subsidizing the costs. Mr. Howell said he would like to know how many man hours, at whatever grades, does it cost to be able to put out a permit. Chairman Kavanagh said to calculate the number would be extremely difficult as a great set of submitted plans for an advanced house can be reviewed quicker than a poorly done set of plans for an average house. The Board took comments from Mr. Cakounes who questioned if it is a policy of the Board to match operating costs to fees for every department. Mr. Clark said it isn't a policy but it is our obligation to try to follow case law precedence. Mr. Cakounes said he isn't questioning case law but rather questioning when the Board decided that the Building Department operating costs would be entirely covered by fees and said he took exception to the Board's comments that they shouldn't be subsidizing the Building Department as it should be covered by tax dollars. Mr. Clark said he has never recommended that everything be trued up to Emerson College, and that there are certain departments where you need to provide the services such as Police and Fire but we should try to capture costs where it makes sense. Mr. Cole said taxpayers shouldn't be paying for benefits received by individual taxpayers. Mr. McManus moved to close the public hearing. Mr. Ballantine seconded the motion. The motion carried by a 4-1-0 vote with Mr. Howell in opposition. Mr. McManus moved that we adopt the recommended increases in the Building Department fees and make the increase effective January 1, 2019. Chairman Kavanagh seconded the motion and the motion failed on 2-3-0 vote with Mr. MacAskill, Mr. Howell and Mr. Ballantine in opposition. Mr. Ballantine said he would like to see this brought back again.

B. Dennis/Harwich/Yarmouth Special Legislation with section by section summary – John Giorgio

Mr. Giorgio provided a report on the status of the Special Legislation which was voted at Town Meeting to authorize the Board of Selectmen to work with the other two towns to come up with Special Legislation that would be filed to create the Dennis/Harwich/Yarmouth Clean Waters Community Partnership. He noted that the legislation has been prepared and filed. He explained that they have been working with Representative Whelan and the House Legislative Counsel to come up with a final bill that addresses all of the concerns from the various boards and once that legislation is passed, the Towns will get together to negotiate an agreement which would have to go to Town Meeting for final approval. He noted that the Dennis and Yarmouth Boards of Selectmen are meeting on this next Tuesday. He did a section by section summary of what the bill does. He noted that he had prepared a summary and Mr. Young had provided some comments (attached). He reported that House Counsel had prepared a number of recommended changes to the bill and has raised some questions so they prepared a revised version of the bill that addresses their comments and answers their questions and have made a few additional revisions. He said they are hoping that it is going to be processed through Representative Whelan's office and then the bill would be ready. He noted that the primary purpose of the legislation is to fulfill the intent of Town Meeting to create an independent governmental entity that is going to be able to actually do the job of designing and constructing a Wastewater Treatment Plant with the proposed site being in Dennis and that both Yarmouth and Harwich would participate in this arrangement and deliver wastewater to the plant and that the effluent after treatment would be sent back to the towns for disposal at town individual sites. He explained that the commission will be independent but made up of appointees from the three towns. He highlighted the appointment and powers of the commission. Mr. Giorgio pointed out that if only two towns approve the agreement, then the agreement allows those two towns to proceed together without the third town. He said they are waiting to hear back from House Counsel through Representative Whelan's office as to the changes and they are in line with what House Counsel has already approved. Mr. Giorgio and Mr. Young took questions from the Board regarding distribution of operating costs, which they said would be detailed extensively in the agreement. Mr. Young said as currently drafted, the fixed cost would be a proportion based on ownership in the plant and operating costs would be broken into fixed and flow variable which is based on how much flow you are sending in a given year. Mr. Howell stated that there is absolutely no relationship between this construct and our taxpayers. He noted that these people are appointed by the Board of Selectmen who are not the legislative body but rather the executive body of the Town. He stressed that there is no provision for any kind of public input whatsoever. He said he would feel a lot better if any money they would borrow would be subject to a vote of Town Meeting. He questioned where the containment is on the operating costs for anything. Mr. Young said the containment is that their commissioners are appointed by their communities, all financial votes over a certain dollar value require supermajority vote of the commissioners, and they require a positive vote from each of the commission communities. He commented that there are lots of safeguards built in. Mr. Giorgio said this agreement just allows you the opportunity to create the entity. He added that the details will be in the agreement and will address the types of concerns Mr. Howell is raising. Mr. Howell questioned why we wouldn't go to each town like we do for regional schools. He pointed out that there is no direct election and the public has no say in it or in the individual yearly budgets. He questioned if it would be a deal killer if we said it had to go back to Town Meeting for an appropriation. Mr. Young said that it goes against it being a separate entity. Mr. Giorgio said the opportunity to address those concerns would be in a vigorous negotiation of the agreement. He recommended getting the legislation in place and said we are not committed to this unless the Board approves the agreement and Town Meeting does as well. Mr. Howell said the legislation itself specifies this way of operating. Mr. Giorgio said it will not operate at all unless or until an agreement is in place. Mr. Howell questioned if they can name another construct on Cape Cod that operates this way with no voter input. Mr. Giorgio responded not on Cape Cod but there are examples off Cape. Mr. Giorgio pointed out that this is very consistent with the Section 208 Water Quality Plan Update and the advancement of this kind of regional cooperation is certainly going to be favorably looked on by

the grant agencies. Mr. Young said it is not only the grant agencies but at the One Cape Conference where they presented this scenario, it was highlighted by the Governor, the Lt. Governor and Secretary of Environmental Affairs as the model they would like to see other communities using going forward. Chairman Kavanagh said we are not going to find those comparisons on Cape as we have been applauded for being at the forefront and one of leaders. The Board took comments from Mr. Cakounes who suggested that the Board not support a committee that will have this authority and it should be an elected position with a compensation. Mr. Ballantine questioned why we can't have Town involvement and they would still be an independent board and was in favor of the board being elected. The Board discussed adding additional safeguards in the agreement. The Board agreed that this needs to be brought back with feedback from the other towns. Mr. MacAskill suggested a joint meeting and Mr. Giorgio said that would be an excellent idea.

