

Written by Mary Richmond

When the Conservation Law Foundation shows an interest in the Cape's coastal waters, people pay attention. When it asks, "Do you think a growth moratorium is in line for Cape Cod?" people get anxious.

The question may have been more a testing of the waters during the CLF-sponsored "Wastewater and the Future of Cape Cod's Bays" forum on May 9 than a threat of action, but that it was asked at all starts to frame what could be at stake.

About 70 community leaders from across Cape Cod crammed into a crowded, windowless lecture hall at Cape Cod Community College to listen to a panel of experts assembled by the CLF discuss the deteriorating condition of area bays, estuaries and salt marshes.

"We're not here to say we're filing a lawsuit," said CLF vice president Christopher M. Kilian, in an attempt to defuse some recent conjecture.

CLF has a long reputation as an organization that pulls no punches when it comes to suing government entities of all sizes, including the federal Environmental Protection Agency, for what it perceives as poorly managed environmental concerns.

The organization is looking very closely at the conditions and processes being proposed by the towns and the state to address high nitrogen loads responsible for the Cape's degraded inshore and offshore waters.

After panelists presenting updates of what their organizations had done so far and their future plans, fellow panelist and CLF staff attorney Cynthia E. Liebman asked, "Do you think a growth moratorium is in line for Cape Cod?"

All panelists, including state Senator Rob O'Leary, were quick to say they thought that a building moratorium was too extreme a solution to be considered at this time.

Panel members included Dr. Brian Howes, technical director of the Massachusetts Estuaries Project; Andrew Gottlieb, executive director of the Cape Cod Water Protection Collaborative; Maggie Geist, executive director of the Association to Preserve Cape Cod; and Liebman.

O'Leary joined the panel for questions and comments at the end. He helped draft legislation to make interest-free money available to Cape towns for wastewater management over the next 10 years.

The CLF moderated the discussion and fielded questions from the audience. Most questions were aimed at determining what, if any, action the CLF is planning to take at this time.

"CLF looks at water quality issues around New England and the focus for us has been nitrogen loading on Cape Cod and around the region," Liebman said. "We have been monitoring water quality for many years and we are very concerned about the pace of decline. Twenty years ago, studies showed impairment and CLF feels this pace cannot be tolerated."

Liebman also said that CLF has received records from the US EPA through the Freedom of Information Act and "is looking at legal avenues that could involve litigation. I can't speak to which would be most likely at

this time," she said. "We are looking at a variety of scenarios."

She continued, "Nitrogen loads have to be reduced and there is no allocation for any new growth. A moratorium should be in the mix of things to be considered."

Panelists agreed that state-standard Title 5 septic systems do not neutralize or get rid of nitrogen and that the impairment of local waterways is happening at an accelerated pace. Cleaning out septic systems does not remove nitrogen either, according to the panelists.

It was agreed that nitrogen loading and the resulting eutrophication is a complex issue, affecting not only the health of area waterways and all the organisms that live in or utilize them but also the future of tourism and even property valuation in coastal areas such as Cape Cod.

"Nitrogen loading affects our entire ecosystem," Howes said. "Nitrogen in itself is not toxic, but it has a huge effect on the health and functioning of the system. We have lost 50 percent of the eelgrass community in the last 30 to 40 years."

Nitrogen acts as a fertilizer in our waterways and an overgrowth of algae is one of the negative results. Eelgrass is the base habitat for bay scallops, many other shellfish, crustaceans and fish and is food for migratory and winter birds. Its loss is among the bellwethers for an estuary's health.

Bottom-dwelling organisms, such as sea worms and small crustaceans, are food for game fish and birds and major changes in these populations are taking place at an alarming pace, according to research reports and those making a living from area waters.

Algae is increasingly clogging boating channels and make area beaches less than inviting each summer.

Is sewerage the answer?

Many panelists feel that although sewerage may immediately address the nitrogen loading it could have negative, even disastrous, effects on future land use policies.

"We must be sure that land use regulations go hand in hand with changes in waste water management," urged APCC's Geist

Gottlieb agreed: "Adding sewers without land use management could have us looking like Long Island, something I think we all agree we don't want."

Panelists noted that all Cape towns are looking at new and more effective wastewater management scenarios. CLF was asked to be patient and give towns time to assess their situations and present solutions that could utilize the new state interest-free loans.

"This new bill gives communities vehicles to do this in a reasonable and affordable way," said O'Leary of the wastewater management legislation. "Our towns are going to have to start doing this and it is going to be painful, but we are starting to move pretty quickly here. If CLF were to go to court around these issues now, I would be opposed to it. I think it could slow things down and cost much more in the end."

Audience members joined in this sentiment during the question and answer period, with one asking CLF to "please be our partner, not our antagonist" and another to "please keep your hammer in the toolbox."