



**Charlotte Harbor National Estuary Program
Policy Committee
Approved Minutes
May 21, 2007
Venice, Florida**

Members Present:

Herb Acken	Town of Fort Myers Beach
Don Caillouette	City of Venice
Adam Cummings	Charlotte County BOCC
Wayne Daltry	Lee County Smart Growth (alt. for Ray Judah, Lee County BOCC)
Mick Denham	City of Sanibel
Robert Ferreira	City of Bonita Springs
Charlie Hunsicker	Manatee County Conservation Lands Management Dept.
Jon Iglehart	FDEP – South District
Rufus Lazzell	SWFWMD
Joe Ortolona	City of Fort Myers Public Works Dept.
Philip Stevens	FWRI Charlotte Harbor
Jon Thaxton	Sarasota County BOCC
Charles Wallace	City of Punta Gorda
Tom Welborn	US EPA, Region 4
Carol Whitmore	Manatee County BOCC

Also Present:

Lisa Beever	CHNEP
Catherine Corbett	CHNEP
Liz Donley	CHNEP
Maran Hilgendorf	CHNEP
Jaime Boswell	CHNEP
Nichole Gwinnett	SWFRPC
David Burr	SWFRPC
Judy Ott	FDEP/Charlotte Harbor Aquatic Preserves
Mike Wessel	Janicki Environmental, Inc.

Agenda Item #1 - Call to Order and Introductions

Chairman Iglehart called the meeting to order at 9:30 am and then introductions were made.

Agenda Item #2 – Agenda Additions or Deletions – Jon Iglehart, Co-Chair

Dr. Beever noted that there were two walk-on items: Agenda Item #10.1 SWFRPC Resolutions on Fertilizer and Wastewater Treatment Plants and Agenda Item #10.2 Director's Review Presented by David Burr.

Mr. Daltry explained that he may be requesting that Agenda Item #13 become an action item depending on the committee's discussion.



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MR. LAZZELL MOVED AND MR. DALTRY SECONDED TO APPROVE THE AGENDA AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #3 – Public Comments on Agenda Items – Jon Iglehart – Co-Chair

No public comments were made at this time.

Agenda Item #4 – Policy Committee Minutes – Jon Iglehart, Co-Chair

Mr. Daltry referred to page 3, third paragraph and stated that it should be amended to read “Mr. Daltry stated that he was always under the impression that both the TAC and CAC committees were subject to the Sunshine Law, then the committee concurred that the TAC and CAC were under the Sunshine Law.”

MR. LAZZELL MOVED AND MAYOR DENHAM SECONDED TO APPROVE THE MINUTES FROM THE MARCH 19, 2007 POLICY COMMITTEE MEETING AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #5 – FY08 Workplan – Lisa Beaver

The draft FY 08 Workplan includes the following:

- A close-out of the previous completed year (FY06) to show precisely where we are financially, including continuing project commitments and funding.
- An amendment for the current year (FY07) to show previous amendments and make staff time adjustments based on better information than could be predicted the previous year. This is also where we show carry-over funding and projects.
- A budget for the next fiscal year (FY08) that displays new funding and new projects only.
- A list of projects (by fiscal year) including on-going projects from previous years, the current year, and the new year (FY08) at the end of the workplan.

Since 2004, the National Estuary Programs have annually received an average of \$500,000 for CCMP implementation. Because of the continuing resolution, EPA administration was given more flexibility in where funding cuts would be taken. Originally, administration estimated NEP funding at \$299,000. Through our efforts and the efforts of our colleagues, the allocation is now \$418,000 per NEP. For the first time, SFWMD is budgeting funding for CHNEP in a routine way and meeting with staff to identify workplan projects for additional funding.

A survey of research and monitoring needs and environmental indicator gaps has been issued to the Management Conference and included 25 respondents. The survey was issued to help identify priority projects for the work plan. The top 3 projects included:



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- Coordinating the Biennial Seagrass Mapping for total study area consistency.
- Assess the economic, social, and environmental benefits of protected land in the CHNEP study area.
- Identify gaps in water quality data needed to assess impairments.
- Identify streamflow/stage gages needed to determine natural variation and subbasin water budgets. SWFWMD has determined that there are enough gages in their area to determine minimum flows and levels.

Mr. Daltry stated that he concurs with the amounts listed on page 99 of 173; however, he recommends the priority list be tabled until the TAC's review and input because the TAC's participation affects the priority list.

MR. DALTRY MOVED AND MR. LAZZAELL SECONDED TO APPROVE THE FY08 WORKPLAN AS ACKNOWLEDGED THAT IT DOES NOT CONSTITUTE APPROVAL OF THE RANKINGS. THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #6 – Caloosahatchee Initiative and Northern Everglades – Lisa Beaver

On May 2, 2007, Phil Flood, SFWMD Director for the Lower West Coast announced that the South Florida Water Management District has immediate funding available to conduct water quality improvement projects for the Caloosahatchee River and Estuary. Funds are available to local governmental entities located within the Caloosahatchee watershed to initiate feasibility, design, permitting or construction phases of projects. Local matching funds are not required, but emphasis will be given to those that do offer a match. Multiple funding requests may be submitted from one entity. Funding requests will be evaluated based primarily upon the information provided. Emphasis will be given to those projects that:

- * Demonstrate anticipated pollutant reduction;
- * Benefit a water body on DEP's Impaired Waters list;
- * Provide local matching funds;
- * Provide multiple uses such as water quality, habitat restoration, recreation, etc.;
- * Are ready to proceed; and
- * Prior project phase was previously funded by District.

