



## **Mobile Bay National Estuary Program Executive Committee Meeting**

**March 20, 2015, 8:00 a.m. – 12:00 p.m.**

**Original Oyster House, Causeway, Spanish Fort, AL**

### **AGENDA**

#### Meeting Objectives

- a) Provide Status of Program
  - b) Vote: Updates to Conference By-Laws
  - c) Vote: HHI Resolution
  - d) Vote: Committee Member Agreement
  - e) Evaluate Implementation of Strategy Map
1. Introductions/Call to Order: Commissioner Gunter Guy, ADCNR
    - a) Welcome Chris Thomas, EPA Region 4; David England, DISL; Ruth Carmichael, DISL; Fred Leslie, ADEM; Renee Collini- New SAC staff liaison
  2. Approval of Minutes September 26, 2014
  3. Director's Report
  4. Committee Reports
    - a) Science Advisory- Ruth Carmichael
    - b) Project Implementation- Judy Haner
    - c) Government Networks- Commissioner Ludgood
    - d) Community Action Committee- Leslie Gahagan
    - e) Business Resources Committee-Jennifer Denson
    - f) Finance Committee- David England
  5. Old Business
    - a) Discussion/Vote- Updates to Conference By-Laws
    - b) Discussion/ Vote- Committee Member Agreement
  6. New Business
    - a) Evaluating the Implementation to of the Strategy Map- Ted Jackson, Ascendant Strategies
  7. Other/Announcements- March 30- Amy Newbold, Deputy Director
  8. Adjourn



**Mobile Bay National Estuary Program  
Executive Committee Meeting Minutes**

March 20, 2015

Five Rivers Delta Center

10-12pm

**In attendance:** Casi Callaway, Mobile Baykeeper; Dr. Ruth Carmichael, Dauphin Island Sea Lab; Jennifer Denson, Partners for Environmental Progress; David England, DISL; Leslie Gahagan, City of Foley; Judy Haner, The Nature Conservancy; Phillip Hinesley, Alabama Department of Conservation and Natural Resources, State Lands Division-Coastal Section; Robert Howard, EPA Region IV; Merceria Ludgood, Mobile County Commission; James Lyons, Alabama State Port Authority; Eliska Morgan, ADCNR; Patti Powell, ADCNR, SLD; Dr. Susan Rees, U. S. Army Corps of Engineers; Bob Chappelle (for Bill Sisson), Mobile Area Chamber of Commerce; Dr. LaDon Swann, Mississippi-Alabama Sea Grant Consortium; Chris Thomas, EPA Region IV; John Valentine, DISL; Fred Leslie, Alabama Department of Environmental Management.

**Staff present:** Kelley Barfoot, Renee Collini, Tiffany England, Rick Frederick, Tom Herder, Christian Miller, Roberta Swann

**1. Call to order:** Patti Powell called the meeting to order at 8:17 a.m. and introduced new committee members:

- Chris Thomas, Branch Chief in the Water Program at EPA Region IV, who will serve as Co-chair of the Executive Committee, replacing Ben Scaggs.
- David England, the Finance Director at DISL and the Co-chair of the Finance Committee.
- Ruth Carmichael, a senior researcher at DISL who will serve as the Co-chair of the Science Advisory Committee
- Fred Leslie, ADEM Operations Division and Water Quality Monitoring Coordinator, who will join Dr. Carmichael as a Co-chair of the SAC.
- Renee Collini of DISL who oversees real time monitoring and who has been brought onboard MBNEP to coordinate SAC activities as staff liaison.

All in attendance then made self-introductions around the table.

**2. Approval of minutes:** Ms. Powell asked if there were any comments or revisions to the minutes of the September 26, 2014 Executive Committee Meeting. Chris Thomas offered a correction to Item 7, offering that while the minutes reflect that EPA submitted a request for \$500K annually for each NEP, in fact the request is for \$2M for NEPs over a five-year period. Ms. Swann responded that this is a new development, and Ms. Powell added that the minutes are a static snapshot in time. Given that, Casi Callaway made the motion to approve the minutes, which were seconded by Susan Rees and unanimously approved.

**3. Directors Report: Roberta Swann**

Ms. Swann provided a **Financial Report**, starting with Ecosystem Status and Trends. She noted support for Alabama Water Watch trainings, sediment analysis for Fowl River, a contract for Tim Thibaut of

Vittor and Associates to lead Biological Condition Gradient Framework development, and salary support for Renee Collini.

