

## Chapter 1. History and Structure of the Planning Process

### Chapter Summary

The Pleasant Bay Resource Management Plan is an example of regional cooperation of an impressive scale. The plan is sponsored by the towns of Orleans, Chatham, Harwich, and Brewster. Financial support for the plan has come from the towns, the Friends of Pleasant Bay, Inc., the Cape Cod Commission, and Massachusetts Coastal Zone Management.

In 1986 the four towns petitioned the Commonwealth Executive Office of Environmental Affairs (EOEA) to designate Pleasant Bay an Area of Critical Environmental Concern (ACEC). The ACEC designation was granted in 1987. Roughly, the boundary of the ACEC runs one hundred feet inland along the Bay's shore from Meeting House Pond in Orleans, south to Minister's Point in Chatham. The eastern edge of the boundary is the eastern boundary of the Cape Cod National Seashore. An evaluation of the existing ACEC boundary was undertaken as part of the resource management plan to determine whether the existing boundary is adequate to protect sensitive resources within the ACEC. On the basis of the evaluation, the plan recommends amending the ACEC designation to extend the boundary south from Minister's Point to the Chatham Light. The study area for the resource management plan includes the amended ACEC boundary as well as the watershed which feeds groundwater into the Bay.

To develop the plan, the towns formed a Steering Committee with representation from each town, and a Technical Advisory Committee consisting of local, state, county, and federal resource management professionals. A professional coordinator for the plan was also hired. From the beginning, the planning team emphasized the substantive involvement of area residents and other users of the Bay in the discussion of issues and development of recommendations. Toward this end, more than 1,000 residents responded to a mailed questionnaire, and hundreds participated in numerous public meetings. Frequent briefings with local media outlets helped to publicize opportunities for participation and report on progress. The centerpiece of community involvement in the plan was a three month work shop series focused on five key management topics: biodiversity, shellfish and aquaculture, shoreline structures, boating safety and navigation, and public access.

A draft resource management plan was submitted to the towns in February, 1998. The submission initiated a public comment period which lasted through April 3, 1998. Based on the comments received, the plan was revised and resubmitted to the towns for approval or adoption at Spring Town Meetings. Soon after Town Meetings, the plan is scheduled to be submitted to the Massachusetts Office of Environmental Affairs (EOEA) for approval by the Secretary.

## 1.1 Project History and Organization

The Pleasant Bay resource management plan project stems from a history of cooperation among the towns of Orleans, Chatham, Harwich, and Brewster. In 1986, the four towns submitted a nomination requesting that the Massachusetts Executive Office of Environmental Affairs (EOEA) designate more than 9,000 acres of Pleasant Bay an *Area of Critical Environmental Concern* (ACEC). Pleasant Bay was designated an ACEC in 1987. EOEA policy encourages municipalities to develop resource management plans for ACEC's, and provides guidelines for the development of such plans. In 1995 selectmen from the four towns entered into a Memorandum of Agreement (MoA) to develop a joint resource management plan to protect the extensive resources of Pleasant Bay.

The years following the ACEC designation were spent assembling the considerable resources and technical support needed for the plan. Funding for the plan has been provided by each of the four Bay towns, Massachusetts Coastal Zone Management, the Cape Cod Commission, and the Friends of Pleasant Bay, Inc. In addition to funding, the Cape Cod Commission has contributed staff time and resources to develop the digital maps used for the plan.

In accordance with the MoA, the resource management plan has been prepared under the direction of a Steering Committee consisting of one member from each of the four towns. The Steering Committee is assisted by a Technical Advisory Committee consisting of resource management professionals from each of the four towns, the Cape Cod Commission, state environmental agencies, and National Park Service. The Steering and Technical Advisory Committees have been assisted by a coordinator for the plan.

The planning team has met regularly for nearly two years to compile and review technical data on current conditions and trends in the Bay, conduct studies where data did not previously exist, assess issues and trends based on technical data, and explore management options that respond to those trends. Throughout this process of research and analysis, every effort has been made to utilize existing information from the four towns, and to apply relevant experiences from similar resource planning efforts across the country.