Staff reviewed the FY 07 Workplan and considered other unfunded opportunities. The due date was May 18, 2007 for submittals. Staff submitted the following projects:

- Water Quality Exceedance Targets. (\$25,000)
- Monthly Spatial Water Quality Summaries and Website for 11 analytes from January 2004 to June 2007 and period of record means totaling 594 maps and served on the internet. (\$11,000)
- Shoreline Mapping of Caloosahatchee/San Carlos Bay/Pine Island Sound. (\$30,000)



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COMMISSIONER THAXTON MOVED AND MR. DALTRY SECONDED TO AUTHORIZE DIRECTOR TO PURSUE CALOOSAHATCHEE INITIATIVE AND NORTHERN EVERGLADES FUNDING AND IMPLEMENT PROJECTS NECESSARY TO MEET COMPLETION DUE DATES. THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #7 – Tidal Shoreline Condition Map Project – Catherine Corbett & Jaime Boswell

The Policy Committee approved funding the project “Tidal Charlotte Harbor Shoreline Condition Map” in the FY07 Workplan at their last meeting on March 19, 2007. The goal of the project is to map the type and quality of shoreline throughout the tidal portion of the Charlotte Harbor NEP study area. The project will use a unique approach by utilizing volunteers for on the ground data collection and contractors for the technical mapping skills (e.g. photo-interpretation, accuracy assessment, data analyses). The Charlotte Harbor NEP staff is currently organizing volunteers to collect quality of shoreline data in Charlotte County.

A Request for Proposals was advertised, and 9 proposals were submitted on time for the submittal date of April 9, 2007. At the April 11, 2007 TAC meeting, volunteers were requested for reviewing and ranking the proposals, and a special TAC meeting was held on April 27, 2007. Representatives from both water management districts, FDEP, Lee County, Sarasota County, and Manatee County volunteered to participate in the scoring the proposals, based on the attached evaluation matrix.

The attached evaluation matrix shows the criteria used to score the 9 proposals; one evaluation matrix was completed for each proposal by each committee member. Program staff the calculated the mean and median scores for each applicant and placed them in scoring order for review by the Management and Policy Committees. The Management Committee recommended approval of the proposal rankings to the Policy Committee at their May 4th meeting.

The RFP and clarification memo for the project “Tidal Charlotte Harbor Shoreline Condition Map” and the nine proposals can be accessed via the CHNEP ftp site. To access the site go to: <ftp://ftp.swfrpc.org> and enter the user name **chnep** and password **chnepaccess**.

Note: for IE7, the user should click **Page**, and then click **Open FTP Site in Windows Explorer**.

For further information please contact program staff at ccorbett@swfrpc.org or 239-338-2556 ext 241.

COMMISSIONER WHITMORE MOVED AND COMMISSIONER THAXTON SECONDED TO DIRECT CHNEP STAFF TO ENTER INTO CONTRACT NEGOTIATIONS ACCORDING TO PROPOSAL RANKINGS.



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Mr. Daltry noted that it is an important role for the TAC on evaluating the priorities based on the rankings.

THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #8 – CHNEP Water Quality Status and Trends Project – Mike Wessel

Mike Wessel of Janicki Environmental, Inc. will present the draft deliverables for the Comprehensive Surface and Groundwater Quality Analysis for the Charlotte Harbor NEP project.

At this time, the draft report and results of the rainfall, streamflow and surface water trends are available from our FTP site in PDF format. An update from the 2003 report is that this report is linked to the appendices and trend analysis results. The trends are summarized in tables and then there are individual graphs for each trend for each station and parameter. Also, there are 2 time periods for the analyses—1995-2005 and then entire station period of record.

Staff asked TAC members to review the analyses and to concentrate their review to those areas under their jurisdiction. In this way, we should have the Charlotte Harbor NEP study area encompassed by at least 1 person. We have asked for their review and concerns but by no later than May 18, 2007.

To access our ftp site, in the address bar of a web browser please type:

<ftp://ftp.swfrpc.org>

Enter the user name: chnep

Password for the account is: chnepaccess

Go to CHNEP folder and then folder “CHNEP Status and Trends Draft Report”.

Note: for IE7, the user should click Page, and then click Open FTP Site in Windows Explorer.

In order to illustrate the initial deliverables, a station with a long period of record was selected. Cape Coral has been conducting surface water quality monitoring since 1988. The first station listed for Tidal Caloosahatchee (210) was selected. TSS had a trend (and a story to tell—text boxes were provided by Charlotte Harbor NEP staff) so that was selected. A map with the associated charts is included as an example.

In addition to basic station statistics deliverables include:

- maps of water quality trends by parameter for period-of-record and for 95-05,
- a validation of the optical model that was recently accepted by the conference, and



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- an assessment of the Coastal Charlotte Harbor Monitoring Network data (the probabilistic water quality sampling program supporting the Charlotte Harbor NEP's long-term monitoring strategy).

Ms. Corbett distributed a handout illustrating the general comments and modifications for the committee's review.

Mr. Daltry asked how staff was selected to participate through the TAC. Ms. Corbett explained that the study was placed on an ftp site and the TAC members were notified. Mr. Daltry asked who from Lee County participated. Ms. Corbett replied that Mr. Keith Kibby.

Ms. Ott explained that the TAC was comfortable with the request for review because the way it was distributed it was very thorough.

MR. DALTRY MOVED AND MR. LAZZELL SECONDED TO ACCEPT THE WATER QUALITY STATUS AND TRENDS DELIVERABLES.

Co-Chairman Iglehart asked if the basins were broken down in WHBIDS. Ms. Corbett replied no, they were broken down by sub-basins. Co-Chairman Iglehart asked if they could be broken down into WHBIDS in the future. Mr. Wessel replied yes.

Mr. Daltry stated that Ms. Ott had stated that the TAC was comfortable with the request for review, but was there an action recommended. Ms. Corbett replied no, there wasn't an action recommended from the TAC. Mr. Daltry stated that he then contests the conclusion, because the draft was still under review until Friday and the TAC didn't meet on Friday.