She noted ongoing watershed management planning and implementation in the D'Olive, Fowl River, and Three Mile Creek Watersheds, reporting on the partnership with MLK Avenue Redevelopment Corporation to build community, a two-year Community Resilience Academy program, with 15 targeted leaders attending every Tuesday night for 10 weeks. While no activity has occurred in the Lower Chasaw Watershed, no recommendations were offered for reallocation. Upcoming activity will include Bon Secour Watershed planning and Coastal Habitat Restoration Initiative activities.

Ms. Swann requested EC approval to reprogram \$40K from Bon Secour Watershed Planning (in light of NFWF funding) for two purposes:

- 1) Professional service contract through an RFP to educate schools on Watershed Management Planning (\$20K), and
- 2) Professional service contract through an RFP to undertake citizen training activities (\$20K) – AWW, citizen monitoring, BCG monitoring – to add capacity to facilitate implementation.

Jimmy Lyons made the motion to authorize the change, seconded by Commissioner Merceria Ludgood, before Ms. Powell asked for any discussion. Ms. Callaway expressed concern that \$40K might be insufficient, but Ms. Swann responded that was all that was available. The motion was approved unanimously.

Under Technical Assistance and Capacity Building, Ms. Swann noted that to support Estuary Corps in the coming year, MBNEP will produce a video to provide a tool to support the Alabama Coastal Foundation program. MBNEP will continue to provide support to fund the Coastal AL Clean Water Partnership. In support of Coastal Marine Planning, MBNEP will enter into a contract with GSA and release an RFP for additional stakeholder engagement. She reported the Working Waterfronts Coalition is moving towards a role as a steering committee in CMP efforts.

Under Education and Citizen Involvement, she mentioned Special Events, Outreach and Promotional Materials, and Video Production. The Dauphin Island Oral History is targeted for 20 minutes and features local historical perspectives on resilience.

With no voting necessary to approve the financial report, she moved to reporting **Project Status**. She began the report with Joe's Branch. Thompson and North State Environmental are ready to begin construction. Given impacts from the April, 2014, rains, NFWF permitted reallocation of \$850 to complete this restoration project in the Joe's Branch Subwatershed.

Goodwin, Mills, and Cawood moves towards development of an engineering design for the D'Olive Creek Restoration, characterized as the “trickiest stream restoration in Alabama” with incredible flows threatening I-10. As we work towards a property owner agreement with Malbis Plantation, construction is projected to commence in October, 2015.

We are investigating upstream management measures, with a large wetlands tract providing a potential retention opportunity that could significantly reduce flows. We will approach ALDOT about purchasing this property.

The City of Daphne is overseeing the Tiawasee Creek restoration project, and MBNEP provided their NFWF funds to combine with Daphne's CIAP funds to undertake the project from headwaters to mouth within the NFWF budget. Engineering/planning RFQs are currently under review, and construction is set to begin in October, 2015.

Fowl River Watershed. *Watershed management planning* is currently being conducted simultaneously to *GSA sediment loading analyses*. Outreach efforts are in progress, with committee meetings planned for July. WMP completion is expected in September 2015.

Alternatives evaluation for northern Mon Louis Island is underway with Thompson Engineering. Ms. Swann explained the challenges related to getting fill material for marsh creation. The original idea of dredging the Fowl River navigation channel was not feasible, since only silt was found there. Dr. Rees explained that the Corps is investigating making material available from a permitted open water disposal area. The Corps has funding to dredge the channel, and the alternative under serious consideration is dredging the Fowl River channel to replace material removed from the open water disposal site. We are hopeful that this will allow more aggressive implementation within an acceptable budget.

Ms. Powell expressed gratitude for the Gulf Environmental Benefits Fund, while admitting that implementation could be cumbersome. She complimented MBNEP staff and the Corps, and felt the process was a learning experience by which the State has gained confidence in letting NFWF deal directly with funded entities.

Phillip Hinesley inquired whether there were funds budgeted for post-construction monitoring. Ms. Swann answered affirmatively, further elaborating that five-year monitoring was funded, including pre-construction, construction, and post-construction.

LaDon Swann asked if MBNEP has decided upon indicators. Ms. Swann responded that Ms. Collini would speak to that. She noted that GSA is currently monitoring sediment.

#### **4. Committee Reports**

Science Advisory Committee – Dr. Carmichael reiterated that two new Co-Chairs were recently appointed to the SAC. The planning strategy for the SAC involved a restructure with clearly identified voting members and non-voting observers. The strategy was developed at a pre-planning meeting, and participants were evaluated as members or observers based upon expertise in any of nine major focus areas. After a review of current SAC participants and evaluation using the nine focus areas, invitations were sent to potential SAC voting members. At a recent SAC meeting, participants reviewed by laws and determined that the SAC is NOT a decision-making body, but rather only a guiding body. Consensus is not necessary to offer the EC guidance.