C. Presentation – Permanent Protection for Nantucket Sound – Audra Parker

Ms. Parker explained that they are seeking permanent protection for Nantucket Sound through federal legislation and it would designate Nantucket Sound as a national historic landmark. She stated that it would also prohibit any federal agency from authorizing any type of energy generation or exploration project in Nantucket Sound. She noted that 45 groups have signed on to the stakeholder letter. Mr. McManus moved to support the Town of Harwich being a signatory. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

NEW BUSINESS

A. Harwich Parking Committee Charge

Mr. Howell noted that the charge he developed is for an ad hoc committee. He outlined the charge. At Mr. Ballantine's and Mr. McManus' suggestion, Mr. Howell agreed to clarify that the committee is open to all local residents who are full or part time, not necessarily taxpayers. Ms. Williams suggested leaving it at just residents. Mr. McManus moved to approve the charge as written and ask that people who are interested in serving on this committee have their applications into the Selectmen's office by September 15. Mr. Howell seconded the motion. Mr. MacAskill volunteered to be the liaison to the committee. The motion carried by a unanimous vote.

B. Committee Appointments:

1. Historic District/Historical Commission
2. Golf Committee

Mr. Howell moved the following appointments:

Julia Eldredge for a full term on the Historic District/Historical Commission to expire 6/30/21

Steve Bilotta to the Golf Committee for a full term to expire 6/30/21

John Connolly to the Golf Committee for a full term to expire 6/30/21

Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

C. Liquor/Entertainment License Violation – Mad Minnow Restaurant – *recommend referring this matter to Hearing Officer/Town Administrator*

Mr. MacAskill moved that we recommend referring this matter, the Liquor/Entertainment License violation, Mad Minnow Restaurant to the Town Administrator as the Hearing Officer. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

D. Harwich Pines Association – Application for Special Purpose Mooring Permits – Attorney Brian Wall/Harbormaster John Rendon

Mr. Wall, Attorney for the applicant, explained that this is an application for two Special Purpose Mooring Permits for the Harwich Pines Association. He made the following argument to the Board:

The Association owns and maintains a common beach to which all the properties in the Association have deeded rights to. From the 1970's until 2002, the Association was annually issued permits for 2-3 moorings off the common beach and the subdivision moored 3-4 boats there every year. The moorings were classified as private moorings under the Harbor Management Plan which became in effect in 2004. In 2012, the prior Harbormaster, Mr. Leach, retired and Mr. Rendon took over and did a comprehensive review of the regulations and he wanted to make sure he was being consistent in his application of the regulations and his enforcement and he determined that the Association was not eligible for private moorings and asked that they be removed and in 2012 they were removed and they have not been back in the water since. The Association was upset by this, this was something they enjoyed for many years so they decided to pursue this and had meetings and correspondence with the Harbormaster. The Harbormaster explained that it was his position that under the regulations, specifically Section 3.9I, that the requirement that a private mooring have a residential property with water frontage meant that the property had to have direct access to the water and that deeded access by a backlot owner was not eligible. The Harbormaster also notified them that if they disagreed with his opinion then they could file an appeal. We did file an appeal and that is pending but in the process of filing the appeal we comprehensively reviewed the regulations and saw the definition for Special Purpose Mooring and felt that they fit within that definition and as an alternative request for relief in the appeal, we asked for that type of permit.

Mr. Wall said they met with the Town Administrator and Harbormaster at which time they were informed that Town Counsel agrees that they are eligible for that permit and they were asked to file a separate application for that and they did so. He stated that the Harbormaster has reviewed it and agrees that the Association is eligible for a Special Purpose Mooring and he thinks the Harbormaster is going to recommend approval. He asked that the Board give the Association two permits for moorings that they have enjoyed for over 40 years with a different characterization as a Special Purpose Mooring.

Mr. Rendon agreed with Mr. Wall's summary and said he and his staff spent a couple of years trying to get Long Pond cleaned up of moorings that didn't belong there and enforce our regulations for people who had deeded beach rights but did not have residential waterfront property and did not qualify for private property moorings. He reviewed the definition of Special Purpose Moorings. He said that when he and the Town Administrator met with Town Counsel, he felt based upon their non-profit business entity of their Association, that they could apply. He said he did a site visit and he believes there is enough room there in front of their property for a Special Purpose Mooring. He commented that it's a little bit outside the box of typically what we provide, what we define as Special Purpose, but he would support it.

Mr. MacAskill moved that we approve the application for a Special Purpose Mooring Permit by Harwich Pines Association. Mr. Howell seconded the motion. Mr. Rendon took questions from the Board about access to the mooring. He said how they manage the two moorings is up to Association. Mr. Rendon said he believes space would only allow for two moorings. The motion carried by a unanimous vote.

E. West Harwich School Building - general discussion of future plans for the site

Mr. Ballantine asked that this be postponed to another meeting when they have time to discuss it and when he has more information. Mr. MacAskill noted that there are members of the public waiting to speak on

this item and asked that they be allowed to speak. Mr. Howell said in the future when this gets put on agenda he would like us to think about the possibility of a licensing agreement similar to the one for the South Harwich Meeting House. Ms. Urbano said she recently submitted this building to the Preservation Massachusetts' Endangered Historic Building List and she read their mission statement. She said if they get this, it is free help, although she doesn't know what their chances are. In regard to Ms. Urbano's statement, Mr. Cakounes asked if a non-owner and non-holder of any lease of Town owned property can apply to some historical society without the permission of the Town. He questioned if this is a process any citizen can do. Ms. Urbano replied that anyone can nominate and the Town doesn't have to take advantage of it. The Board agreed to bring this back when Mr. Ballantine has the information. Bob Doyle of North Road said this is a jewel and it would be a major mistake to relocate or destroy it.

