



**Charlotte Harbor National Estuary Program  
Management Committee  
Approved Minutes October 30, 2009  
Fort Myers, Florida**

***Members Present:***

Karen Bickford (for Roland Ottolini)	Lee County Division of Natural Resources
Warren Bush	NEP CAC
Al Cheatham	Charlotte Soil & Water Conservation District
Mike Kirby	City of Bonita Springs
Jack Merriam	Sarasota County Water Resources
Molly Meadows	SFWMD
Jennette Seachrist	SFWMD
Heather Stafford	Charlotte Harbor & Estero Bay Aquatic Preserves
Betty Staugler	Florida Seagrant
Sam Stone	Peace River Manasota Regional Water Supply Authority
Charles Vavrina	University of Florida
Elizabeth Wong	City of North Port

Phil Frederickson	NEP CAC
Jim Beever	SWFRPC
Lisa Beever	CHNEP
Liz Donley	CHNEP
Maran Hilgendorf	CHNEP
Deborah Kooi	SWFRPC

**Agenda Item #1 - Call to Order and Introductions** – Meeting was called to order by Dave Hutchinson, Co-Chairman at 9:40 a.m. Introductions were made.

**Agenda Item #2 - Agenda Additions or Deletions** – David Hutchinson, Co-Chairman

Dr. Beever said staff was deleting Agenda Item #6 which was a presentation by Michelle Harmeling as she had been unable to give her presentation to the CAC due to illness. Therefore, staff decided to delay her Management and Policy Committee presentations until the next cycle so that the Management Committee could receive any recommendations from the CAC and act on them in concert with her presentation.

**THE AGENDA WAS APPROVED AS REVISED BY GENERAL  
CONSENT.**

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**Agenda Item #3 – Public Comments on Agenda Items** – David Hutchinson, Co-Chairman

Mr. Bush said that he wanted to comment on Agenda Item #7 and the letter pertaining to the Lower Peace River and Shell Creek minimum flow levels on behalf of the CAC. Dr. Beever reminded him that this would be discussed later under Agenda Item #16.

**Agenda Item #4 – Management Committee July 31, 2009 Minutes**

Ms. Seachrist stated that she had a question on a motion that passed which was revised at the end of the meeting on July 31<sup>st</sup> and asked if the change needed to be better reflected in the minutes.

Mr. Hutchinson stated that the meeting minutes should reflect the final motion. Discussion leading up to the motion is superfluous if following Roberts' Rules. The motion that is approved and seconded, not a discussion of all the changes, is what should be reflected in the minutes.

Ms. Donley said that the Policy Committee has made an affirmative statement that they follow Roberts' Rules. She was unclear if the Management Committee had also made an affirmative statement to follow Roberts' Rules. Ms. Donley stated that she agreed with Mr. Hutchinson that the motions should be clearly reflected in the minutes.

Dr. Beever said that at the Policy Committee meeting on August 17<sup>th</sup>, a similar issue occurred with respect to the minutes. Dr. Beever said that she provided a strikethrough and underline version to clarify the original motion and the revised motion.

Discussion continued.

Mr. Hutchinson asked Ms. Seachrist to explain the modification so that the minutes could be amended appropriately.

Ms. Seachrist said that the original motion (Page 6, Item 5) was to have it revised and come back to the Management Committee, however, in interest of time, so it could go to the Policy Committee, we discussed it later and decided that if staff could make the revisions and get them electronically sent to Management Board Committee members in time for review to the Policy Board, that that would be acceptable.

Dr. Beever said that staff could take care of this.

Ms. Seachrist stated that it was on Page 21.

**MOTION TO APPROVE THE MINUTES AS AMENDED BY MS. SEACHRIST AND SECONDED BY MR. KIRBY. MOTION CARRIED UNANIMOUSLY.**

**Agenda Item #4 – Consent Agenda** - David Hutchinson, Co-Chair

Ms. Seachrist stated that she had a few wording changes to the City of Punta Gorda Climate Adaptation Plan and asked if these should be discussed now or could the changes be provided after the fact.

Dr. Beever said that these could be provided after the fact.

**MOTION BY MR. MERRIAM AND SECONDED BY MR. STONE TO  
ACCEPT THE REMAINDER OF THE CONSENT AGENDA. MOTION  
CARRIED UNANIMOUSLY.**

**5. PROPOSED APPROACH FOR DEVELOPING NUMERIC NUTRIENT CRITERIA FOR CHNEP**

Ms. Ott presented a report.

