



# Shore Lines

Summer 2004

*You are Invited to Attend*

## APCC's 2004 ANNUAL MEETING

WEDNESDAY, AUGUST 18TH  
5 – 7 PM

ST. MARY'S EPISCOPAL CHURCH  
3055 MAIN STREET  
ROUTE 6A IN BARNSTABLE VILLAGE

Mark your calendars for APCC's Annual Meeting and Social Gathering.  
Join APCC members and friends in celebrating the accomplishments of the past year.

— Awards Presentation and Introduction of the First Esther Snyder Award —

— Brief Business Meeting —

— Election of Board of Directors —

Board Member Nominees:

Norm Edinberg   Steve Flynn   Bill Litchfield   Alan McClennen   Dan Wolf

Hors d'oeuvres, wine and plenty of time to socialize

For more information, please call APCC toll free at 1-877-955-4142

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**CompassBank**

*APCC gratefully acknowledges Compass Bank for underwriting this newsletter.*



**NOTES FROM  
MAGGIE GEIST,**  
*Executive Director*

**“On Cape Cod,  
each of us  
contributes  
to the water  
quality problem  
and is a  
‘responsible  
party.’”**

## Safeguarding our land of sand and water

*Reprinted from a guest column originally appearing in the Enterprise Newspapers.*

**W**alking along the beach last week, I fell in love with Cape Cod all over again. It happens to all of us, I suppose. Weeks or months elapse in which we bypass great beauty, eyes closed. Suddenly, a certain light, the play of sand and water, the grace of a wave, and we are swept away with appreciation and joy for the privilege of calling Cape Cod home.

Scores of freshwater ponds, acres of marshes and bogs, miles of seashore with inlets, streams connecting the coast to inland ponds—all this comprises our water world. With bedrock hundreds of feet beneath the surface, our sandy peninsula is alive and fluid. Water moves freely through our sandy soils, such that all around us and beneath us the sand and water are connected to each other, and connect us to the land and sea.

Sand and water define Cape Cod and our Cape Cod experience. Drawn by their allure, many people have come to visit or make Cape Cod their home. As we try to accommodate these increasing numbers, sprawling developments have overrun the landscape, obliterating or camouflaging much of the Cape Cod we hold dear.

Less obvious, but at the greatest peril from the effects of our increased numbers, is the health of our waters. Nutrients, especially from our septic systems, pass through our sandy soils and enter our waters where they act as a super-fertilizer, causing overgrowth of plants and algae. The result is murky water, despoiled beaches and the loss of important fish and shellfish.

Now, with the federal government insisting on limits to the amount of nutrients entering water bodies and the state’s creation of the Massachusetts Estuaries Project (MEP), we have begun a process to address this most pressing issue. In the coming years we will struggle mightily with this problem.

There are two components, peculiar to Cape Cod, which will necessitate innovative thought. The first concerns water quality management across political boundaries. Many of our bays straddle two towns, and a number of these shared bays receive very high

amounts of wastewater. Examples are Waquoit Bay, Popponessett Bay, Lewis Bay, Bass River and Pleasant Bay.

While the bays may be in two towns, their watersheds may cover three towns! Such is the case for Waquoit Bay (Sandwich, Mashpee, Falmouth), Popponessett Bay (Mashpee, Barnstable, Sandwich), Pleasant Bay (Brewster, Orleans, Chatham and Harwich), among others.

The other aspect of this looming problem is identifying “responsible parties,” a term used by government agencies to define those who contribute to the problem and must contribute to its resolution. On Cape Cod, each of us contributes to the water quality problem and is a “responsible party.”

The traditional view is that those who connect to central treatment pay, while those on on-site systems do not. But, the traditional view is undergoing a fresh look. Recognizing the contribution of on-site septic systems to the degradation of Chesapeake Bay, the governor of Maryland recently signed legislation placing a \$30/year fee on on-site septic systems.