F. Entertainment Licenses – discussion on outside noise after 10:00 p.m.

Taylor Powell, owner of Perks, said the way the licenses are worded leaves the businesses open for a violation after the music stops as the ending time for outside entertainment is 10:00 p.m. and for inside entertainment it is midnight, but liquor can be served until 1:00 a.m. He said there's no place that turns off background music or TV at midnight and the way the permit is written, this is a violation. He added that there are businesses that don't have entertainment licenses who are playing music and TV's past the hour. Mr. Howell pointed out that we would need a public hearing to do anything with this. Mr. MacAskill asked for the Police Chief's input. Chief Guillemette said he's surprised that there aren't more people here considering the amount of complaints they've been getting. He said the inside ending time that the Board voted is reasonable and helps them to get those establishments under control and get everyone out by 1:00 a.m. He said that was the idea and discussion when we changed this. He said there would be no violation if the noise doesn't exceed the premises but if you are an outside business only, you are held to the 10:00 p.m. stop time and anything heard beyond the premises is a violation. Chairman Kavanagh said that as long as the noise is within the walls of building it shouldn't be a violation. Chief Guillemette stated that entertainment is live or recorded music and it must stop at 10:00 p.m. outside. He said based on the number of complaints they have, this issue isn't going to go away. Mr. MacAskill asked that those figures be forwarded to the Board. Ms. Sara Powell of Perks said that there are more people thanking them than there are complaints. Mr. Clark said if they have something in mind they would like to see the Board change with regard to license requirements, they should submit it to give some direction to the Board as to what they would like to see and Chairman Kavanagh asked them to do that.

Mr. MacAskill departed the meeting at 9:20 p.m.

OLD BUSINESS

A. Continuation of the CVEC Round 1 Adder for FY20 – Liz Argo

Ms. Argo described upcoming CVEC projects. She explained that the Round 1 Adder request for FY18 & FY19 was approved at \$0.005 to cover a debt of \$100,000 and they are now back with a projected debt of \$36,000 and asking for the Round 1 Adder request for FY20 at \$0.0025. She distributed the participant report for FY18 and said the site is producing as they hoped it would. The Board took comments from Mr. Cakounes who asked the Board to support the Adder. Mr. Howell moved that we support the Round 1 Adder request for FY20 at \$0.0025 per kilowatt hour. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

B. Fraud Assessment Policy – reporting issues

At Mr. Howell's request, Chairman Kavanagh agreed to delay this item until the entire Board is present.

C. Overview of land use controls for wastewater purposes

Mr. Clark asked to table this item and the Board agreed to hold until the next meeting. Mr. Ballantine said he would be emailing questions to Mr. Clark on this item.

D. Sunday opening for Community Center – update

Mr. Clark said we have sufficient funds to open on Sundays from 10:00 a.m. to 3:00 p.m. and we are looking at starting on September 23rd. Mr. Clark said he is considering the soft holidays to be Labor Day, Columbus Day and Presidents Day.

CONTRACTS

- A. Change Order #2 (C.C. Construction) for the Saquatucket Harbor Septic System project in the amount of \$86,890

Mr. Clark said this is for the septic for the snack shack to construct the tanks to get the restaurant going. Mr. McManus moved approval of a change order in the amount of \$86,890 for C.C. Construction. Mr. Howell seconded the motion and the motion carried by a unanimous vote.

TOWN ADMINISTRATOR'S REPORT

- A. Resignation of Council on Aging Director

Mr. Clark reported that the COA Director has submitted her resignation and he will be filling in.

- B. CDM Smith Progress Report – Sewer Collection System Phase II

Mr. Clark reported that we are continuing to do the boring samples. He added that he and the Town Engineer went out and looked at specific pump station sites and they are trying to refine those locations.

- C. Departmental Reports

There was no action or discussion on this item.

SELECTMEN'S REPORT

- A. K P Law contract – *discussion*

Mr. Howell asked that this be an agenda item. He said he is looking for what obligations we have and any paperwork that might show that and any alternatives we might wish to consider.

ADJOURNMENT

Chairman Kavanagh adjourned the meeting at 9:41 p.m.

Respectfully submitted,

Ann Steidel
Recording Secretary

Building Permit Fee Comparison											
Single Family Dwelling											
	No Deck or Porch; 2,500 sq. ft. Living Space; 1500 sq ft Basement Storage;										
	528 sq ft Garage (24 x 32); 240 sq ft Finished over Garage (10 x 24)										
Note: Barnstable, Falmouth and Provincetown omitted intentionally as their fees tend to be much higher than the other towns and average would be skewed											
Town/ Permit Fee last adjusted	Brewster FY19	Chatham FY15	Dennis FY17	Eastham FY14	Harwich FY12	Marshpee FY11	Orleans FY13	Sandwich FY16	Tyngs FY11	Wellfleet FY16	Yarmouth FY15
	Unit	Unit	Unit	Unit	Unit	Unit	Unit	Unit	Unit	Unit	Unit
Application Fee	\$25.00	\$100.00	\$26.00	\$25.00	\$75.00	\$0.55/sf	\$50.00	1st 100sf			
2500sqf Living Space	\$0.70/sf	\$1,750.00	\$0.90/sf	\$2,250.00	\$0.35/sf	\$1,375.00	\$1,350.00	\$500/100sf	\$1,635.00	\$1,625.00	\$1,375.00
1500sqf Basement Storage	\$0.35/sf	\$525.00	\$0.50/sf	\$1,350.00	\$0.25/sf	\$825.00	\$810.00	0	\$975.00	\$800.00	\$825.00
528sqf Garage	\$0.25/sf	\$132.00	\$0.60/sf	\$917.00	\$0.25/sf	\$132.00	\$114.00	Flat	\$344.00	\$337.00	\$354.00
240sqf Finished over Garage	\$0.70/sf	\$168.00	\$0.90/sf	\$216.00	\$0.35/sf	\$132.00	\$130.00	\$0.50/sf	\$156.00	\$155.00	\$132.00
Technology Fee \$5.00/\$100.00					\$80.00						
Building Permit Fee	\$2,600.00	\$3,633.00	\$1,792.00	\$3,125.00		\$2,474.00	\$2,454.00	\$1,595.00	\$3,100.00	\$2,513.00	\$2,716.00
Average Building Permit Fee	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91	\$2,508.91
Difference from Average	\$91.09	\$1,124.09	\$-716.91	\$616.09	\$-912.91	\$-334.91	\$-54.91	\$-913.91	\$591.09	\$4.09	\$207.09
Percent Below Average					\$7.20%						



