

**Meeting Minutes**  
**Charlotte Harbor National Estuary Program**  
**Technical Advisory Committee**  
**April 11, 2007**  
**SWFRPC Ft Myers, FL**

**MEMBERS PRESENT**

Chakesha Martin	USDA NRCS
Philip Stevens	FWC-Fish and Wildlife Research Institute-FIM
Patrick Casey	FWC-Fish and Wildlife Research Institute-FIM
Kristen Kaufman	Southwest Florida Water Management District-SWIM
Brad Robbins	South Florida Water Management District
Peter Doering	South Florida Water Management District
Judy Ott	Department of Environmental Protection-CHAP
Ford Walton	Department of Environmental Protection
Steve Boutelle	Lee County
Wayne Daltry	Lee County
John Ryan	Sarasota County
Rene Janneman	Sarasota County
Curtis Porterfield	Polk County
Connie Jarvis	Cape Coral
Sam Stone	PRMRWSA
A. J. Martignette	SCCF
Renee Duffey	CHEC
Mike Wessel	Janicki Environmental, Inc
Jim Sampson	CF Industries
David Shonting	Citizen

**ALSO PRESENT**

Catherine Corbett	Charlotte Harbor National Estuary Program
Jaime Boswell	Charlotte Harbor National Estuary Program
Lisa Beever	Charlotte Harbor National Estuary Program
Liz Donley	Charlotte Harbor National Estuary Program

1. **Call to Order and Introductions**—Judy Ott called the meeting to order at 9:05 A.M.
2. **Agenda Additions or Deletions**—Judy Ott  
No additions or deletions were requested.
3. **TAC Minutes**—Judy Ott  
**MOTION TO APPROVE THE FEBRUARY 14, 2007 MEETING MINUTES BY FORD WALTON. MOTION WAS SECONDED BY CONNIE JARVIS. MOTION WAS APPROVED UNANIMOUSLY.**
4. **Florida Sunshine Law Discussion**—Liz Donley  
On November 20, 2006, the Policy Committee discussed the TAC and CAC and their compliance with the Florida Sunshine Law. The Policy Committee directed

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CHNEP staff to draft an inquiry to the Florida Attorney General requesting an opinion regarding the CHNEP's Management Conference and compliance with the Sunshine Law. Prior to drafting the letter, input was sought from the other CHNEP committees, although the TAC was unable to discuss the issue in detail. However, Ms. Corbett was able to discuss the issue with several TAC members to glean some members' opinions. Ms. Donley then provided an overview of possible conference structure to the Policy Committee at their March 19, 2007 meeting. The Policy Committee chose the structure included below and passed a motion that the TAC should serve as a "fact finding" committee and the CAC should serve as an advisory committee. The Policy Committee determined that because the CAC performs the "audit function" for the CHNEP to ensure that the CHNEP is fulfilling its mission, the CAC operates fully "in the sunshine."

The purpose of the Florida Sunshine Law is to give citizens access to government meetings and records. The law is equally applicable to elected and appointed boards and has been applied to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action. There are three basic requirements of s. 286.011, F.S.:

- (1) meetings of public boards or commissions must be open to the public;
- (2) reasonable notice of such meetings must be given; and
- (3) minutes of the meetings must be taken.

Under the Florida Sunshine Law there is an exemption from the Sunshine Law requirements for "fact finding" advisory committees.

[A] limited exception to the applicability of the Sunshine Law to advisory committees has been recognized for advisory committees established for fact-finding only. When a committee has been established strictly for, and conducts only, fact-finding activities, i.e., strictly information gathering and reporting, the activities of that committee are not subject to s. 286.011, F.S. *Cape Publications, Inc. v. City of Palm Bay*, 473 So. 2d 222 (Fla. 5th DCA 1985). Accord, AGO 95-06 (when a group, on behalf of a public entity, functions solely as a fact-finder or information gatherer with no decision-making authority, no "board or commission" subject to the Sunshine Law is created).

...