THE MOTION CARRIED.

Dr. Beever stated that she had recently gave a presentation to the Sarasota County BOCC and also had committed to return when the Water Quality Status and Trends Report was completed. She then announced that she would be prepared to go to each city and county to give a presentation tailored to that area on water quality, habitat, and hydrology trends.

Agenda Item #9 – Caloosahatchee Back-pumping Letter – Lisa Beever

Policy Committee alternate Wayne Daltry has requested that the CHNEP Management Conference consider sending a letter addressing the issue of back-pumping water from the Caloosahatchee to Lake Okeechobee.

Management Committee recommended approval of the letter with addition of language related to basin changes as a result of operations of the gates. Abstentions were received from representatives of the water management districts and DEP.

Commissioner Thaxton recommended changing the word "significant" to "detrimental" in the last paragraph.



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Mr. Daltry recommended changing “back-flow” to “back-pump” for clarification purposes.

COMMISSIONER WHITMORE MOVED AND COMMISSIONER THAXTON SECONDED TO DIRECT STAFF TO SEND LETTER AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #10 – Review of C-43 Reservoir Project Implementation Report (PIR)

The Corps of Engineers has issued a draft Project Implementation Report (PIR) for the C-43 Reservoir project, just east of the S-79 structure which defines our study area. The PIR has a 45-day comment period which ends on June 11, 2007.

The CHNEP issued a letter on May 9, 2005 to Mr. Tommy Strowd, Accelerated Projects Office Program Director, requesting a water quality component for the C-43 West Reservoir design. A water quality treatment component was not added. We have maintained that this represents a lost opportunity. Rather, the following components related to water quality are included:

- Commitments are made for 5 years of water quality monitoring associated with design and initial operations of the reservoir.
- A National Pollutant Discharge Elimination System permit (NPDES) will be required and water quality will be evaluated to ensure equal or improved discharge from the reservoir.
- SFWMD has applied for and will obtain a 404 permit and a Section 401 Water Quality Certificate from the DEP to construct and operate the project.
- The Recommended Plan includes oyster reef construction to establish suitable substrate for oyster recruitment in the Caloosahatchee Estuary.
- As part of the recreation component, littoral areas are proposed at the corners of the seepage canal as part of the project and would provide ideal bank fishing locations outside the levee perimeter. The Florida Fish & Wildlife Conservation Commission (FWC) has endorsed the littoral shelf concept for habitat benefit and potential water quality benefits. Shade trees are proposed on the outside area of the north rim canal adjacent to parking areas.
- The estimated cost for water quality and ecological monitoring during the initial year is \$610,000, which would be construction funded. The estimated cost for water quality and ecological monitoring during operations of the project is \$604,000 per year, which would be OMRR&R funded. Ecological monitoring would commence once the project is constructed and would continue for five years.

State funding for a “Phase II” of the project includes water quality treatment for the C-43 Reservoir. Congressman Mack has submitted a request for a water quality treatment for the C-43 Reservoir to be funded under the Water Resources Development Act (WRDA).



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Dr. Beever suggested the following amendments to the letter:

There are several components that have environmental benefits ~~of the Tentatively Selected Plan (TSP) that the Charlotte Harbor NEP endorses.~~

- Construction of a 170,000 acre-feet reservoir with the expressed purpose of reducing the number and duration of extreme hydrologic events throughout the PIR they express the purpose of it but do not address water supply and the extra that the reservoir doesn't need at S-79.
- ~~Inclusion of a 1500 cfs pump with the ability to add more pumps if warranted.~~

Dr. Beever stated that she strongly recommends that a water quality component be included in the design of the system because it would help protect the aquatic resources. She then suggested the following statement to be placed as the second bullet under the recommendations for incorporation into the TSP on the second page of the letter:

- Recommends that a reservation be established.

**COMMISSIONER THAXTOM MOVED AND COMMISSIONER CUMMINGS
SECONDED TO DIRECT STAFF TO SEND LETTER AS AMENDED.**

Ms. Ott asked if there is a timeframe before the June 11th deadline for responses because the TAC hasn't reviewed the project and there are a lot of water quality concerns. Dr. Beever explained that the Policy Committee could recommend that the timeframe be left open for additional suggestions from individual TAC members and then she could compile those suggestions into a letter and re-distribute the letter. She also suggested that a special meeting of the TAC could be held to have presentations and discussions in order to craft a letter for the members to take back to their individual agencies.

Mayor Denham stated that the most important issue to the project is the water quality component and would like to see it emphasized more clearly. Dr. Beever suggested taking the recommendations and moving them to the beginning of the letter. Mayor Denham suggested stating that water quality is the most critical issue within the opening statement of the letter.

THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #10.1 – SWFRPC Resolutions: Fertilizer & Wastewater Treatment Plants

Dr. Beever reviewed the distributed handouts.

Commissioner Whitmore referred to the fertilizer resolution and said that she has concern with the second “whereas” referring to the slow release fertilizer. She also asked if the Policy



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Committee is supposed to be approving the resolutions. Dr. Beever explained that the resolutions were just for information purposes.

Commissioner Thaxton stated that he feels that the resolution has heightened the public's awareness of red tide and he agrees with the second "whereas" statement.

Mayor Denham explained that there is a much stronger link between nutrients and red algae than there is with red tide. It has been proven in an 80% decrease in osprey chick hatchlings over a 20 year period.

Commissioner Whitmore asked if the City of Sanibel had passed an ordinance. Mayor Denham explained that the City of Sanibel had passed an ordinance which is very similar to the resolution.