## 1.2 Timeline For Plan Development and Approvals

Over the past two years, progress in the development of the resource management plan has been steady:

- June 1996, preliminary inventories of the Bay's natural resources and human uses were submitted to Massachusetts Coastal Zone Management as a requirement of funding. On-going work with the Cape Cod Commission to prepare digital maps of resource and human use inventories was initiated;
- July 1996, a detailed scope of work for developing the resource management plan was submitted to and accepted by the Massachusetts Department of Environmental

Management (DEM); DEM administers the ACEC program on behalf of the Secretary of Environmental Affairs;

- July through September, 1996, a survey of residents of the four Bay communities was undertaken to learn more about how residents use the Bay, which issues they feel are important, and which management actions they support;
- October through December, 1996, based on analysis of data, survey results, and other community input, the planning team identified the five key topics the plan would address. The format for community-based work groups to explore each topic was developed. A public meeting was held;
- January through March 1997, thirty community work group meetings were held to explore the plan's key issues. A bay-wide flushing and circulation study was initiated;
- July, 1997, a preliminary draft of the resource management plan was submitted to the Massachusetts Department of Environmental Management, and Massachusetts Coastal Zone Management;
- November through December, 1997, mapping of wetland resources, bay-wide flushing study, and nitrogen loading study are completed.
- February, 1998, the draft resource management plan was submitted to the Boards of Selectmen in the four towns, the Massachusetts Department of Environmental Management, and Massachusetts Coastal Zone Management.

The submission of a draft resource management plan initiated a public comment period to allow town officials, citizens, and county and state environmental officials an opportunity to review and comment on the draft. The comment period, which extended through April 3<sup>rd</sup>, included a public hearing in each of the four towns. Based on the oral testimony and written comments received, the plan was revised and resubmitted to the towns for approval or adoption at Spring 1998 Town Meetings. Following Town Meetings, the plan is scheduled to be submitted to the Secretary of the Massachusetts Executive Office of Environmental Affairs (EOEA) for approval. After the submission of the plan to the state, an additional public hearing will be sponsored by the EOEA. The EOEA Secretary will issue a decision on the plan within thirty days of the public hearing. The current moratorium on the construction of private residential docks and piers, pursuant to the state Waterways (Chapter 91) Regulations, administered by the Department of Environmental Protection, remains in effect unless and until the plan is adopted by the towns and approved by the Secretary of Environmental Affairs.

### **1.3 Community Participation**

A major goal of the planning process has been to involve community residents and other Bay users in discussing Bay issues and trends, and in developing resource

management recommendations. The active involvement of residents has enriched the plan in several ways. First, it has allowed planners to gather information and perspective concerning the Bay from people who use and enjoy it on nearly a daily basis. Also, substantive community involvement in the development of resource management recommendations has helped to increase public awareness for the need to act now to sustain the Bay's resources, and to build support for the plan's successful implementation.

A framework for community involvement was developed in the early stages of planning to ensure that community residents would have ample opportunity for substantive participation in the plan. The framework included a number of outreach activities designed to reach the Bay's many constituencies:

- **Residents' Survey.** A survey of residents of the four Bay towns was undertaken to understand residents' views on how they use certain areas of the Bay; the importance of certain Bay activities; the importance of selected issues related to the Bay; and support for possible resource management actions. More than 12,300 questionnaires were mailed out to a cross-section of seasonal and year-round residents of the four Bay towns. More than one thousand questionnaires were completed and returned, providing a statistically significant number of responses.

The survey results provided a number of useful findings. Most people use and value the Bay for beach walking, bird watching, nature viewing and other low-impact forms of recreation. The key issues of concern highlighted in the survey, ranging from water quality to use of personal watercraft, helped to focus the issues that would be addressed by the resource management plan. A summary of survey findings is found in the appendix.