Dr. Beever said that NEP staff expected this to cost around \$60,000 to \$70,000 as staff was still in negotiation with Janicki Environmental. It will entail an amendment to the existing contract to incorporate pollutant loads in order to identify the numeric nutrient criteria. Staff was awaiting SFWMD's response regarding their financial participation. The funding for this project was in the existing work program and would not require a budget amendment.

Mr. Merriam asked what staff's expectation was regarding EPA and DEP's acceptance of the criteria.

Dr. Beever said that staff believed that they would accept the criteria as it would reduce their workload in relation to the development of the nutrient criteria. She reported that NEP staff had been in contact with Daryl Joiner who was in charge of the numeric nutrient coordinating committee in Tallahassee and had sent him draft scopes for his input and suggestions.

Ms. Bickford asked if this was going to be considered a statewide criteria or just for this area.

Dr. Beever said it would be for the CHNEP area.

Ms. Bickford asked if the NEP staff was going to be developing the nutrient criteria as well for the upper watersheds.

Dr. Beever said that they would develop the nutrient criteria only for the estuarine component.

Discussion continued on nutrient criteria and TMDL levels.

Mr. Vavrina said that he would like to submit his questions about the writeup the way it exists as he did not want to waste the committee's time.

Dr. Beever said staff would be happy to receive those.

Ms. Elizabeth Wong of the City of North Port arrived at 9:45 a.m.

She stated that the City of North Port had just completed a year-long detailed study on water quality and load projections.

Dr. Beever said that she was confident that the load projections have been incorporated in the loading analysis.

Discussion ensued on the numeric nutrient criteria that EPA has developed that Florida will be required to adopt.

Mr. Hutchinson said that this was a great opportunity for interests in our region to contribute to the process of developing the criteria based on monitoring and what we have learned from all of the activities.

Mr. Hutchinson said that, based upon the discussion at today's meeting, he was going to add a few words to the recommended action. The action recommended was to recommend the Policy Committee direct staff to amend the water quality target refinement project contract with Janicki Environmental, Inc. to add development of numeric nutrient criteria for estuarine waters within the boundaries of the CHNEP.

**MOTION BY MS. SEACHRIST TO DIRECT STAFF TO AMEND THE WATER QUALITY TARGET REFINEMENT PROJECT CONTRACT WITH JANICKI ENVIRONMENTAL, INC. TO ADD THE DEVELOPMENT OF NUMERIC NUTRIENT CRITERIA FOR ESTUARINE WATERS WITHIN THE BOUNDARIES OF THE CHNEP. SECONDED BY MR. CHEATHAM AND UNANIMOUSLY CARRIED.**

Discussion ensued on the adoption by DEP/EPA of lake standards and flowing water standards.

Mr. Merriam said that this was a great opportunity and that he would support it that we have local input into the process.

Mr. Hutchinson said that before moving on to the next item, he asked Dr. Beever how the NEP will address the questions that Mr. Vavrina is going to present for later consideration in conjunction with amending the contract.

Dr. Beever said that NEP staff would incorporate the suggestions from him and the Management Committee into the draft scope and will release a refined scope to the Management and Policy Committee prior to the Policy Committee meeting. NEP staff was also hoping for additional suggestions from Daryl Joiner. All of these comments would be incorporated through refinements.

Ms. Seachrist asked if the Management Committee would receive an electronic copy in advance of the Policy Committee meeting.

Dr. Beever said that was correct.

Mr. Hutchinson said that the scope would be broad enough so that as their work proceeds, there would be sufficient opportunities to hear progress reports and provide feedback.

Ms. Ott said that the more people that participate in the process, the more comprehensive and thorough the analysis will be, including bringing up questions about the monitoring and relationship to the impaired water criteria.

## **6. FDEP PHOSPHATE MINE PERMITTING PROCESS AND RECLAMATION RESEARCH UP-DATE**

This item was postponed until the next conference cycle.

## **7. LOWER PEACE RIVER AND SHELL CREEK MFL COMMENTS**

On April 9, 2009, the Southwest Florida Water Management District (District) issued the *Proposed Minimum Flows and Levels (MFLs) for the Lower Peace River and Shell Creek*. Using the Advocacy and Review procedures, CHNEP sent written comments on June 19, 2009. Since that date, we received written responses to our letter from the District. In addition, the District staff participated in a CHNEP subcommittee meeting on September 21, 2009 to allow a more in depth discussion of the technical aspects of the proposal, clarify several points, discuss remaining concerns, and develop some level of consensus among scientists and citizens that participate in resource management activities within our study area. The Technical Advisory Committee added further refinements to the recommendations.