Mr. Daltry explained that there have been scientific assessments performed of algae blooms were a cooperative effort by the Town of Fort Myers Beach, City of Bonita Springs, City of Sanibel, Lee County Visitor and Convention Bureau and specifically in regards to red tide a study by Dr. Brant indicated from the 1950s to 1990s there has been an increase in frequency duration and intensity of red tide and its relationship to off-land flow. Within the last two years with the "dumps" that we have received we have ended up with a phenomenon not yet completely analyzed and ended up with red tide in the back bays start documented as coming in from the gulf.

Commissioner Cummings explained that Charlotte County's staff is currently reviewing the resolutions.

Dr. Beever stated that she would like to have the Policy Committee endorse the resolutions.

Councilman Ferreira stated that he agrees with Dr. Beever that the Policy Committee should endorse the resolutions.

**COUNCILMAN FERREIRA MOVED AND MR. DALTRY SECONDED TO
ENDORSE BOTH OF THE SOUTHWEST FLORIDA REGIONAL PLANNING
COUNCIL'S FERTILIZER AND WASTEWATER TREATMENT PLANT
RESOLUTIONS.**

Commissioner Whitmore stated that she is unable to support the motion at this time because of her concerns with the nitrogen clause in the fertilizer resolution and would like to have more time to have her county's staff review the resolution because Manatee County had already started a process in addressing the fertilizer issue. Mr. Burr explained that the resolution is the Council's recommendation and it serves as a guideline for the local governments.

Commissioner Whitmore stated that within Manatee County the golf courses use blended fertilizers. Mayor Denham explained that the resolution doesn't cover golf courses. Commissioner Thaxton stated that golf courses would be covered under BMP practices.



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Commissioner Thaxton suggested that the Policy Committee accept and support the resolutions in concept and the local governments consider initiatives and not tie it to the specifics.

BOTH COUNCILMAN FERREIRA AND MR. DALTRY AGREED TO COMMISSIONER THAXTON'S AMENDMENT TO THE MOTION.

Councilman Acken stated that a request needs to be sent to the legislature also so consumers won't have access to those types of fertilizers at local stores. Mayor Denham explained that it is being done already.

Commissioner Cummings requested that the resolutions be made available to everyone so it can be used as a blueprint and edited to each individual community.

COUNCILMAN FERREIRA MOVED AND MR. DALTRY SECONDED TO ACCEPT AND ENDORSE IN CONCEPT THE SWFRPC'S RESOLUTIONS 2007-01 & 2007-02 AND RECOMMEND LOCAL GOVERNMENTS CONSIDER INITIATIVES. THE MOTION CARRIED UNANIMOUSLY.

Commissioner Thaxton stated that regulation can be the best form of education.

Mayor Denham explained that the City of Sanibel is in the process of putting together an educational program on a DVD and will be sent to every homeowner.

Agenda Item #10.2 – Director's Annual Review – David Burr

Mr. Burr reviewed the five evaluations received. He then addressed the cost of living and her senior management status within the Florida Retirement System. He explained that with the current budget constraints he is recommending a cost of living increase and a no merit increase.

Co-Chairman Iglehart asked what the cost of living index is based on. Mr. Burr explained that it is currently at 6%; however, we don't know what it will be in October. Co-Chairman Iglehart asked if Dr. Beever qualify for the \$1,000 bonus for state employees in lieu of cost of living raises. Mr. Burr replied no, because neither the RPC nor the CHNEP is a state agency.

COMMISSIONER WHITMORE MOVED AND COMMISSIONER THAXTON SECONDED THAT THE PROGRAM DIRECTOR RECEIVES AN "EXCEEDS EXPECTATIONS" ON HER ANNUAL REVIEW, BASED ON REVIEWS RECEIVED AND THAT DUE TO THE CURRENT ECONOMIC FACTORS IN FLORIDA AS RECOMMENDED NO MERIT INCREASE BUT WILL RECEIVE A COST OF LIVING INCREASE. THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #11 – Committee Duties Discussion – Lisa Beever



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At its last meeting, the Policy Committee requested a summary of the Management Conference Committee duties, especially as they relate to Sunshine Law modifications.

Four committees comprise the management conference of the Charlotte Harbor National Estuary Program. Each serves a specialized role but all support the program goals and activities. Over 500 people have participated on one or more committees. They have dedicated thousands of volunteer hours to building consensus for the actions in this management plan. The committees and their members are described in the following sections.

Policy Committee: The Policy Committee establishes general policy for the Charlotte Harbor NEP and has ultimate authority in program administration. The Policy Committee appoints members to the Management Committee and Citizens Advisory Committee. It also approves budgets. This committee is the bridge between the *management conference* and local governments of the region. In fact, all but three of the 24 members of the Policy Committee represent city, county, or regional governing bodies in Southwest Florida. Policy Committee members reflect the citizenry of the Greater Charlotte Harbor Watershed

Management Committee: The Management Committee provides strong institutional support for the Charlotte Harbor NEP by staffing, funding, or otherwise facilitating projects. This committee reviews work plans, contracts and proposals, work schedules and products. It also ensures that program milestones and objectives are accomplished. Each member of the Policy Committee has a counterpart on the Management Committee.

Citizens Advisory Committee: The Citizens Advisory Committee (CAC) represents public concerns and transfers information back to the local communities. The CAC provides a mechanism for citizens to advise the Charlotte Harbor NEP, as well as distributing relevant information to the public. It works closely with staff to reinforce and maintain public support for the NEP, develop public participation strategies, and provide input on public education programs. This committee also helps develop public workshops, provides a forum for public comment, and directs public concerns to the Policy Committee and the rest of the Management Conference. The CAC chair is a voting member of the Management Committee.