- **Public Meetings.** A series of public meetings was held during the development of the plan to keep citizens informed of progress and to provide additional opportunities for input. At each meeting, members of the public and media were able to ask questions of Technical Advisory and Steering Committee members, and to review work maps. A "kick-off" public meeting was held in Spring, 1996 in Orleans. The planning team along with state officials, described the purpose of the plan and the process and timetable for completing it. In Fall, 1996 a second public meeting was held in Harwich. At this meeting, the five key resource management topics were introduced, and the process of community work groups to study the topics was initiated. A third public meeting was held in Summer, 1997 to update summer residents on the plan's progress and to invite their input. In the coming months, additional public meetings will be held to review the draft and final versions of the plan.
- **Issue Work Groups.** Residents were invited to participate in the five work groups formed to explore the major topics of the plan. Each work group was led by a citizen facilitator, and each met for six sessions held from January through March, 1997. More than 160 residents participated in the work groups over the three month period.

Work groups included Steering and Technical Advisory Committee members, as well as state officials and technical experts.

The work groups provided residents an opportunity to participate in an intensive review of issues and technical data, and to hear input from outside experts in the respective fields. At the conclusion of the six sessions, each work group was asked to submit a set of comments and recommendations to the Steering and Technical Advisory Committees for consideration.

- **Public Review and Comment.** A public review and comment process was designed to provide interested citizens with an opportunity to review the draft resource management plan, and provide detailed comments. Copies of the complete draft were available for review at town libraries and town offices in the four towns. Copies of an executive summary of the draft were widely distributed. Thirty days after the draft plan was submitted to the towns, public hearings were held in each of the four towns. The hearings were legally advertised, and testimony was recorded. In addition to oral testimony at the hearings, interested citizens were also invited to submit written comments.
- **Media.** Media coverage of planning milestones has helped to inform residents about the status of the plan, and to publicize opportunities for participation. The local media's intensive interest in both the process and substance of the plan has led to comprehensive and informative coverage and has greatly enriched public involvement. The planning team has also relied on advertising and printed inserts in local newspapers to notify citizens of upcoming meetings, and to provide summary information on the contents of the plan.
- **Outreach.** Members of the planning team have been accessible to a variety of civic organizations. Presentations on the plan have been made before the Boards of Selectmen from the four Bay towns, local schools, Friends of Meeting House Pond, and Friends of Pleasant Bay, among others.

## 1.4 ACEC and Study Area Definition

### 1.4.1 ACEC Designation

The Area of Critical Environmental Concern (ACEC) Program was established in 1975, when the State Legislature authorized and directed the Secretary of Environmental Affairs to identify and designate "areas of critical environmental concern to the Commonwealth," and to develop policies for their acquisition, protection, and use. Since that time twenty-five ACECs covering 170,000 acres have been designated, from the Berkshires, to the North Shore, to Cape Cod. The Secretary of Environmental Affairs has delegated the administration of the ACEC Program to the Department of Environmental Management (DEM). DEM coordinates closely with the Massachusetts Coastal Zone Management Program concerning coastal ACECs. Other ACECs on Cape Cod include Wellfleet Harbor (Eastham, Truro, Wellfleet), Inner Cape Cod Bay (Brewster, Eastham,

Orleans), Sandy Neck/Barnstable Harbor (Barnstable, Sandwich), Waquoit bay (Falmouth, Mashpee), Pocasset Bay (Bourne), and Back River (Bourne).

The ACEC designation is a formal state designation directed principally to the actions and jurisdictions of state environmental agencies. The ACEC regulations generally direct EOEAs to take actions, administer programs, and revise regulations in order to preserve, restore or enhance the resources of an ACEC. An ACEC designation does not create new regulations to implement the goals of the designation, but works through the existing state environmental regulatory framework.<sup>1</sup>

The boundary of the Pleasant Bay ACEC covers slightly more than 9,000 acres including the Bay's waters and a perimeter of land approximately one hundred feet in from shore.<sup>2</sup> The area within the ACEC boundary is generally protected by more stringent state environmental reviews for certain projects. The rationale for the protections afforded an ACEC is based on the area's extensive resources and its value as an eco-system. Pleasant Bay met all fourteen ACEC qualification criteria established by the state, far more than the five criteria required.