A membership commitment agreement form is forthcoming. Along with it will be a schedule of meetings for the current calendar year, an update on projects provided by Ms. Collini, and Ms. Collini's summary on SAC work to date.

Ms. Collini briefly discussed the BCG, which has been a focus of the SAC. She reported that a pilot study will be conducted on and downstream of D'Olive Creek, where restoration will be significant and measurable changes can be expected. A discussion followed on monitoring to assess restoration success. Dr. Reese discussed a monitoring and data dissemination strategy in Louisiana, being modified and adopted by Mississippi, and of potential use in Alabama. Ms. Swann noted that submerged aquatic vegetation is a primary concern of NFWF, and that a mapping project of Dr. Ken Heck is being modified to consider D'Olive Bay and impacts from D'Olive Creek. Ms. Collini said that the SAC goal is to provide a standardized framework for project monitoring. Dr. Valentine wrapped up the discussion by saying that taxpayers will want to know what has been done with their money.

Project Implementation Committee Judy Haner provided the PIC update. She noted that similar review of bylaws was undertaken, and with increasing participation by engineering firms, the PIC was concerned how that will affect voting. One change was recommended, and that entailed changing the word

“agencies” to “entities,” since so many participants are not agency personnel. It was determined that, like the SAC, the PIC does not set policy. It only offers input and guidance to the EC. Consequently, no other changes were recommended to the By-laws.

The discussion turned towards watershed management planning, and with seven plans already funded by the NFWF GEBF and potentially more to be funded, how efficiency can be ensured. She noted that Bayou Le Batre and Bon Secour River watershed management plans would be managed externally by the Mobile County Soil and Water Conservation District/National Resource Conservation Service and the City of Foley, respectively.

Ms. Haner alluded to coordination between MBNEP and the City of Mobile as the City sets forth to develop a strategic plan. Coordination presents an opportunity for leveraging. Ms. Swann elaborated, the City has hired Goodwyn, Mills, and Cawood to develop a comprehensive strategic plan. Such an effort would involve lots of overlap and duplication of effort with a watershed management planning effort. She feels that there would be benefits to investigating whether these plans could be developed in concert, and she presented arguments for combining scopes that were applauded by Ms. Powell as decreasing conflict and increasing efficiency. She will meet with GMC next week to discuss citizen participation in the effort.

In the discussion, a comment was made expressing that having the MBNEP directly oversee WMP development would be desirable. In any case of external management of WMP development, Ms. Swann said, a project champion would be hired to safeguard MBNEP interests. When asked who that would be, Ms. Swann responded that it was not yet decided. Ms. Haner explained the protocol for external management and contracting.

Eight SOQs for Bayou Le Batre watershed management planning have been received, and a short list for interviews will be determined soon. Ms. Haner asked for further questions, and receiving none, yielded the floor.

Government Network Committee Commissioner Ludgood noted that GNC has met regularly with Washington and Clarke counties participating along with Baldwin and Mobile. She said that the GNC is basically focused on education, with speakers highlighting emerging issues and regulatory authority. One such issue, an initiative inspired by the Coastal Baldwin Churches Community Organization, is the Property Insurance Clarity Law of 2012. This law “shines a light on insurance rates,” and demonstrates that coastal properties are bearing a disproportionate burden. The GNC has put forth a resolution subject to EC approval that asks Governor Bentley to:

- Recognize the significance of the Clarity Law.
- Direct insurance carriers to submit statewide rate fairness plan to the Department of Insurance using Clarity Law data.
- Support the coalition of AL legislators and others working to address this issue.

Some discussion ensued about the appropriateness of MBNEP’s role in this issue. Dr. Swann noted that the CCMP is silent to this issue, and Ms. Powell advised caution on how issue reflect on the MBNEP. Ms. Swann defended MBNEP involvement, noting that this is an important issue underlying community resiliency and that coastal residents are forgoing insuring their properties due to high costs that, given the Clarity Law, appear to be indefensible. Jennifer Denson felt that the legislation provides more data, more information, and more analysis and that this is what the MBNEP does. Ms. Powell asked for a motion to adopt this resolution. Ms. Denson made the motion, which was seconded by Leslie Gahagan and unanimously approved (with federal agency representatives Dr. Rees and Mr. Thomas abstaining).

Community Resources Committee Leslie Gahagan reported that a recent survey of accomplishments indicated that the CAC was exceeding set-forth expectations. She noted that surveys will be conducted

quarterly. The CAC is currently involved in preparing RFPs for citizen monitoring, and that they have reviewed bylaws and the proposed membership agreements. With no further questions, Ms. Gahagan yielded the floor.