Based on our understanding of the technical information and policy implications provided, the CHNEP recommends that the following conditions be incorporated into the *Proposed MFLs for the Lower Peace River*:

- Implement as part of the rule a 130 cfs low flow threshold for the Lower Peace River.
- Establish a maximum diversion rate of 400 cfs for the Lower Peace River.
- Establish a trigger of 625 cfs flow in the Lower Peace River before switching from the percentage withdrawal rate for Block 1 into the higher percentage withdrawal rates for Blocks 2 and 3.
- Schedule and conduct a formal reevaluation of the Lower Peace River MFL, including additional relevant research results, to be completed within 5 years.

**Recommendation:** Motion to recommend Policy Committee approve the draft letter and that it be sent to the SWFWMD Governing Board.

**Attachment:** Draft Letter.

Dr. Beever presented this item. On September 21<sup>st</sup>, the CHNEP hosted a technical workshop to discuss the Lower Peace River Shell Creek MFL.

Dr. Beever said that the NEP staff was grateful to the Governing Board for allowing staff extra time to consider the technical aspects of the draft rule and to the SWFWMD staff on the technical expertise and support as the issues were worked through.

Mr. Bush said that the CAC had a late opportunity to review the draft letter and that it was the feeling of the CAC that additional concerns expressed by the subcommittee regarding sea level rise, higher salinities, reserving adequate water supply for natural systems, discussions developing optimal or minimum flows recognizing that an MFL may potentially cause a level of harm carried sufficient merit that the committee would have liked mentioned in the draft of the letter. Mr. Bush commented that the CAC wanted to go on record that this was their request.

Dr. Beever asked Mr. Bush if incorporating these under the scheduling in the formal evaluation would be satisfactory.

Mr. Bush said that any way they would be incorporated would be satisfactory.

Ms. Seachrist asked if a draft of this revision would be included in the policy packet.

Dr. Beever said that the Policy Committee packet had already gone out since she would be in Portland, Oregon next week, but that she had committed to the Policy Committee that any substantive changes would be forwarded to them the week before the Policy Committee meeting. She also stated that the Management Committee would be copied as well.

Ms. Seachrist clarified that it will be included as part of the reevaluation.

Dr. Beever said this was correct.

Ms. Seachrist asked where the list was located. Ms. Hilgendorf said it was on Page 71 of the CAC packet.

Mr. Cheatham stated that he did not have any problem with the letter or including those comments, but that he was not comfortable voting on a letter that is going to get changed and not have a chance as a group to reconsider it.

Ms. Donley stated that if the committee wanted to temporarily table this agenda item, she would make photocopies for distribution to the Management Committee.

Discussion tabled temporarily.

## **8. RESERVOIR WORKSHOP PRIORITIES SURVEY RESULTS**

Dr. Beever presented this item.

Discussion ensued on different types of reservoirs that are better for ecological purposes.

Mr. Stone commended staff for being able to complete the rankings. It is important that everyone understands the systems and to be equally knowledgeable.

Mr. Hutchinson said that it seemed like this was a reasonable way to move the discussion forward, given the potential for the discussion to diverge in every direction if all of the suggestions were moved forward.

**MR. CHEATHAM MADE A MOTION TO MOVE THE RECOMMENDED ACTION. SECONDED BY MR. STONE AND UNANIMOUSLY CARRIED.**

#### **7. LOWER PEACE RIVER AND SHELL CREEK MFL COMMENTS (CONTINUED)**

Ms. Donley distributed the handout which described the additional concerns of the CAC which would be incorporated in the draft letter.

Dr. Beever said that she recommended that on Page 1 of the letter at the bottom where there are four bullet points and the final one says “to schedule and conduct a formal reevaluation of the Peace River MFL including additional element research results to be completed in five years” that it be requested that the reevaluation incorporate considerations and future concerns especially with anticipated sea level rises and higher salinities; incorporate discussions of reserving adequate water supply for natural systems and incorporate discussions of developing optimum flows versus minimum flows recognizing that the MFLs can potentially cause some level of harm to natural systems.