Here, then, are the questions requiring innovative solutions. How will Cape Cod, with 15 highly independent towns, manage the restoration of shared coastal waters? Who should pay for wastewater treatment on Cape Cod? APCC and the Business Roundtable have proposed the creation of a regional agency to focus attention on the Cape’s lack of adequate wastewater infrastructure, and have recommended that everyone contribute to resolve the problem.

Although opinions may differ on the best approach to a solution, our proposal has stimulated a long overdue discussion. We welcome the dialogue and look forward to additional conversations as we collaboratively seek a solution. We are optimistic. This confidence springs from the knowledge that Cape Cod holds a special place within our hearts and that each and every one of us is in love with our land of sand and water.

## Governor approves Land Bank - CPA swap

Governor Mitt Romney has signed a provision that gives Cape Cod towns the option of transferring their participation in the Land Bank program to the Community Preservation Act.

The existing Land Bank program, passed by all fifteen Cape towns in 1998, is funded through a 3 percent surcharge on property taxes, and has a 20-year life span. Many towns have opted to finance their land purchases through bonding; in essence, buying land now against anticipated future Land Bank revenues. Those towns have already expended nearly all of the funds that will be available through the Land Bank, yet much land critical to habitat and water supply protection remains vulnerable to development.

Filed by State Senator Robert O'Leary as an amendment to the Senate's fiscal year 2005 budget recommendation, the amended CPA is being promoted as a way for towns to increase their open space funding by providing a reliable source of additional state money on top of the funds raised locally.

Residents from towns adopting the CPA under the new provision would continue to pay a 3 percent surcharge as they currently do with the Land Bank, but it would now be deposited into a local Community Preservation Fund. Any money remaining in the Land Bank account would also be transferred to the CPA fund.

A town electing to make the switch from the Land Bank to the CPA would be locked into the program at the 3 percent surcharge rate until the year 2020.

Supporters of the plan explain that by switching over to the CPA, Cape Cod communities can continue with their land acquisition strategies, and at the same time, benefit from additional state matching funds. The state funds come from surcharges on fees for certain Registry of Deeds transactions. Money going into the state fund comes from every Massachusetts community, including Cape Cod towns, regardless of whether or not they participate in the CPA.

Municipalities participating in the CPA at the full 3 percent tax surcharge rate are presently receiving a 100 percent state match of their local contributions, although the amount is likely to drop as the state money is divided between more cities and towns that adopt the CPA. Based on current estimates,

Cape Cod would receive approximately \$12 million extra in state funding per year if every Cape town adopted the CPA.

With the CPA, however, not all of the revenue will be dedicated to open space acquisition. The CPA law stipulates that affordable housing, historic preservation and open space programs in a town must each receive a minimum of 10 percent of the available funds. The remaining 70 percent can be divided among the three areas according to a town's preference. There is no certainty that open space preservation would receive more than the 10 percent requisite in any given year.

Cape Cod towns now have three options from which to choose:

1. Drop the Land Bank and adopt the Cape Cod CPA. Revenue generated locally from a 3 percent surcharge on property tax would cease to go toward the Land Bank and instead go onto a local CPA fund, with no change to a property owner's tax bill.
2. Keep the Land Bank and also adopt the CPA. Up to 3 percent property tax surcharge would be added to fund the CPA on top of the existing 3 percent for the Land Bank. (To date, Chatham and Provincetown are the only Cape Cod towns that have chosen to adopt the CPA in addition to the Land Bank.)
3. Do nothing. A town can remain in the Land Bank program and elect not to participate in the CPA.

To make the switch from the Land Bank to the CPA, towns must first approve such a move by a town meeting vote (or by Town Council in the town of Barnstable), followed by a favorable vote in a ballot referendum. Towns could vote on their participation as early as November.

For those towns that have reached the end of their anticipated Land Bank revenue stream, the proposal is a clear advantage, providing a mechanism for guaranteeing ongoing local revenue plus a new source of state funds.