Technical Advisory Committee

The Technical Advisory Committee (TAC) provides technical support and fact-finding to the NEP staff. During the planning and interpretive stages of the NEP program, the TAC identified scientific problems facing the Greater Charlotte Harbor Watershed. The TAC helps develop work plans, develops requests for proposals, and reviews the responding proposals. It also assists with information management and coordinates agency research.

Agenda Item #12 – Appoint Members to the CAC and Management Committee – Lisa Beaver



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CHNEP Citizens Advisory Committee: Following the motion passed by the Policy Committee at their March 19, 2007 meeting, after considerable discussion and concern the CAC passed a motion at their March 21, 2007 meeting that all members with voting rights according to the current CAC bylaws and all honorary members shall be forwarded to the Policy Committee for appointment. During the July CAC meeting, the committee will consider how to forward additional members to the Policy Committee.

The CAC bylaws, approved by the Policy Committee on May 28, 2003, reads:

Associate Members are those who contribute to the CHNEP in some way but who have not attended three (3) meetings in one initial year. Voting Members are those who have attended three (3) meetings within their initial year and have requested voting membership in writing. Voting members should designate in writing an alternate to attend CAC meetings in their absence. If their alternate attends the CAC meeting designated it shall be the same as if the voting member attended and records will so show. If Voting Members have not attended a CAC meeting or have not been represented at one-half of the meetings held in any year other than the initial year then the Voting Member shall revert back to an Associate Member status. If within two calendar years the Voting Member who has reverted to Associate Member status shall, after three successive meetings personally attended or by alternate, be automatically restored as a Voting Member. A minimum of ten (10) Voting Members of the CAC shall constitute a quorum. Each member shall have one vote. Alternates designated by Voting Members shall be recognized, shall be counted in determining a quorum and may vote. A quorum must be present in order for the membership to conduct any business requiring a vote of the CAC.

Dr. Beever explained that George Ruby replaced Ellen Hawkinson and also both Stuart Stauss and Ellen Hawkinson were voted as honorary members of the CAC.

Co-Chairman Iglehart asked if the honorary members are able to participate by conference call. Dr. Beever replied no, they must be present.

Mr. Lazzell asked for clarification on if Ellen Hawkinson had resigned from the CAC due to the CAC falling under the Sunshine Law and now she is an honorary member with voting privileges which also falls under the Sunshine Law. Dr. Beever stated that the likelihood of her attending a meeting is very low.

Commissioner Thaxton stated that he agrees with Mr. Lazzell and his concerns regarding Ellen Hawkinson and feels that if she had resigned from the CAC because it falls under the Sunshine Law and then becomes an honorary member which still falls under the Sunshine Law it doesn't make any sense. Dr. Beever stated that she hasn't accepted the honorary membership at this time. Commissioner Thaxton asked what the quorum requirements of the CAC are. Ms. Hilgendorf explained that it is the percentage of the voting membership.



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Dr. Beever suggested allowing the currently active CAC members at the table to have voting rights and the honorary members not have voting rights.

MR. LAZZELL MOVED AND COMMISSIONER WHITMORE SECONDED TO RECOMMEND THAT THE CAC BYLAWS BE AMENDED TO REMOVE VOTING RIGHTS FROM HONORARY MEMBERS AND APPOINT MEMBERS TO THE CAC AS PRESENTED. THE MOTION CARRIED UNANIMOUSLY.

Ms. Hilgendorf stated that she believed that the Policy Committee members appointed the CAC members when the committee was first created and encouraged Policy members to contact her if they know of members of the public or staff who may be interested in joining the CAC.

COMMISSIONER WHITMORE MOVED AND MR. DALTRY SECONDED TO APPROVE THE MANAGEMENT COMMITTEE MEMBERSHIP LIST AS PRESENTED.

Mr. Daltry asked if membership will be amended by an agency sending a letter with that individual that they wish to appoint to the committee and that individual brings it to the meeting and then it gets brought to the next Policy Committee meeting for approval. Dr. Beever replied yes.

THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #13 – Discussion of TAC Sunshine Issues – Lisa Beever

Based on the discussion and motion of the Policy Committee on March 19, the TAC now functions within the exemption for fact-finding committees provided in the Government in the Sunshine law. In order to ensure that members of other CHNEP committees are in compliance with Sunshine law requirements when attending TAC meetings, the following protocols are in effect :

- Meetings are Advertised
- Minutes are Taken
- Public may attend and comment.

Since the TAC is operating within the fact-finding exemption to the Sunshine law, members may speak with each other about items that are anticipated to be on future agendas and members are not appointed by the Policy Committee. These two differences allowed by the exemption facilitate the free flow of information and analysis within the technical community that supports the CHNEP. This aspect facilitates a broad representation from the technical community and more independence among the members.

The TAC provides:

- Recommendations to CHNEP staff,



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- Functions as a fact-finding body, and
- Fulfills a staff function to the other CHNEP committees.

Other issues of note include:

- Motions are encouraged as a mechanism to summarize the findings for CHNEP staff,
- Members of other CHNEP committees may attend and participate in discussions but may not vote,

Members may discuss policy issues as they relate to scientific and technical issues. Discussions are not restricted.

Commissioner Whitmore stated that she assumed that since the CAC fell under the Sunshine Law that the TAC also fell under the Sunshine Law since it reported to a governmental body. Dr. Beever explained that prior to March the TAC did fall under the Sunshine Law; however, it has been established that agencies can send as many members of the scientific community as possible and it was found to be advantageous because there were water quality, hydrology, and habitat experts essentially from the water management districts through a lot of scientific participation but through a lot of aspects and we find it very useful. If the TAC falls under the Sunshine Law then they can't discuss an issue among themselves that would likely go forward to the TAC for consideration.