* Dennis and Sandwich do not include basement area in fee calculation. (Harwich along with the other towns include the basement area)											
Inspection Fee Analysis											
Building Inspection:											
Building Inspector FY19		\$35.37									
Building Commissioner FY19		\$47.79									
		\$83.16	Average Cost Inspector per hour								
			Administrative Cost 1/2 hr @ \$25.00/hr								
			Subtotal	\$41.58							
			Total= Subtotal X 1.37% Burden	\$12.50							
				\$54.08							
				\$74.09							

Draft as of 07-11-18

AN ACT ESTABLISHING THE DHY CLEAN WATERS COMMUNITY PARTNERSHIP FOR THE TOWNS OF DENNIS, HARWICH AND YARMOUTH.

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 shall be a regional wastewater district for the towns of Dennis, Harwich and Yarmouth, to be known as the DHY clean waters community partnership, which shall be a body politic and corporate and political subdivision of the commonwealth. Notwithstanding the procedural requirements of section 25 of chapter 40N or sections 28 to 33, inclusive, of chapter 21 of the General Laws all actions taken by the towns of Dennis, Harwich and Yarmouth which are not inconsistent with this act are hereby validated, ratified and confirmed in all respects. The purpose of the partnership shall be to: (i) manage and control the common pumping stations, interceptors and force mains, wastewater treatment plant, effluent recharge and reuse system and appurtenances; (ii) act as a regional wastewater district; and (iii) provide for the collection, treatment, discharge, recharge and reuse of effluent for the member towns.

SECTION 2. For the purposes of this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Agreement", the agreement to be entered into by and among the towns of Dennis, Harwich and Yarmouth and approved at town meetings of said towns, as supplemented and amended by said towns in accordance with section 7.

"Commission", the commission established in section 3.

"District" or "partnership", the DHY clean waters community partnership established in section 1.

"Treasurer", the treasurer appointed by the commission pursuant to section 23.

SECTION 3. (a) The powers, duties and liabilities of the partnership shall be vested in and exercised by a commission organized in accordance with this section and the agreement. The commission shall choose a chair and secretary from its membership. The commission shall appoint a treasurer, who shall not be a member of the commission. The treasurer shall receive and take charge of all money belonging to the partnership and shall pay any bill of the partnership which shall have been approved by the commission. The treasurer may, by vote of the commission, be compensated for services. The treasurer shall be subject to sections 35, 52 and 109A of chapter 41 of the General Laws, provided that in applying said sections to said treasurer, the word "partnership" shall be substituted for "town" and "commission" shall be substituted for "selectmen".

(b) The number of commissioners representing each town shall be as defined in the

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agreement. The commission members shall be appointed by the local board having the authority of sewer commissioners.

SECTION 4. Notwithstanding the last sentence of section 25 of chapter 40N of the General Laws, the partnership shall have the following powers and duties:

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- (1) adopt a name and a corporate seal, and the engraved or printed facsimile of such seal appearing on a bond or note of the partnership shall have the same legal effect as such seal would have if it were impressed on the bond or note;
- (2) sue and be sued, but only to the same extent and upon the same conditions that a city or town may be sued, and plead and be impleaded;
- (3) purchase, take by eminent domain under chapters 79 and 80A of the General Laws or otherwise acquire land within the member towns, or an interest in land within those towns, for the purposes of the partnership to construct, reconstruct, replace, rehabilitate, repair, equip, operate and maintain wastewater treatment, pumping and collection and effluent recharge and reuse facilities for the benefit of said towns, or any other facilities necessary to carry out the purposes of the partnership; and make any necessary contracts in relation to those purposes; provided, however, that at least 1 commission member from the town in which the land is located shall vote in the affirmative; and provided, further, that land may be taken by eminent domain only if the partnership first requests, in writing, that the town take such land and the town does not take such land within 180 days after the partnership has requested;
- (4) purchase or otherwise acquire land outside the member towns for the purposes stated in clause (3), but only if the partnership first obtains approval, in writing, of the board of selectmen or equivalent for each town in which the land is located;
- (5) incur debt for the purpose of acquiring land, or an interest in land, and constructing, reconstructing, replacing, rehabilitating, repairing and equipping wastewater treatment, pumping, collection and effluent recharge and reuse facilities and any other capital improvements, assets or facilities necessary to carry out the purposes of the partnership, including debt for the purposes of designing and otherwise planning any such improvements, for a term not exceeding 30 years; provided, that written notice of the amount of the debt and of the general purposes for which it was authorized shall be given to the board of selectmen of member town and to each town's board exercising the powers of sewer commissioners not later than 30 business days after the date on which said debt was authorized by the commission, and no debt shall be incurred until the expiration of 45 days from the date said debt was authorized by the commission; provided, that an engraved or printed facsimile signature shall have the same validity and effect as the chairman's written signature provided that said signature complies with all requirements of this clause;
- (6) borrow money at such rate or rates of interest as the partnership may determine; issue bonds, notes and other obligations to evidence such indebtedness in the name and upon the full faith and credit of the partnership and each issue of bonds or notes shall be a separate loan; provided, that said bonds or notes shall be signed by the chairman and the treasurer of the commission; provided, further that the chairman shall authorize the treasurer to cause to be engraved or printed on

said bonds or notes a facsimile of the chairman's signature; and provided, further that the chairman's authorization shall be in writing, bearing the chairman's written signature, filed in the office of the treasurer, and open to public inspection;