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**“By switching to the CPA, Cape Cod communities can continue with their land acquisition strategies, and at the same time, benefit from additional state matching funds.”**

## Picture this: APCC intern provides Dennisport with examples of its smart growth potential



*APCC Whitlock Intern Kate Kennen: Helping Cape Cod visualize smart growth.*

Kate will create 3-D visualizations of redevelopment options for downtown Dennisport, a village that has long been regarded as one of the Cape's leading candidates for revitalization and redevelopment.

APCC believes the project has great potential for promoting the concept of village center revitalization as a means to manage growth on Cape Cod.

By directing a mix of residential and commercial growth to villages that have the proper infrastructure to support density increases, and at the same time reducing growth in outlying areas, towns can curb sprawl, protect water and other natural resources, and stimulate sustainable economic growth in the region. Residential apartments located above retail shops can also provide opportunities for affordable housing.

Many see Dennisport as particularly well-suited for just this sort of revitalization. An effort is underway to breathe new life into Dennisport's Route 28 Main Street, mainly through rezoning that will encourage the type of mixed-use neighborhood that is more in tune with traditional New England towns.

The Dennisport village center envisioned will provide a walkable community with both residential and commercial space that is closely knit architecturally with the rich history of the area.

Three different height and density options are currently being considered for Dennisport village center. Where existing Main Street buildings are one-floor

**“By directing growth, towns can curb sprawl, protect water and other resources, and stimulate sustainable economic growth in the region.”**

Since its establishment in 2000, the Herbert E. Whitlock Memorial Internship, named in honor of APCC's founder, has provided undergraduate students with the opportunity to work on a number of important environmental projects during the summer months.

Now, thanks to a recent gift that increases the program's permanent endowment, APCC is able to attract the skills of graduate-level students who will be able to undertake more sophisticated projects on behalf of the organization.

Kate Kennen has been selected as this summer's Whitlock intern. Kate is a graduate student at Harvard Design School, having earned her undergraduate degree from Cornell University in 1998.

As the first graduate student recruited under the expanded internship program, Kate has been assigned a project that will be of great benefit to the town of Dennis, and which can also serve as a model for other towns across the Cape.



**Density can be beautiful:** Main Street Dennisport as it appears today (left), and a conceptualization of what's possible under revitalization plans being considered by the town (below). APCC supports smart planning on Cape Cod that encourages mixed use development of village centers and reduces growth potential in natural resources areas.

structures, rezoning for multiple-story uses could allow for more attractive streetscapes and more versatile uses, as is found in successful village centers such as Chatham or Provincetown.

But without a strong visual representation of those options, it can be difficult to imagine how increases in building height and a greater intensity of uses can be both appealing and in complete harmony with the Cape's unique community character.

The computer-aided renderings will help community members and planners visualize how these scenarios might look. Using a combination of computer software, Kate will produce "virtual" design concepts that have the realism of a photograph, and that incorporate traditional Cape Cod architectural characteristics. The designs will be created to conform to the specifications of the new regulations being considered.

The process that goes into the successful development of a viable Dennisport Main Street design is a critical component of the internship project. To provide a finished



product that faithfully represents the town's goals for Dennisport, Kate is consulting with the town planner, Main Street property owners, members of the town's economic development council and other stakeholders.

The visualizations produced by Kate will later be used to help other towns on the Cape consider smart growth options for their village centers as an alternative to the sprawling development that continues to consume Cape Cod's undeveloped land and natural resources.

**"APCC believes the project has great potential for promoting village center revitalization as a means to manage growth on Cape Cod."**

**“Cape Cod towns have a golden opportunity to use the DCPC to address some of the more pressing growth and natural resource protection issues we face as a region.”**

## Barnstable DCPC court decision opens door for proactive planning Cape-wide

The ruling this spring by the state’s Supreme Judicial Court supporting the town of Barnstable’s right to manage growth through the use of the District of Critical Planning Concern tool was a major victory for the town, but it should also provide the impetus for other towns to make use of an exceptional opportunity available only to Cape Cod and Martha’s Vineyard.

The SJC’s ruling overturned a Barnstable Superior Court decision to invalidate Barnstable’s town-wide DCPC. In reinstating the DCPC, the high court noted that protection of Cape Cod’s sole-source aquifer from the impacts of development was a legitimate reason for the designation.