MR. DALTRY MOVED AND MR. LAZZELL SECONDED TO RECOMMEND THAT THE POLICY COMMITTEE RECONSIDER THEIR MOTION IN MARCH TO NOT MAKE THE TAC OPERATE UNDER THE FLORIDA SUNSHINE LAW.

Ms. Donley explained that all of the committees are Sunshine committee whether they are fact finding committee and they fit in as an exemption, so she suggested that the language be changed to read that "the Policy Committee reconsider whether or not the TAC falls within the exemption of the Sunshine Law." Mr. Daltry stated that he accepts the corrected language.

Both Commissioner Cummings and Commissioner Whitmore agree that the TAC needs to fall under the Sunshine Law.

Ms. Ott explained that the TAC feels that their primary role is to provide very broad, well rounded technical information of the watershed and in order to provide that information they need to discuss the issues among themselves and if they have to operate under the Sunshine Law then they wouldn't be able to do so.

Mr. Stevens stated that the TAC members need to be able to discuss the various issues among themselves without having to worry about being in violation of the Sunshine Law.



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Dr. Beever explained that if there is a project or a recommendation that will be going before the NEP's Management or Policy Committees then it can not be discussed among the members because it will be in violation of the Sunshine Law.

Mr. Daltry stated that he contests the conclusion that the majority of the TAC feels this way because they never voted and the discussion that we had wasn't allowed to have a vote and the discussion that we had was a lot of the importance of Sunshine of the TAC, none of which was entered into the minutes because it was deemed not relevant. So we have issues on the way that it handled and on any group of three people or more form a political discussion because that is basically how decisions get made. The model that works is the one where the TAC itself isn't exempt because it is suppose to act on things such as the workplan. He then went on to explain that the TAC's primary functions are: priorities, policies, fact finding, making recommendations, and budgeting towards implementation. He then said that he had contacted nine TAC members and not one of them stated that they were supportive of being removed from operating under the Sunshine Law. They admitted that there were problems but understood that it had to be done and they all blamed the Policy Committee for taking it away from them.

Commissioner Cummings stated that he sees a couple of different ways of dealing with the situation and one is to encourage scientific participation but have a much smaller committee that does the voting. The other way is to not have a committee but just a group of people that get together and have a conversation and don't take any votes but somebody records very detailed minutes and passes on those minutes as a public record.

Ms. Ott explained that the TAC members had a discussion and the consensus was that there was a need to discuss issues on a daily basis and wanted to know how it could be done without being in violation of the Sunshine Law. Commissioner Whitmore explained that the members are able to communicate among each other it is just that they can not state how they want anyone of them to recommend or vote on a particular issue or project.

Commissioner Cummings explained that importance of being careful with sending emails per the Attorney General's Office.

Mr. Stevens stated that he doesn't feel comfortable sending his staff to a TAC meeting if it needs to operate under the Sunshine Law because they are fresh out of school and they are not familiar with its regulations.

Commissioner Thaxton suggested having staff contact the other NEPs and see if there is some sort of consistency between them.

Ms. Donley explained that both the Tampa and Sarasota NEPs have expressed a great deal of concern regarding the Sunshine Law and are awaiting the outcome of the CHNEP's issue. They feel that their TACs fall under the fact finding exemption and their Management Committee is the one that does the auditing and recommendations. She then explained that a committee falls under the fact finding requirement by: it doesn't eliminate opportunities and doesn't reject



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things from further consideration then they would be fine for a fact finding committee or learn to not use the word “recommend.”

Mr. Daltry stated that at the last meeting he had stated that he had seen duplication between basically an agency function and a group of agencies as management and then a group of agencies as a technical committee which is basically what we have. He has no problem with technical advisors to staff gathering because the very first agenda we saw sure looked the steps what they did before they were exempt, so he is still back at the point where he is supportive of staff getting all of the technical assistance that they can but somebody needs to go through those steps that he outlined and those steps are fairly technically structured but they go straight to policies. So either the Management Committee is going to stop receiving information or it is going to start originating it or there needs to be a technical function that’s going to be the start of a lot of the information conclusions, recommendations or reforms, prioritizations, and budgeting necessary to carry out tasks. So it would be a technical committee or the Management Committee would undergo a major reform.

THE MOTION CARRIED UNANIMOUSLY.

Commissioner Whitmore stated that the NEPs should be standardized. She then recommended that the legal counsels of the NEPS meet to discuss the Sunshine issue and to come up with something to make all of the NEP’s committees standardized.

Mr. Daltry explained that all of the NEPs were either recommended or designated by the Governor and the Governor designated the Florida Department of Environmental Protection (FDEP) as the lead agency in the State of Florida to work with the NEPs and the FDEP’s Counsel went to each NEP and stated that they operate under Florida Sunshine Law, including all of their committees (Policy, Management, CAC, and TAC). He then said that the question raised by Ms. Donley was whether or not they fell under the fact finding exemption and the question at that time was what each NEP wanted the responsibilities of each of their TACs to be. He then requested that DEP’s counsel also participate in the discussion with the NEP’s legal counsels.

Ms. Donley suggested sending a letter to the Attorney General’s Office requesting their input on the issue.

Councilman Ferreira stated that he agrees that there needs to be standardization between the NEPs and he also agrees that a letter needs to be sent to the Attorney General’s Office requesting their input.

COMMISSIONER WHITMORE MOVED AND COUNCILMAN FERREIRA SECONDED TO RECOMMEND THAT A MEETING BE HELD WITH ALL OF THE FLORIDA NEP’S LEGAL COUNSELS INCLUDING FDEP’S LEGAL COUNSEL TO DISCUSS THE FLORIDA SUNSHINE LAW AND TO COME UP WITH A STANDARD TO MAKE THE NEPS CONSISTENT WITH ONE ANOTHER. ALSO, TO SEND A LETTER TO THE FLORIDA ATTORNEY



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GENERAL'S OFFICE WITH THE MEETING CONCLUSIONS AND ASK FOR THEIR INPUT.