Discussion ensued.

**MR. CHEATHAM MADE A MOTION TO APPROVE THE RECOMMENDED ACTION. SECONDED BY MR. BUSH. MS. SEACHRIST ABSTAINED. MOTION CARRIED WITH ONE ABSTENTION.**

#### **9. REVIEW PROCEDURES FOR CHNEP PROJECTS, PRODUCTS, GRANTS AND CONTRACTS**

Ms. Ott presented this item and gave a brief overview. She reported that it had been suggested that staff provide more information to the subcommittee before they are scheduled to meet. The RRPP proposals will include the time periods for authors to send them in. The written questions of the subcommittee will be sent back to the authors and their responses will be sent out to the subcommittee so that they will have a complete package when reviewing the proposals.

**MOTION BY MS. SEACHRIST AND SECONDED BY MR. VAVRINA TO RECOMMEND THAT THE POLICY COMMITTEE APPROVE THE REVIEW PROCEDURES FOR CHNEP PROJECTS, PRODUCTS, GRANTS AND CONTRACTS.**

Ms. Seachrist stated that she had some grammatical word changes to incorporate which were not substantial.

**MOTION CARRIED UNANIMOUSLY.**

#### **10. UPCOMING RULE-MAKING AND LEGISLATIVE ISSUES**

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Liz Donley presented a summary of upcoming rule-making and legislative issues by addressing the following topics:

1. Florida Administrative Code 1820 establishing a new aquatic preserve amendment for the San Carlos Bay Aquatic Preserves. This past year, the aquatic preserves took a disproportional hit on budgeting and staff which is one of the impetus for establishing a new aquatic preserve and to make the legislature more aware of exactly of what the preserves do.
2. The Florida Forever Program is also opening up their rule as to how they prioritize the lands for acquisition and changing some language so that the lands adjacent to high priority properties would be advanced up on the list. The Department of Environmental Protection has put on hold the numeric nutrient criteria for impaired waters which is FAC 62-303, however, it was her understanding that DEP was proceeding forward with 62-302 which is the designated uses.
3. The statewide storm water rule which is 62-347 is supposed to open up in 2009 or early 2010.
4. The state legislature has decided not to take any community budget information requests which are basically state earmarks. In the past, funding had come down into our region for smaller projects. The SFWMD had been using it as a way to fund some projects.
5. On President Obama's desk is the FY10 federal budget for the Environmental Protection Agency. The continuing resolution expires today. The current budget for the 2010 cycle was \$600,000 and for 2011, it was increased to \$800,000. She stated that she was fairly sure that the President would sign it, otherwise, the government would shut down tonight at midnight.

## **11. TAC REPORT**

Ms. Ott said the TAC met on October 14<sup>th</sup> here at the SWFRPC offices with a similar agenda. Changes were incorporated into the numeric nutrient criteria scope of work. A presentation was given by Michelle Harmeling on phosphate mining. She reported that Barry Warden was finishing up mapping projects on land covers and surface waters and that the final project will be presented to the Management Committee at their next meeting.

The next TAC meeting was scheduled for January 13<sup>th</sup> in Lakeland and there will be a Science Forum the morning before that. The new schedule for the coming year has four Science Forums.

## **12. CAC REPORT**

Mr. Bush said that the CAC meeting was held on October 21<sup>st</sup> and the highlight of the meeting was the tour and presentation of the green building. The focal feature is a 6,000 gallon cistern collecting water from the roof used specifically for the use of the sanitary facilities.

The meeting was highlighted by the approval of the Public Outreach Grants – 16 grants for \$26,462 and all 7 counties now have a grant servicing school children. Recommendations were approved that revised the grant document. The recommendations were for increasing the Public Outreach Grants from \$3,000 to a possible \$5,000. This might expand the projects that are potentially out there while maintaining those that are concurrent and continuing. We also recommended transferring of additional funds into the microgrant program.

As stated previously, we were concerned about the draft letter pertaining to the MFLs as we had concerns about the priorities list summary which has been addressed at today's meeting. Our next meeting will be in Lakeland in January.

Mr. Bush reported that in September the CAC selected images for the calendar which should be available in November.

### **13. ESTERO BAY ABM REPORT**

Dr. Beever presented this item.

On August 10:

- Keith Kibbey, Lee County Environmental Lab Manager, presented information related to the funding of water quality sampling.