*And see, Lyon v. Lake County*, 765 So. 2d 785 (Fla. 5th DCA 2000) (Sunshine Law did not apply to informal meetings of staff where the discussions were "merely informational," where none of the individuals attending the meetings had any decision-making authority during the meetings, and where no formal action was

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taken or could have been taken at the meetings). (Government-in-the-Sunshine Manual, 2006 Electronic Edition, p. 11, sec.b)

The TACs of the Sarasota and Tampa Bay Estuary Programs operate within the above exemption. That is, because the Sarasota Bay and Tampa Bay Estuary Programs' TACs conduct only fact-finding and information gathering activities, the TAC members are not restricted from discussing potential meeting topics outside TAC meetings. Based on discussions with Sarasota and Tampa Bay Estuary Programs' staff, it appears that the CHNEP TAC can function within the exemption. This means the TAC can:

- Find that particular projects or proposals are consistent with the CCMP
- Find that an action or inaction by a partner organization is consistent or inconsistent with the CCMP
- Find there are CCMP research needs and/or data gaps that can be resolved by certain projects
- Review RFPs developed by staff for consistency with the CCMP and factual accuracy
- Review proposals, score proposals using RFP criteria, and forward the results to the Management Committee

Under this exemption, the TAC does not make recommendations to the Management Committee; rather the TAC makes determinations based on facts, and transmits the results of fact-finding activities to the Management Committee via program staff.

Florida's Government in the Sunshine Law, also known as the Open Meetings Law, contains three basic requirements that relate to agency sponsored committees formed for the purpose of assisting and advising a State of Florida agency in carrying out its statutory duties:

1. Meetings of such committees must be open to the public;
2. Reasonable public notice of such meetings must be given; and
3. Minutes of the meetings must be taken.

As an agency operating under the Sunshine Law, the Charlotte Harbor National Estuary Program takes care to schedule committee meetings in publicly accessible places, provide public notices of the meetings. However, prospective committee members need to be aware of the Sunshine Law also imposes some important constraints on the conduct of the individual committee members during their tenure of service on the committee. Among the most important of these requirements are:

- CAC, Management and Policy Committee members may not discuss committee business with other members of their respective committees

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outside of a duly noticed public meeting, whether in person, by telephone, or by other means of communication.

- The Sunshine Law is applicable to any gathering, whether formal or casual of two or more members of the committee at which committee business is discussed, Committee business includes any matter that will foreseeably come before the committee for action.
- CAC, Management and Policy Committee members must avoid discussing committee business or matters relating to committee business with each other in private telephone or e-mail conversations, in hallways during meeting breaks, at restaurants over lunch and in similar circumstances that are outside the context of a duly notices public meeting.
- A limited exception exists for written reports or materials that are used to inform committee members about a subject that will be discussed at a public meeting. Provided that prior to the meeting there is not discussion or interaction among the committee members regarding the report and the report is not being used as a substitute for action at a public meeting.
- Reports, letters, or other documents received by committee members in connection with their official duties as committee members are also subject to Florida's Public Records Law. Copies (or originals) of such materials should be provided to the CHNEP staff for inclusion in the CHNEP's official committee files.

Based on the most recent actions of the CHNEP Policy Committee, the TAC is now an advisory committee to CHNEP staff. As such, TAC members are not restricted from discussing with other TAC members matters that will foreseeably be on future meeting agendas.

Other changes are:

- The TAC will no longer be a member of the Management and Policy Committees.
- The TAC will need to amend its By Laws to reflect the new configuration of the CHNEP Management Conference.

The CHNEP will provide guidance and advice throughout proceedings of each committee as circumstances require. Nevertheless, the CHNEP has prepared this summary in recognition of the fact that it is important for committee members to understand what the law requires of them from the initiation of the committee.

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In addition, the CHNEP staff and SWFRPC attorney are available to assist you if you have any questions or need additional information.

**5. FY08 Workplan** —Lisa Beever

CHNEP staff has revised the draft FY 08 Workplan since the February 11, 2007 TAC meeting to incorporate forecasted changes to the program budget. The Policy Committee will receive and review this draft at their May 21, 2007 meeting. This version includes the following:

- A close-out of the previous completed year (FY06) to show a snapshot of 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.
- 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. The Administration's 2007 and 2008 budget projections for the National Estuary Program, if enacted, will reduce funding for CCMP and NEP community-sponsored projects by more than 20 percent, impacting our ability to fund contractual projects. The 28 NEPs are working with our delegations to ensure continued funding at the \$500,000 level, but our Fiscal Year 2008 and projected 2009 budgets will be much less than previous years.