Dr. Beever suggested distributing a list at the next TAC meeting asking the members who would like to retain their voting rights and who would not like to retain their voting rights if the TAC would need to operate under the Sunshine Law.

Mr. Daltry suggested having an "approved entity voting list."

THE MOTION CARRIED WITH COUNCILMAN ACKEN OPPOSED.

Agenda Item #14 – 2008 Meeting Schedule – Lisa Beever

The draft FY08 workplan calls for preparation of a 2008 calendar with beautiful images of the NEP study area to distribute to citizens. In the past, we have included conference meeting dates in this calendar and conference members have reported that this inclusion is helpful.

Setting dates have become a routine matter for the Conference. In order to expedite the development in the calendar later this autumn, the Conference is being asked to consider the 2008 dates now.

Finally, the CHNEP Director has been asked by Policy Committee members' assistants for meeting locations for their calendars. In order to be responsive to our members, draft locations for the remainder of 2007 and for 2008 have been proposed.

MR. LAZZELL MOVED AND COMMISSIONER THAXTON SECONDED TO RECOMMEND APPROVAL OF THE 2008 COMMITTEE SCHEDULE. THE MOTION CARRIED UNANIMOUSLY.

Agenda Item #15 – CDOM Workshop Status Report – Catherine Corbett

On September 13, 2006, the TAC recommended approval of a workshop on colored dissolved organic matter as a first step in implementation of the numeric water quality targets. Dissolved organic matter (or DOM) is the largest reservoir of organic carbon in the aquatic environment. Colored DOM (or CDOM) contributes to light absorption, and may also fuel bacterial respiration while carrying large quantities of carbon, nitrogen, and phosphorous to estuaries, which may contribute to eutrophication. In a recent article in *Estuaries and Coasts*, a study found that in one Danish estuary, land use was found to have significant impacts on the quality and quantity of dissolved organic matter loadings to receiving waters. Forested subbasins of the watershed contributed significant dissolved organic matter throughout the year, but especially during the rainy season. Areas characterized by agricultural land use contributed a smaller, more constant flow of dissolved organic matter to the estuary throughout the year. The study found also that while forested lands provide more dissolved organic matter than agriculture, the nutrients



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bound in this material may be less bio-available than those from agricultural lands. Results of the study suggest that reducing the agricultural area of the watershed to about 50% of the watershed's total area could lead to a substantial decrease in eutrophication risk to the receiving waterbodies.

In Charlotte Harbor, Florida, CDOM can account for 13-66% of light attenuation in the water column. Recent analyses by PBS&J for FDEP on the Peace River Cumulative Impact Assessment found that landuse changes and different mining practices in the Peace River have changed colored dissolved organic matter concentrations in the Peace River since water quality monitoring began. Also, analyses by SFWMD staff have found significant trends in color concentrations in the Caloosahatchee River in recent years. Thus, it is apparent that landuse changes as well as other factors may be changing color concentrations within the Charlotte Harbor watershed. Therefore, understanding the sources, sinks, and processes that affect CDOM is important for aquatic resource management. An approach for setting numeric water quality targets for chlorophyll *a*, turbidity and CDOM was recently established for the Lemon Bay, Charlotte Harbor and Estero Bay region. This workshop on colored dissolved organic matter is an imperative first step in the implementation of these water quality targets.

The workshop is scheduled to be held May 29-31, 2007 at Isles Yacht Club in Punta Gorda, FL. Staff is organizing the workshop with a steering committee of interested TAC members and others. The costs of the workshop include staff time, travel for invited speakers and staff, venue and food. Staff estimates costs of approximately \$25,000, depending if support from sponsors can be found. A draft agenda and sponsor letter is enclosed.

Agenda Item #16 – Designated Uses Changes – Lisa Beaver

The Department of Environmental Protection (DEP) has initiated a review of Florida's current designated uses and associated [water body classification system](#) to determine if revisions are needed. An expert Policy Advisory Committee (PAC) was formed to help DEP determine the need for revisions to Florida's current surface water body classification system. Their last meeting was held on January 30, 2007, hosted by the Southwest Florida Regional Planning Council and the Charlotte Harbor National Estuary Program.

The Clean Water Act requires that the surface waters of each state be classified according to designated uses. Florida has five classes with associated designated uses, which are arranged in order of degree of protection required:

Class I - Potable Water Supplies

Fourteen general areas throughout the state including: impoundments and associated tributaries, certain lakes, rivers, or portions of rivers, used as a drinking water supply.



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Class II - Shellfish Propagation or Harvesting

Generally coastal waters where shellfish harvesting occurs.

Class III - Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife

The surface waters of the state are Class III unless described in rule [62-302.400 F.A.C.](#)

Class IV - Agricultural Water Supplies

Generally located in agriculture areas around Lake Okeechobee.

Class V - Navigation, Utility and Industrial Use.

Currently, there are not any designated Class V bodies of water. The Fenholloway River was reclassified as Class III in 1998.

The current draft proposal includes 7 Human Use Designations and 4 Aquatic Life Uses. http://www.dep.state.fl.us/water/wqssp/d_use.htm.

Mr. Daltry requested a copy of the FDEP Secretary's letter.

Agenda Item #17 – National Estuary Day Proclamations – Maran Hilgendorf

Thanks to the many people who made seven years of Charlotte Harbor National Estuary Program's National Estuaries Days celebrations such great successes.

This year the official National Estuary Day is expected to be Saturday, September 29, 2007. Our local celebrations frequently have lasted more than a month and we anticipate the same to happen this year. As a result, we tweaked the name to National Estuaries Days to be more accurate for promotional purposes.