A DCPC places a temporary halt on development while new regulations are written to guide growth in order to protect significant natural, scientific, cultural, architectural, archaeological, historic, economic or recreational resources that have regional, state-wide or national importance.

Aside from Barnstable’s town-wide designation, all other DCPCs have comprised a relatively small region within a town.

Under Barnstable’s DCPC, the town sought to protect natural resources and promote affordable housing by controlling market-rate residential development through a building cap. The Home Builders Association, which initiated the legal battle by filing suit against the town, argued that properties where developers had already filed subdivision plans were exempt from the building cap because of the state’s grandfathering laws.

The lower court threw out the DCPC and prevented full implementation of the building cap by removing the cap’s jurisdiction over grandfathered properties. However, in reinstating the DCPC, the Supreme Court ruled that a DCPC does eliminate grandfathering exemptions, thereby restoring the building cap in its entirety.

The ability to override grandfathering protections is key to the effectiveness of a DCPC designation. Without the DCPC’s protective mantle, a town’s efforts to adopt new regulations can be circumvented by simply filing a preliminary plan to lock in current zoning on a property. This can be done at any time prior to adoption of the regulation.

With the SJC stating categorically that the power of the DCPC planning tool cannot be confined to only modest uses, Cape Cod towns have a golden opportunity to use it to address some of the more pressing growth and natural resource protection issues we face as a region.

One suggestion put forth recently has been applying the DCPC to watersheds that span two or more towns, to address the impacts of wastewater from on-site septic systems on coastal embayments, freshwater ponds and drinking water supplies.

Cape Cod towns have had the ability to utilize the District of Critical Planning Concern since 1990, yet it has only been applied on six occasions, and only once town-wide. With ever-increasing development pressure bearing down on Cape Cod’s limited natural resources, the time is ripe for creative ideas and bold steps.

## Land Bank-CPA swap approved

*Continued from page 3*

Towns that do not borrow ahead for their Land Bank purchases or that still possess substantial funds in their Land Bank account must determine if swapping the Land Bank with the CPA would be a beneficial move.

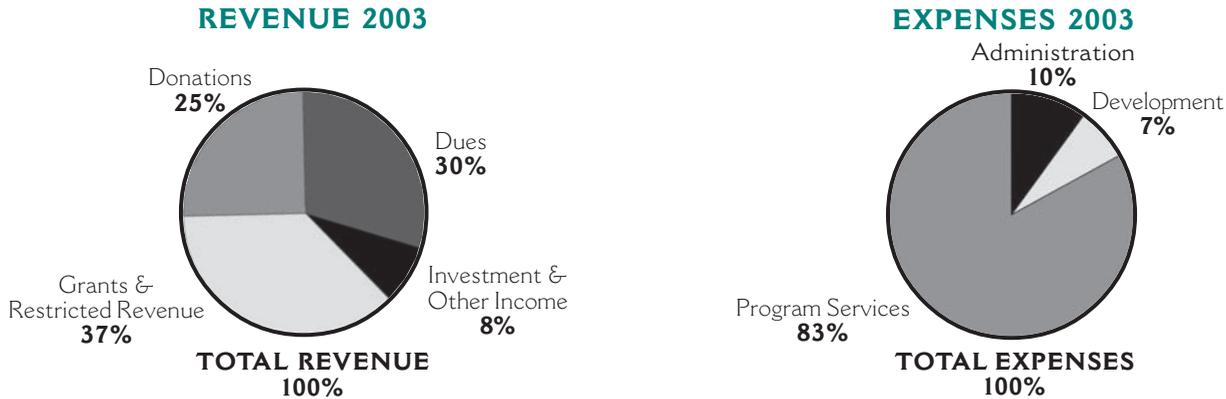
Each town should be familiar with the amendment’s language and the specific

provisions it contains before deciding which option best fits the community’s open space and affordable housing goals.

The text for the amendment can be read on APCC’s Web site, [www.apcc.org](http://www.apcc.org). Select “Legislation” from the main menu.