Program staff recommend the following items for support in the technical sections of the FY07/FY08 Workplan:

1. Random sample survey (SG-1 compile baseline data of resident awareness of estuaries/watersheds and changes in behavior)
2. Project(s) to address knowledge or monitoring gaps of Environmental Indicators and/or new CCMP Objectives and Actions (i.e., coastal Charlotte Harbor shoreline condition map project)
3. Research or Monitoring Priority, such as developing and refining water quality targets for chlorophyll *a* and dissolved and suspended matter based on seagrass light requirements including developing Exceedance Criteria
4. Charlotte Harbor Estuaries Volunteer Water Quality Monitoring Network support
5. Research and Restoration Partners Grants
6. CHEC water quality website
7. 2008 Charlotte Harbor Watershed Summit
8. ArcIMS website maintenance

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The Committee discussed the results of the Research Needs Inventory and agreed that the top ranked projects should be reviewed and further discussed at upcoming TAC meetings for program support. The TAC requested that staff look into efforts by The Nature Conservancy and the Trust for Public Lands before developing a scope of work to address the project "Assess the economic, social, and environmental benefits of protected land in the CHNEP study area". The tAC also thought that "Identify gaps in water quality data needed to assess impairments" and "Identify areas with limited flow data, install gauges and monitor flow in relation to natural variation, e.g. storms & droughts" were possible easily completed projects that warrant further discussion.

**MOTION TO FIND THE FY08 WORKPLAN CONSISTENT WITH THE CCMP AND APPROPRIATE TO IMPLEMENT THE CHNEP'S WATER QUALITY TARGETS AND ENVIRONMENTAL INDICATOR SYSTEM BY FORD WALTON. MOTION WAS SECONDED BY JIM BEEVER. MOTION WAS APPROVED. THERE WERE 4 ABSTENTIONS.**

6. **CHNEP Water Quality Status and Trends Project** —Mike Wessel  
Mike Wessel of Janicki Environmental, Inc. presented 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 has 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.

In addition to basic station statistics deliverables will 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
- 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).

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**MOTION TO FIND THE DRAFT DELIVERABLES CONSISTENT WITH AND SUFFICIENT TO MEET THE REQUIREMENTS OF HT EPROJECT SCOPE OF WORK BY PETER DOERING. MOTION WAS SECONDED BY FORD WALTON. MOTION WAS APPROVED. THERE WERE 3 ABSTENTIONS.**

**7. 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 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.

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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.

8. **TAC Co-Chair Nominating Committee**—Catherine Corbett  
The TAC in the past has held annual TAC Co-Chair elections. A Co-Chair nominating committee is an optional method for creating a list of potential co-chairs. Greg Blanchard, Peter Doering, Mike Gurr and Dave Ceilley have volunteered to serve on the nominating committee; however, this committee has not yet discussed potential co-chairs. Staff wished to wait until after the Policy Committee discussion on the Management Conference structure before initiating this effort. Please consider serving as TAC co-chair and inform program staff or a nominating committee member.

9. **Coliforms Standards Changes**—Catherine Corbett  
In the agenda packet are changes to Florida's bacteria standards for the group to discuss.

10. **Estero Bay ABM Report**—Jim Beaver

11. **Program Report**—Catherine Corbett and Jaime Boswell  
Enclosed in the agenda packet are deliverables in 2007 and recent correspondence for the program including letters of support for SB 0548 and SB 2178 regarding seagrass protection and restoration; SB 2346 regarding the designation of remaining segments of the Myakka as Wild and Scenic; and HB 535 regarding funding for the Lake Okeechobee estuaries. Included also is a program letter regarding SB 2176 dredging in the Aquatic Preserves and the draft bill.

**CARBON NEUTRAL TAC MEETINGS**

In response to growing concerns about the impacts of greenhouse gas emissions from travel on our global climate<sup>3</sup>, staff wishes to offer TAC meeting participants the opportunity to voluntarily contribute to a carbon sequestration project and hold a discussion on ways to allow TAC meetings to become carbon neutral in the future as practical. Similar to the former "coffee and donut fund" of the past, staff can provide a can in which members can voluntarily donate funds. Staff can distribute the funds from each meeting to a group/project of committee choice or rotate the distribution from group to group so that no one group/project is favored. Other ideas should be considered by the committee and recommended to staff at the meeting and future discussions along this topic can be held. Almost one third of the carbon dioxide produced in the United States comes from our

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cars, trucks and airplanes. In FY06 the program senior scientist drove ca. 5,575 miles to attend meetings for work, and her car has a gas mileage of ca. 30 miles per gallon. She produced almost 2 tons of CO<sub>2</sub> emissions in 2006 for work, and this does not account for out-of-state conferences that required airline travel. We can reduce the number of miles we drive for work to meetings by carpooling or taking mass transit wherever possible. Avoiding 10 miles of driving every week would eliminate about 500 pounds of carbon dioxide emissions a year. And we can offset emissions by contributing to carbon sequestration projects. A *carbon offset service* is one arranged with such a provider, that achieves net reduction of [greenhouse gas](#) emissions through proxies who reduce their emissions or increase their [absorption](#) of greenhouse gases.<sup>[1]</sup> A wide variety of offset actions are available; tree planting is presently the most common. [Renewable energy](#) and [energy conservation](#) offsets have also become increasingly popular, including [emissions trading](#) credits.