Business Resources Committee Ms. Denson credited Darrelyn Bender and Rick Frederick for bringing new members on board the BRC. She reported that Lewis Communications has been hired to develop a public relations campaign for the Create a Clean Water Future campaign. By the next EC meeting, she said, the BRC would be able to describe the plan and how it is being implemented. Ms. Powell recommended leaving room in the next EC agenda to do just that. She asked if anyone had questions and, hearing none, called for the Finance Committee update.

Finance Committee FC Chair David England noted that Ralph Helmich, a Foley City Councilman who works for the Oil and Gas Board, has been added to the FC. He discussed budgeting challenges related to WMPs, and commented on the need for specificity when preparing requests for proposals. He noted that MBNEP staff salaries are on the low end of the scale. The FC recommended that the Director be able to control staff decisions and salary allocations. Ms. Powell didn't realize there was a lack of clarity in this regard. Dr. Valentine asked how the EPA handles salaries for other NEPs. Bob Howard responded that typically salary structures are incorporated into annual work plans, which are subject to EC approval. He said that the EPA looks for comparability and variability across NEPs.

Ms. Swann said that with a new five-year CCMP in effect, we only want to ensure that there is a foundation in place for staff decisions and salaries. Dr. Valentine's only concern was ensuring that there is no EPA regulation that restricts Director control. Phillip Hinesley said that he sought a motion to formally give Ms. Swann authority while developing the work plan (and, added Mr. Thomas, in adding staff). Ms. Callaway made the motion, which was seconded by Commissioner Ludgood and unanimously approved.

Mr. England recommended adjusting Ms. Swann's salary at Dr. Valentine's discretion, to which Dr. Rees responded that she thought it was the role of a personnel committee to review Ms. Swann's salary. Commissioner Ludgood made a motion that a Personnel Committee convene annually to consider the Director's salary. Dr. Valentine seconded the motion, which was approved unanimously with Dr. Swann abstaining. Bob Howard inquired as to the composition of the Personnel Committee. Dr. Rees, Mr. Lyons, and Dr. Valentine were named as PC members, and Mr. Hinesley suggested adding Mr. England to the Committee. It was noted that Ms. Swann's last salary adjustment was January, 2012. Ms. Denson therefore recommended moving quickly, and Ms. Powell suggested prior to and effective October 1, 2014. Mr. Howard added that with an amendment to the annual work plan, or within 10% of the budget, it could be done sooner.

## **5. Old Business**

Updates to Conference By-Laws Ms. Swann presented the updated MBNEP Management Conference By-laws and noted that Bob Howard had made additional, as-yet-unincorporated edits. She suggested tabling those edits and asked if the EC was comfortable effecting a quick passage. Dr. Rees moved to accept the updated By-laws. The motion was seconded by Eliska Morgan and unanimously approved. Ms. Swann said that she would share Bob's recommendations for later adoption.

Committee Member Agreement A one-page Committee Member Agreement was included in the meeting packet, and Ms. Swann asked for the EC to approve the form/agreement. Some discussion followed regarding ethics laws and gifts and deletion of the last line (referring to gifts). Inquiries over a Conflict of Interest Policy (or the lack thereof) were included in the discussion. Ms. Powell recommended a "tentative" approval with expectations for some feedback/reconsideration. Dr. Rees recommended approval for non-policy Committees and further investigation of models for an EC form. Dr. Carmichael

made the motion to tentatively approve the Committee Member Agreement, and Dr. Valentine seconded the motion, which was approved unanimously.

#### **6. New Business**

Ted Jackson's (of Ascendant Strategies) facilitation of an evaluation of implementation of the Strategy Map was scheduled for the second half of the EC retreat following a Announcements, and a break. Mr. Jackson's report will follow as an attachment.

#### **7. Announcements/Other**

Ms. Swann reported that the MBNEP along with Thompson Engineering won a Gulf Guardian Award for implementation of a CWA Section 319-funded implementation of the regenerative step pool stormwater conveyance at Westminster Village.

She also announced that Amy Newbold has been hired as Deputy Director under an Intergovernmental Personnel Act agreement with the EPA Region IV. Chris Thomas offered a complimentary assessment of Ms. Newbold with regrets about losing her to the MBNEP. He noted that he originally hired her into the EPA.

Finally, Ms. Swann announced that Sunday, March 22 was Kelley Barfoot's birthday (adding that this is a "big" one).

#### **8. Adjourn**

At 11:45, following Mr. Jackson's Strategy Map evaluation, Dr. Rees made a motion to adjourn. The motion was seconded by Mr. Lyons and unanimously approved.