Program partners are asked to consider hosting an event -- or several events -- *that support the program's efforts to increase residents' and visitors' awareness of the estuary, the Charlotte Harbor watershed and program goals and plans.* CHNEP is again offering to provide up to \$300 to those who wish to organize an event that is open to the public but who need some assistance in covering expenses. Event information received by June 29 will be included in promotion offered by CHNEP. (This is also the deadline to request financial assistance.) Events received after that date will be added but will miss some promotional opportunities.

Request for proclamations: This year we again ask the cities, counties and agencies participating in the CHNEP to pass resolutions/proclamations of support. We are asking for this action to occur now rather than closer to the actual celebrations so that the support received can be used to help promote the events. A sample proclamation is provided.



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Members of the Citizens Advisory Committee (CAC) would personally like to accept this support. Communications Manager Maran Hilgendorf (mhilgendorf@swfrpc.org, 239/338-2556 x 240) will coordinate between CAC members and those issuing proclamations.

Mr. Lazzell stated that the SWFWMD will submit their proclamation at the end of June.

Agenda Item #18 – TAC Report – Judy Ott, Chair

Ms. Ott gave the TAC Report and stated that the next TAC meeting is scheduled for July 11th.

Agenda Item #19 – CAC Report – Maran Hilgendorf

Ms. Hilgendorf gave the CAC Report. She explained that the CAC elected new officers at their May meeting and the new officers already had conflicts on the day of the Policy Committee. She then gave an overview of the March, April and May meetings and explained that the CAC members are concerned about the Sunshine Law issue.

She went on to explain that at the August meeting the CAC will be discussing the Strategic Communication Plan. A \$15,000 grant from EPA is allowing the CHNEP to hire a consultant to help develop this plan.

Commissioner Cummings suggested adopting a very liberal input practices that would allow persons participation to virtually to the same of what it is now, the only difference would be that they couldn't vote.

Mr. Daltry expressed his concern with one of the newest members of the CAC, Mr. and Mrs. Warren and Joan Bush, and how they would be discussing the issues coming before the CAC. Dr. Beever explained that they are aware of the Sunshine Law and its restrictions.

Agenda Item #20 – ABM Report – Lisa Beever

Dr. Beever gave the ABM Report.

Agenda Item #21 – NEP Program Report – NEP Staff

Dr. Beever stated that Ms. Hilgendorf is making great progress in laying out the CCMP update and an ad hoc committee is being set up to help with some of the writing with the CCMP.

Ms. Hilgendorf gave a brief overview of the following projects:

- Curious Kids Nature Club project in coordination with WGPU has been completed.
- Images for consideration in the 2008 calendar are due July 20.
- A professional development workshop that NOAA Coastal Services Center will lead will be held in December.



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- Working with WGPU, a “Neighbor-to-Neighbor Florida-friendly landscaping” video is being produced.
- Public Outreach Grant applications are due September 5.
- Micro Grant applications are considered as they are received.

Ms. Donley announced that the Myakka Wild and Scenic River Expansion project passed along with the Everglades/Caloosahatchee and Seagrass Bills passed. She explained that the CHNEP was awarded a grant from FDEP’s Coastal Services Office for Florida Funding Landscaping.

Ms. Boswell gave an overview of the septic system management meeting that is scheduled to be held on May 23 at the offices of the Southwest Florida Regional Planning Council.

Commissioner Cummings asked if they will be able to come up with a density of where septic tanks will work. Ms. Boswell replied that there will be technical people in attendance at the meeting that would be able to answer that question. There will also be representatives from the Onsite Wastewater Association in attendance to give a presentation on the newest technology available and the best locations for the technology.

Mr. Daltry announced that Lee County had made a public request to every public agency to find out where the septic tanks are leaking into the waterways.

Dr. Beever stated that approximately in 2004/05 the Water Enhancement and Restoration Coalition hired Dr. Harvey Harper to establish guidelines for saltwater treatment and those have since been adopted by the South Florida Water Management District and the State of Florida and then updated in 2006 because there has been problems with some of the tools.

Mr. Daltry stated that some of the issues are that it seems that the methodology has pre equals post as far as the level of treatment. Unfortunately, pre is the current level of development and we have impaired waters everywhere. So if the pre level of development currently allows pollution and post development uses that as the basis to which that you can’t exceed the current level of pollution is now untitled and can transfer between uses. He feels that it is a point of litigation because if we have future huge public expenditures under mediation even TMDLs does us no good to be told that the current level of pollution is vested no matter how harmful.

Dr. Beever asked if the Policy Committee would like her to pursue an evaluation of the Harper Methodology. Mr. Daltry replied yes, through the technical fora.

Dr. Beever noted that staff has been working with their partners to prepare a pre-development map of vegetation.

Agenda Item #22 – Member Comments

Commissioner Cummings gave an overview of the issues that Charlotte County is facing with the density on septic tanks and would like to obtain more information on the issue to bring back to his commission.



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Co-Chairman Iglehart stated that since the last three meetings have run past 12:00 pm do the members wish to start the meetings earlier. The members replied no.

Ms. Corbett asked the committee if they would be interested in having a presentation on fisheries. Dr. Beever assured the committee that it is an excellent presentation. The committee agreed to have the presentation given at a future meeting.

Agenda Item #23 – Public Comments

No public comments were made at this time.

Agenda Item #24 – Next Meeting's Topics, Location and Date

The next Policy Committee meeting was scheduled for Monday, August 20, 2007 at a location within the City of North Port. Topics for discussion include: Research and Restoration Partner Projects RFP, Seagrass Mapping Presentation, and the CCMP Update.

Agenda Item #25 – Adjourn

The meeting adjourned at 1:09 pm.