- Trees [sequester carbon](#) through [photosynthesis](#), converting carbon dioxide and water into oxygen and plant matter. Hence, forests that grow in area or density will reduce atmospheric CO<sub>2</sub> levels. (Carbon is released if a tree or its lumber burns, but as long as the forest is able to grow back, the net result is carbon neutral.) In their 2001 assessment, the [IPCC](#) estimated the potential of biological [mitigation](#) options (mainly tree planting) is on the order of 100 [Gigatonnes](#) of Carbon (cumulative) by 2050, equivalent to about 10% to 20% of projected fossil fuel emissions during that period.
- [Renewable energy](#) offsets commonly include [wind power](#), [solar power](#), and [biofuel](#). Some of these offsets are used to reduce the cost-differential between renewable and conventional energy production. Others operate in [developing countries](#), such as training local communities to produce [biodiesel](#) from [jatropha oil](#).

Enclosed are several example not-for-profit organizations that will offset carbon emissions:

- <http://www.nativeenergy.com/welcome.html>. Recommended on *An Inconvenient Truth's* website. "NativeEnergy is majority-owned by the non-profit Intertribal Council on Utility Policy, although we are organized and operate as a for-profit company. With NativeEnergy, you can help finance and build new clean and renewable energy projects that help Native Americans and Alaska Natives create sustainable economic benefits, and that help America's family farmers compete with agribusiness. These projects will displace electricity from fossil fuels and reduce other greenhouse gas emissions, making up for the CO<sub>2</sub> emissions you can't avoid."
- The [Arbor Day Foundation](#) has information on planting and provides trees you can plant with membership. A single tree will absorb one ton of

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carbon dioxide over its lifetime, and shade provided by trees can also reduce your air conditioning bill by 10 to 15%.

• <http://www.conservation.org/xp/CIWEB/>. Conservation International works with its partners to protect terrestrial and marine ecosystems containing high numbers of threatened species and to target specific areas to maximize the protection of Earth's biodiversity in the face of dramatic loss of natural habitat.

[http://www.conservation.org/xp/CIWEB/programs/climatechange/carboncalculator.xml?CMP=KNCalc0706&HBX\\_PK=carbon\\_neutrality&HBX\\_OU=50&gclid=CKWtt9i3qYsCFQkmZQodgHwtiQ](http://www.conservation.org/xp/CIWEB/programs/climatechange/carboncalculator.xml?CMP=KNCalc0706&HBX_PK=carbon_neutrality&HBX_OU=50&gclid=CKWtt9i3qYsCFQkmZQodgHwtiQ). When you offset your carbon emissions through CI, you will **help us protect the roughly 832,000-acre Makira Forest** in northeast Madagascar and prevent millions of tons of CO<sub>2</sub> from entering the atmosphere.

• Carbon Fund. <http://www.carbonfund.org/site/>. "Carbonfund.org reduces the threat of climate change by making it easy and affordable for any individual or business to reduce their carbon footprint and support climate-friendly projects. When you contribute to Carbonfund.org your first decision is whether you want to support [renewable energy](#), [energy efficiency](#), or [reforestation](#) projects. We know some people prefer some offsets over others, so we let you decide. You can also leave the decision up to us." Funds go to a variety of projects.

12. **Member Comments**—TAC Members
13. **Public Comments**
14. **Next Meeting's Topics and Date**—July 11, 2007
15. **Adjourn**—Judy Ott, Co-Chair

The meeting was adjourned at 12:15 P.M. for lunch until afternoon presentations started at 1:35 P.M.

16. **Marine fishes in the tidal Caloosahatchee River**—Philip Stevens
17. **2006 SWFWMD Seagrass Map Results**—Kristen Kaufman
18. **2006 SFWMD Seagrass Map Results**—Brad Robbins
19. **Updated Seagrass Status and Trends**—Catherine Corbett