(7) receive and disburse funds for a purpose of the partnership, and invest funds in an investment legally permitted for a city or town;

(8) incur temporary debt in anticipation of revenue to be received from the member towns or from any other source;

(9) assess member towns for any expenses of the partnership;

(10) maintain a reserve fund, and carry over the remaining balance of such fund into the ensuing fiscal year, subject to the limitations in section 5;

(11) apply to receive and expend or hold a grant or gift for the purposes of the partnership;

(12) engage and fix the compensation for legal counsel, financial advisors, engineers, accountants, consultants, agents and other advisors;

(13) submit an annual report to each of the member towns, containing a detailed financial statement and a statement showing the method by which the annual charges assessed against each town were computed;

(14) appoint, employ, prescribe the qualifications and fix the compensation of an executive director and such other employees as necessary to operate the partnership and pay the same out of funds of the partnership;

(15) make and execute contracts, project labor agreements and other instruments that are necessary or convenient to carrying out the powers of the partnership, including, but not limited to, contracts with a person, firm, corporation, municipality, commonwealth agency, governmental unit or other entity, foreign or domestic;

(16) make and execute contracts for the purchase or for the environmental remediation, construction, operation and management of the sewer, wastewater treatment plant, collection, treatment, reuse and recharge facilities of the partnership, or for services to be performed thereon, and rent parts thereof and grant concessions thereon, on such terms and conditions as the partnership may determine, in accordance with the agreement;

(17) enact by-laws and rules concerning the management and regulation of its affairs and the use of its facilities and the provision of its services;

(18) convey, sell, lease or otherwise dispose of any partnership real or personal property, or interests in such property, no longer needed for purposes of the partnership;

(19) own, acquire, manage, operate, convey or lease any capital improvements, assets or facilities as contemplated by this act and the agreement;

(20) invest and reinvest its funds in such investments as may be lawful for fiduciaries in the commonwealth, and take and hold property as security for the payment of funds so invested, as provided in section 55 of chapter 44 of the General Laws;

(21) procure insurance against any loss in connection with its property, capital improvements, assets or facilities in such amounts and from such insurers, including the federal government and directors and officers liability insurance, as it seems necessary and desirable, and to pay any premiums therefor;

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Deleted: provided, however that any such transaction shall be exempt from the public bidding and procurement requirements applicable to bodies politic and corporate of the commonwealth imposed by general or special laws, including without limitation, chapter 7, 30 and 149 of the General Laws, but subject to section 28 and 29 of said chapter 149, and regulations promulgated thereunder; provided, that the partnership has, pursuant to an affirmative vote and by stating the public convenience and necessity therefore, exempted such transaction from such requirement

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(22) assume responsibility for maintaining, monitoring and conducting other activities imposed by any condition of any license, permit or approval or by any institutional control arising under any environmental law or regulation with respect to the capital improvements undertaken by the partnership in accordance with this act and the agreement; and

(23) take any and all other actions necessary and convenient to carry out the powers and purposes of the partnership, and all other actions incidental and related to the powers of the partnership.

SECTION 5. The commission shall annually determine the amounts necessary to be raised to maintain and operate the partnership during the ensuing fiscal year, plus a reserve fund not to exceed 20 per cent of the annual budget for the ensuing year, and shall apportion the amounts so determined among the several member towns based on each town's overall allocation of flow capacity in accordance with the terms of the agreement. The amounts for the upcoming fiscal year so apportioned for each town shall, prior to February 1 in each year, be certified by the treasurer to the treasurers of the member towns and the sewer commissioners or board exercising the powers of sewer commissioners of the member towns. Except to the extent that the treasurer's certification provides a credit from sewer system revenues and other sources, the sewer commissioners or board exercising the powers of sewer commissioners of each member town shall, without further vote, include each amount so certified in the amounts to be assessed annually in such town upon sewer users and others assessable pursuant to sections 14 to 24, inclusive, of chapter 83 of the General Laws and section 23 of chapter 59 of the General Laws, and with or without a town appropriation, the town treasurer shall pay to the partnership the amounts so apportioned at the times specified in the agreement. The amounts apportioned or to be apportioned under the agreement shall not be included in calculating total taxes assessed in paragraph (b) of section 21C of said chapter 59, or the maximum levy limit in paragraph (f) of said section 21C of said chapter 59. The amounts certified by the treasurer shall be deemed to be for services customarily provided locally or subscribed to at local option and shall not be subject to the limitation of section 20B of said chapter 59.

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SECTION 6. Notwithstanding chapter 44 of the General Laws, only sections 16 to 28, inclusive, of said chapter 44, shall apply to the partnership; provided, however, that the provisions of section 16 of said chapter 44 relating to the countersigning of bonds and notes and the provisions of section 24 of said chapter 44 relating to the countersigning and approval of notes and the certificates of the clerk relating to notes shall not apply to the partnership; and provided, further, that notwithstanding section 19 of said chapter 44 to the contrary, the maturities of each issue of bonds and notes of the partnership shall be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable, in the opinion of the treasurer, or in the alternative, in accordance with a schedule providing for a more rapid amortization of principal. Any debt incurred by the partnership shall not be subject to the limit of indebtedness prescribed in sections 9 and 10 of said chapter 44. SECTION 7. The member towns shall adopt an agreement consistent with this act prior to organization of the commission under section 2 and may from time to time amend the agreement provided,

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Deleted: Nothing in this act shall prevent a member town from establishing and maintaining a sewer enterprise fund pursuant to section 53B½ of said chapter 44 as the mechanism for assessing, collecting and paying the amounts certified by the treasurer pursuant to sections 5 and 8.