The formal state regulatory requirements regarding ACECs affect a very small percentage of the overall land and water regulation, management, and development activities that take place within an ACEC. Enhanced state environmental reviews are not sufficient to protect resources for the long term. Therefore, wider goals of an ACEC designation include educating communities and residents about the significance of the resources of an ACEC, encouraging better local and regional coordination and planning, and supporting further municipal efforts to preserve the resources of an ACEC. Further, EOEAs encourage municipalities to develop resource management plans for ACECs. Guidelines for the development of such plans were adopted by EOEAs in 1992, and are intended to help guide public and private actions at the local level.

#### **1.4.2 Amendment to the ACEC Designation**

The guidelines promulgated by EOEAs for the development of resource management plans for ACECs stipulate that communities evaluate the adequacy of the existing ACEC boundary to determine whether it should be modified to protect sensitive resources within the ACEC.<sup>3</sup> Accordingly, the adequacy of the Pleasant Bay ACEC boundary was evaluated as part of the process of developing the resource management plan. Through this process it became apparent that the sustainability of resources within the ACEC is influenced by factors outside the existing boundary. Notably, the present boundary excludes the Chatham inlet, Chatham Harbor, and the channel leading from Chatham Harbor into the Bay. As discussed throughout the resource management plan,

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<sup>1</sup> A summary of state regulations regarding ACECs is found in Appendix C.

<sup>2</sup> The ACEC boundary is measured one hundred feet from the ten foot contour line as mapped by the U.S. Geological Survey. The legal boundaries of the ACEC are found in Appendix A.

<sup>3</sup> *Final Guidance Document, The Development of Resource Management Plans for Coastal Areas of Environmental Concern*, Commonwealth of Massachusetts Executive Office of Environmental Affairs, January, 1992, page 5.

these areas have a profound influence on currents, tides, and water quality in the Bay. These conditions, in turn, affect near shore wetland resources, aquatic vegetation, marine invertebrates, shellfish, finfish, and avian and terrestrial habitats. Based on this recognition, an amendment to the ACEC designation to extend the ACEC boundary is recommended as part of the resource management plan. The recommended amendment calls for extending the boundary southerly from Minister’s Point to the Chatham Light, and from there easterly to the eastern boundary of the Cape Cod National Seashore. In addition, the recommended amendment specifies that improvement dredging, and the disposal of spoils from improvement dredging projects, be allowed in the area south of Minister’s Point provided such projects are consistent with the resource management plan and meet all local, state, and federal environmental permitting requirements. (See Section 12.10.1).

**1.4.3 Study Area for the Plan**

In addition to the area proposed above to be included in an amended ACEC boundary, the study area encompasses the marine watershed area that feeds surface and groundwater into Pleasant Bay and its tributaries. Groundwater discharges and over-land run-off from land uses within the watershed are a critical factor in determining Pleasant Bay’s water quality. The study area extends beyond the 9,027 acre existing ACEC to include approximately 21,300 acres in the four towns.

The decision to broaden the management plan’s scope to include these areas was based on the importance they have for resource conditions in the Bay. However, the decision to include areas beyond the existing ACEC boundary in the study area does not extend the regulatory requirements of the ACEC to those areas. The amendment to the designation, if adopted by the Secretary of EOEA, would extend those protections to the area south of Minister’s Point to the Chatham Light.

**FEATURES OF THE PLEASANT BAY STUDY AREA**

Study Area (Watershed)	21,306 acres
Existing Area of Critical Environmental Concern (ACEC)	9,027.1 acres
Saltwater Surface Area	6,799 acres
Freshwater Surface Area	458 acres
Shoreline (Total)	71.3 miles
Inner	51.3 miles
Barrier Beach	7 miles
Islands	13 miles

Source: Massachusetts Department of Environmental Protection, Wetlands Conservancy Program and Cape Cod Commission