## ANNUAL REPORT ANNOUNCEMENT

APCC's 2003 Annual Report is now available. To receive a free copy, please contact APCC toll free at 1-877-955-4142 or [info@apcc.org](mailto:info@apcc.org). The report can also be viewed on our Web site, [www.apcc.org](http://www.apcc.org). The financial information shown below is taken from the report.



## APCC's first Executive Director is remembered for her vision, dedication and leadership

*By Brenda Boleyn and Susan Kadar*

On March 26<sup>th</sup>, when Esther Snyder died of cancer, Cape Cod lost a true friend.

From 1973 until 1988, she was Executive Director of APCC, and guided the organization with passion, tenacity and good humor.

Early supporters remember well the APCC calendars of the 1980s. Esther raised the funds for the calendars selling page-by-page, month-by-month to various banks on the Cape. This was years before banks had outreach officers, years before banks became community-minded. We were all urged to buy at least 10 calendars and give them as holiday gifts to friends. It seems quaint now to remember those early fundraisers.

It was Esther's leadership and unflinching steadfastness that established standards for excellence that to this date characterize APCC, standards that make us all proud.

Esther was an environmentalist before the word was well known and used in everyday language, before we acknowledged that resource protection was everybody's business.

Planned growth in those years was considered by many to be "elitist" thinking.

The 1985 publication, "APCC's Growth Report, Options for Cape Cod's Future," was two years in the making, and is as valid today as it was then, proving beyond doubt that had we planned growth, our problems today would likely be

fewer. There are a few copies still available; borrow one and marvel at the pre-computer era predictions.

There were other sides of Esther, many other interests, politics high on the list among them. Everything Esther did was approached the same way, with great fervor. She was possibly the most compassionate person we will ever know. Whether it was saving "critters" (at one point there were 13 cats in the household), trees or birds, she tried to save them all.

Political campaigns were routine in Esther's life; she thrived on them. Many a person in local politics got his/her start in Esther's mind, and she worked to make it reality.

In 1988 APCC honored its founder, Dr. Herb Whitlock. Here is what Esther said of Herb: "Few people ever attempt to make a real change in the world around them. Fewer still have the stamina to stay the course, or the vision to see just where the path will lead."

Better words cannot be found to describe Esther Snyder.

She had the vision, stayed the course, and made a huge difference in the way we value our resources. We shall miss her.

*Brenda Boleyn and Susan Kadar are both former APCC presidents and longtime friends of Esther Snyder.*



**Esther Snyder**

1927-2004

**I would like to join APCC as a NEW member:**

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# APCC

*Association to Preserve Cape Cod*

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*As a non-profit organization, all contributions to APCC are tax deductible to the fullest extent of the law.*

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## APCC

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*The Association to Preserve Cape Cod is a non-profit corporation founded in 1968 "to foster policies and programs that promote the preservation of natural resources on Cape Cod."*

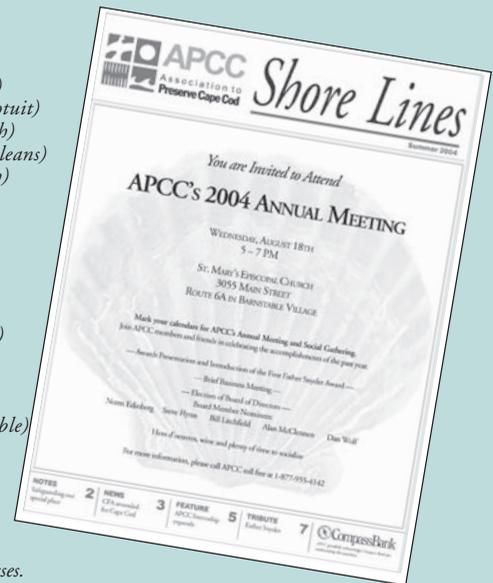
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- Tad Kuhn, *Development Director*
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*Shore Lines Edited by Don Keeran  
Newsletter designed by Karen Holmes*

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