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that the amended agreement is consistent with this act. The agreement shall not take effect unless it is approved by a majority vote at town meeting by each of the towns participating in the agreement.

SECTION 8. If a member town, which has received a certification of the partnership's charges, shall fail to pay the same to the partnership when due after demand by the partnership, the partnership may, not less than 60 days after such demand and without any requirement of election of remedy; provided, that there is no duplication of recovery: (i) certify to the state treasurer the amount owing to the partnership by the member town, whereupon the state treasurer shall promptly pay over to the partnership any amount otherwise certified to the state treasurer for payment to the member town as unrestricted general government aid and any other amount for local reimbursement, grant or assistance programs entitled to be received by the member town until such time as any deficiency in the member town's payment of charges to the partnership shall be set off by such payments from the state treasurer; and (ii) recover from the member town in an action in superior court the amount of such unpaid charges together with such lost interest and other actual damages the partnership shall have sustained from the failure or refusal of the member town to pay over said amount. Any amount paid to the partnership by the state treasurer as a set off under this section which is later determined, upon audit, to be in excess of the actual amount of charges, interest and damages due to the partnership, shall, upon demand of the member town, be repaid by the partnership to the member town.

SECTION 9. The partnership shall adopt such by-laws as may be necessary and proper for the effective functioning of the partnership and its operations, capital improvements and finances, including, but not limited to, by-law provisions as put forth in the agreement. The by-laws may also provide for appointment of alternate members of the commission and such other matters relative to the business and affairs of the partnership as may be appropriate to exercise all powers necessary, convenient or incidental to the purposes for which the partnership was formed.

SECTION 10. The partnership may prescribe rules and regulations regarding the use of common sewers to prevent the entrance or discharge in the sewers of any substance which may tend to interfere with the flow of wastewater or the proper operation of the wastewater system and the treatment and disposal works, for the connection of estates and buildings with sewers, for the construction, alteration and use of all connections entering into such sewers, and for the inspection of all materials used in the sewers; and may prescribe civil penalties, not exceeding \$5,000 per violation for each day of violation of any such rule or regulation. The rules and regulations shall be published once in a newspaper of general circulation within each of the member towns, and shall include a notice that the rules and regulations shall be available for inspection by the public, and shall not take effect until such publication has been made. The rules and regulations shall conform with state and federal law.

SECTION 11. Notwithstanding this act or any general or special law to the contrary, the towns of Dennis, Harwich and Yarmouth, acting individually through the local board having the authority of sewer commissioners in the town and not acting in concert through the partnership, in order to fairly recover the costs of expanding the regional wastewater

Commented [194]: This additional sentence in combination with the revision to Section 12 is consistent with the original town meeting votes. The added language will allow two out of the three towns to enter into an agreement if the third town ultimately decides not to participate.

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treatment works as described in this act, may assess charges, assessments, betterments or privilege fees for new connections to the town's local sewer system or for expanded uses of the sewer system by existing users in accordance with chapters 80 or 83 of the General Laws. The sewer connection charges, assessments, betterments or privilege fees may include such respective town's proportionate share of the costs to the town under this act for the construction, expansion or upgrade of the regional wastewater facilities and may also include the proportionate share of such respective town's costs for any local wastewater facilities, including, but not limited to, pumping stations, equipment and intercepting sewers. Nothing in this act shall prevent the local board having the authority of sewer commissioners in the member towns from raising local revenue from or continuing to engage in the constructing, operating, maintaining, expanding and funding of each respective town's local municipal wastewater facilities located entirely in each town separate from and independent of the regional facilities and the partnership.

SECTION 12. This act shall take effect upon its passage.

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Deleted: simple majority approval of the agreement at an annual or special town meeting by each member town.

DHY CLEAN WATERS COMMUNITY PARTNERSHIP

PROPOSED SPECIAL LEGISLATION

SECTION BY SECTION SUMMARY

The attached draft of the legislation contains revisions recommended by House legislative counsel. In addition, the redlined changes shown on the attached draft are recommended by KP Law after consultation with the Town Administrators of Harwich and Dennis.

The primary purpose of the legislation is to fulfill the intent of the town meeting votes in each of the three 2018 annual town meetings held in Dennis, Harwich and Yarmouth. The draft legislation, if enacted by the General Court, will create an independent governmental entity that will have governance over wastewater treatment and disposal generated in each of the three towns pursuant to each town's Comprehensive Wastewater Management Plan, and sets up a financing structure to insure that the Partnership will have the authority and independence to achieve the purposes of the legislation.

The following bullets are intended to highlight the significant provisions of the draft legislation:

- Section 1 creates a body politic and corporate known as the DHY Cleans Waters Community Partnership. The Partnership will be a political subdivision of the Commonwealth. As such, it will be an independent governmental body apart from the towns. Although not expressly stated in the legislation, the Partnership will be a governmental body for purposes of the General Laws and will, therefore, be subject to the Open Meeting Law, the Public Records Law, and its employees will be subject to the Conflict of Interest Law.
- Section 3 creates a commission which is empowered to perform all of the duties and responsibilities of the Partnership. The number of commissioners will be established in the Agreement which will be negotiated among the three towns once the legislation is enacted.
- Section 4 enumerates the powers and duties of the Partnership which include:
 - purchase or acquire land by eminent domain or otherwise
 - to borrow money and to issue bonds and notes therefor, after notifying the towns of its intent to incur debt.
 - There is no requirement that the member towns approve the incurring of debt by the Partnership.
 - assess the member towns for all capital costs and operating expenses
 - hire employees and consultants
 - execute contracts in accordance with procurement laws
 - dispose of real and personal property
 - take any other action necessary and convenient to carry out its purposes.
- Section 5 authorizes the commission to apportion its expenses among the three towns. Each town is required to pay its apportioned share "with or without appropriation." This means that even if town meeting does not vote the appropriation, the town will still be legally liable to pay the assessment. The amounts so apportioned to each town will not be included in the town's calculation of the total taxes assessed under Proposition 2 ½. It is envisioned that the Partnership will incur debt for the design and construction of the facilities. In turn, the Partnership will assess

debt service and operating costs on the member towns each year. Such assessments must be paid by each member Town. There will be no requirement for the towns to obtain voter approval for any debt exclusions or overrides under Proposition 2½. To the extent any of the apportioned costs are not covered by user fees, the towns can raise the remaining amounts of the assessment outside of their respective levy limits under Proposition 2½.