On September 14:

- Nora Demers presented research related to nutrient loading and shoreline restoration in San Carlos Park
- Whitney Gray and Jim Beever presented the *State of the Bay Update 2009*. Funding for the update was provided by Lee County Smart Growth.
- Members representing the Izaak Walton League and the Snook Foundation were approved.

On October 19:

- Joe Shepard, FGCU, presented the FGCU Solar Array project.
- Jennifer Hecker, Conservancy of SWF, presented proposed changes in state designated uses.

The Estero Bay Watershed Public Symposium was held Sept. 28 in the Florida Gulf Coast University Student Union Ballroom, funded in part by the CHNEP. It featured Craig Pittman, coauthor of "Paving Paradise," and "Tropicalia" editor Amy Bennett Williams. A dinner raised over \$2000 for conservation land acquisition in the Estero Bay basin.

Mr. Hutchinson stated that while the ABM is a committee of the SWFRPC, it is an unfunded committee. It was formed through a settlement agreement in 1993 or 1994. The continued level of involvement that has been possible in the past is in jeopardy because of the lack of general funding from the legislature regional planning despite the accomplishments of the committee over the past several years. He stated that staff was seeking additional funding possibilities.

### **14. CHNEP REPORT**

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Dr. Beever said that the CHNEP had produced a number of videos since 2002 as well as several different projects that were achieved through microgrants. She stated that she would be giving presentations on climate change as well as at the Coastal and Estuarine Research Federation in Portland and at the ANEP meeting.

Ms. Donley said that the three west coast NEPs submitted grants together to NOAA as part of a Regional Partnership Opportunity and received quite a bit of support from U.S. elected officials. Public Outreach workshops, continuing teacher workshops and student field trips were also conducted.

Ms. Hilgendorf gave a brief report update on the following topics:

1. Microgrants
2. Sustainable Communities Conference on November 3<sup>rd</sup> in Sarasota County. The registration fee was \$30.
3. The CHNEP newsletter
4. Videos
5. 2010 Calendar
6. Nature Festival – November 21<sup>st</sup> at the Charlotte County Sports Park. Other venues are being looked into as the fee has doubled for the use of the field.
7. Professional development courses
8. ANEP meeting in 2010 in Punta Gorda
9. Marine outreach program

Ms. Ott stated that the TAC had committed to redoing the shoreline survey which will start around Thanksgiving time which should be completed in Spring 2010. She also provided a brief update on other projects she was involved with.

Ms. Ott said if very technical we ask for assistance from a subcommittee.

### **Agenda Item #15 – Member Comments**

Discussion ensued on DEP releasing TMDL proposals that will be adopted in January for the Peace River. Once the MFLs are approved by the Water Management District, the hydrobiological monitoring program will be modified.

The Coastal Module will begin on January 4 for six weeks and the Uplands will be in March 2010.

The Sustainable Communities Conference will focus on energy, water, climate and sea level rise.

Discussion ensued on fertilizer ordinances, SB 494 (model fertilizer ordinance) and TMDLs.

Ms. Wong stated that there would be a Green Expo on Sunday in Charlotte County. North Port is working very hard on going “green” as they have a new rain system and a brand new fire station. She stated that she thought the calendar was excellent but that it should have more human activity in the pictures promoting harmony with nature. A Halloween celebration will be from 4:00 p.m. to 7:00 p.m. at the City Hall in North Port.

Ms. Seachrist thanked NEP staff for their excellent job putting a subcommittee together for the nutrient level review and she was looking forward to the numeric criteria subcommittee

Ms. Stafford reported that rookery monitoring was done for the season. Projects now included cleaning up monofilament and dead birds. As Ray Leary is not with the organization any longer, any data requests might be delayed. Seagrass legislation is enforcing penalties for seagrass damage in the aquatic preserves. The Aquatic Preserve staff is conducting green mussel eradication on November 6<sup>th</sup> and training for law enforcement officers on November 18<sup>th</sup>.

#### **Agenda Item #16 – Public Comments**

None.

#### **Agenda Item #17 – Next Meeting's Topics, Location and Date**

The next meeting will be in Lakeland on Friday, February 5, 2009. Ms. Hilgendorf stated that a guided tram tour of the property would be available for those members interested and asked for a show of hands of those that would be interested in the tour.

Dr. Beever counted the hands and there were about 10.

#### **Agenda Item #18 – Adjournment**

Meeting adjourned at 11:40 a.m.