- Section 7 requires the Towns to adopt an agreement consistent with the act. The Agreement must be approved in each town meeting in those towns participating in the final Agreement. This will enable two towns to proceed if the third town decides not to participate in the final agreement.
- Section 8 provides that if a member Town does not pay its apportioned share of the assessment by the Partnership, the State Treasurer is required to deduct the amount of the assessment from state aid and grants otherwise due the town. The Partnership may also seek recovery of the assessed costs in Superior Court.
- Section 9 authorizes the Partnership to adopt bylaws for the effective functioning of the commission.
- Section 10 authorizes the Partnership to adopt regulations governing discharges into the sewer system and to assess penalties for non-compliance. The towns will still be authorized to enact sewer use regulations which the agreement will provide must be as stringent as the Partnership's regulations.
- Section 11 allows the towns to assess betterments and assessments upon persons who connect to the sewer system that will be served by the Partnership's wastewater treatment plant and related facilities. This will enable the towns to recover their respective apportioned capital costs through betterments.

Layout

System specs:

1,935.5 kWp

4,900 Modules

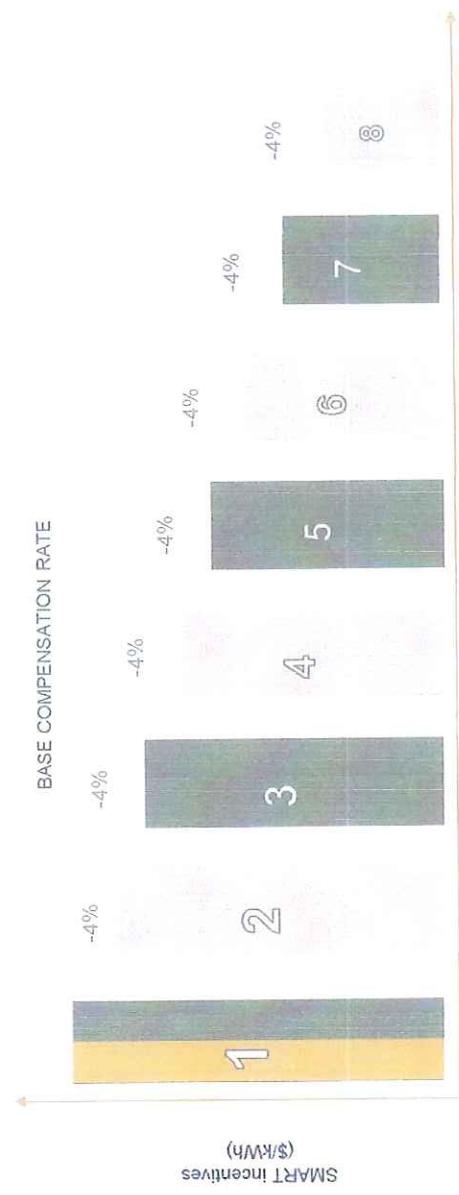
240,883 Sq FT





SMART: The Value of Acting Sooner vs. Later

- A declining block structure applies to both the baseline incentives and the adders



Eversource NEMA/SEMA	\$0.170	\$0.163	\$0.157	\$0.150	\$0.144	\$0.139	\$0.133	\$0.128
National Grid	\$0.156	\$0.149	\$0.143	\$0.138	\$0.132	\$0.127	\$0.122	\$0.117
Eversource WMA	\$0.143	\$0.137	\$0.132	\$0.126	\$0.121	\$0.117	\$0.112	\$0.107



COSTS TO TOWNS FOR FY20 ROUND 1 ADDER

ROUND 1						
Hosts of R1 Projects - Green signifies Project has Offtakers (OT)	Project's annual kWh of production to Host in FY17	FY 2017 Income to Host	Adder @ quarter penny for Host's kWh (share X Adder)	\$\$ to CVEC from Host @ \$0.0025 R1 Adder		% of earned \$\$ to go to CVEC
			\$ 0.0025			
Barnstable	5,150,520	\$ 382,604.72		\$ 12,876.30		3%
Brewster	1,543,380	\$ 97,611.57		\$ 3,858.45		4%
Chatham	2,381,400	\$ 183,613.13		\$ 5,953.50		3%
Eastham	514,271	\$ 40,833.00		\$ 1,285.68		3%
Harwich	3,592,642	\$ 364,920.95		\$ 8,981.61		2%
Tisbury	1,337,040	\$ 177,683.68		\$ 3,342.60		2%
Totals	16,564,323	\$ 1,376,666.38		\$ 36,298.13		

Offtakers of R1 Projects -	Annual kWh of production to Offtaker in FY17	FY 2017 Income to Offtaker	Adder @ eighth penny for Offtaker's kWh (share X 1/2 Adder)	\$\$ to CVEC from Offtaker share of Adder @ \$0.00125		% of earned \$\$ to go to CVEC
			\$ 0.00125			
Barnstable County	684,732	\$ 25,044.69		\$ 855.92		3%
Dukes County	418,071	\$ 15,293.55		\$ 522.59		3%
Brewster	180,569	\$ 6,605.98		\$ 225.71		3%
Chatham	35,371	\$ 1,279.32		\$ 44.21		3%
Chilmark	60,031	\$ 2,171.86		\$ 75.04		3%
Monomoy Schools	240,414	\$ 7,478.09		\$ 300.52		4%
Oak Bluffs	183,238	\$ 6,680.64		\$ 229.05		3%
Provincetown	488,009	\$ 17,805.37		\$ 610.01		3%
Yarmouth	920,073	\$ 33,594.23		\$ 1,150.09		3%
Totals	3,210,508	\$ 115,953.73		\$ 4,013.14		

CVEC Earns from Adder using FY17 Production: \$ 40,311.27

Total Host & OT kWh 19,774,831 kWh

CVEC Net Metering: FY 2018 Participant Report



Participant

Harwich

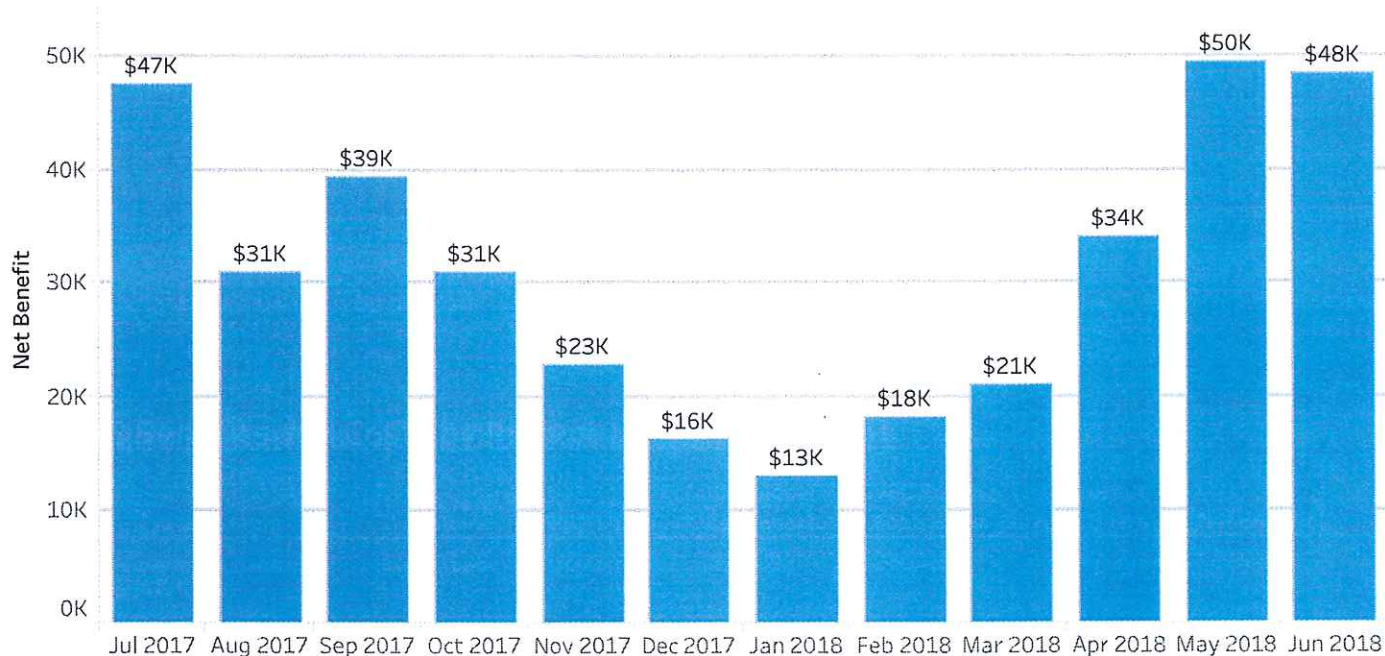
Benefits and Costs by Year

	kWh Share	NMC Share	Developer Cost Share	CVEC Admin Cost Share	Revenue Sharing Share	Net Benefit
FY 2015	2,555,095	\$438,583	(\$181,413)	\$0	\$71,191	\$328,362
FY 2016	3,465,668	\$560,843	(\$246,062)	\$0	\$97,410	\$412,191
FY 2017	3,592,642	\$533,759	(\$255,078)	\$0	\$86,239	\$364,921
FY 2018	3,252,635	\$529,625	(\$230,937)	(\$14,658)	\$87,894	\$371,925
Total	12,866,040	\$2,062,810	(\$913,490)	(\$14,658)	\$342,735	\$1,477,398

FY 2018 Benefits and Costs by Project

Participant Type	System Name	kWh Share	NMC Share	Developer Cost Share	CVEC Admin Cost Share	Revenue Sharing Share	Net Benefit
Host	Harwich Landfill	3,252,635	\$529,625	(\$230,937)	(\$14,658)	\$87,894	\$371,925

FY 2018 Benefits and Costs by Month



Related Documents - August 20, 2018 BOS Meeting

- 01 Agenda.pdf
- 02 Weekly Briefing - SMART Program.pdf
- 03 Minutes July 9 Regular Session.pdf
- 04 Resignation - COA.pdf
- 05 Resignation - Treasure Chest.pdf
- 06 Peter Cobb Proclamation.pdf
- 07 Public Hearing (cont) Building Fees.pdf
- 08 Building Dept Fees 1.pdf
- 09 Building Dept Fees 2.pdf
- 10 DHY Clean Waters Community Partnership.pdf
- 11 Permanent Protection for Nantucket Sound.pdf
- 12 Harwich Port Parking Committee.pdf
- 13 Aug 15 Vacancy Interviews.pdf
- 14 Liq - Entertainment Lic Violation.pdf
- 15 Harwich Pines Association Appeal.pdf
- 16 Entertainment Lic - Noise.pdf
- 17 CVEC Adder.pdf
- 18 Fraud Risk Assessment Policy.pdf
- 19 Overview of Land Use Controls for Wastewater.pdf
- 20 Sunday Opening for Community Ctr.pdf
- 21 Change Order - SAQ septic systems.pdf
- 22 Resignation of COA Director.pdf
- 23 CDM Smith Progress Report.pdf
- 24 Departmental Reports.pdf