



CITIZENS ADVISORY COMMITTEE

of the New York – New Jersey
Harbor & Estuary Program
www.HarborEstuary.org

NY-NJ Harbor & Estuary Program Citizens Advisory Committee Meeting

October 1, 2014
Hudson River Foundation
New York, NY

MINUTES

1. Introductions

CAC co-chairs Rob Buchanan and Meredith Comi welcomed participants and all attendees introduced themselves.

2. Update on Mid-Atlantic Regional Planning Body

Doug Pabst provided a summary of the Mid-Atlantic Regional Planning Body (Mid-A RPB) origins, structure, mission, and completed and planned work. Please refer to the presentation slides posted on the CAC page for more details.

Briefly, the Mid-A RPB was established (along with nine other regional planning bodies) in 2012 by an executive order by President Obama. The executive order established that the Mid-A RPB would include representatives from eight federal agencies though, in practice, many other entities are involved, including NYSDEC and NJDEP. This is still a good time for anybody to participate as most of the work is ahead and many decisions remain to be made.

The main goal of the Mid-A RPB is to coordinate efforts and manage information.

A draft implementation plan has been posted online and the Mid-A RPB is starting to create a number of products. A draft Framework was approved in May 2014 to guide the regional ocean planning process by proposing an initial geographic focus (seaward of beach), a vision statement, principles, goals and associated objectives, example actions that could be taken to achieve the objectives, and strategic document to guide the Body's actions. The Body has also created a Regional Ocean Assessment and Data Portal which compiles all available data in a single place (no new data has been generated).

In addition to the Mid-Atlantic Regional Planning Body, there is a Mid-Atlantic Regional Council on the Ocean (MARCO), which pre-dates the Mid-A RPB and was formed by the governors of New York, New Jersey, Delaware, Maryland, and Virginia to work on shared regional ocean issues. The creation of MARCO was driven largely by alternative energy siting issues. MARCO states are part of the Mid-A RPB but these are two separate groups. This is in part because the Mid-A RPB was created by an executive order and could potentially disband with a new administration. Also, the geographic scope of the Mid-A RPB stops at the beach, while MARCO goes beyond, also covering the watershed.

Doug noted that the data portal is a great tool that also incorporates citizen science data and traditional knowledge provided by the Shinnecock Indian Nation. Tony McDonald from Monmouth

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University has been involved in creating the database and has provided excellent training sessions and could give a presentation to the CAC.

In terms of the timeline, most Mid-A RPB products are expected to be completed next year and there will continue to be stakeholder engagement, data collection/sharing/integration, and adaptation of planning products. In terms of National Estuary Program engagement, it was decided not to include estuaries not to replicate efforts, but some National Estuary Programs provided feedback.

There are a number of upcoming meetings, including one each in New York and New Jersey (see website for latest info: <http://www.boem.gov/MidA-RPB-Meetings/>). The Mid-A RPB has produced a draft Stakeholder Engagement Strategy and formed a stakeholder involvement group.

Action items:

- Given its particular interest in this topic, Bob Alpern would attend the November meeting and report back to the CAC.
- Doug will be able to attend CAC meetings and provide updates on the Mid-A RPB.

3. CAC Positions and Letters

Shino noted the need for more fluid communication and discussion among the CAC in light of the many issues the group has been issuing writing letters or stating positions on. This became quite clear when sending the letter in support of EPA's proposed Passaic River Superfund cleanup, on which one of the CAC members disagreed with on the basis of seemingly very valid points. In response to this, there is now an online forum for timely debate (<http://hepcac.freeforums.net/>). Here, CAC members can create and/or participate in discussion topics and threads. There is a [thread now open](#) to discuss NJ's settlement with Occidental Chemical Co. for costs related to pollution of the Passaic River, for which the state may end up keeping more funds than will be allocated to the cleanup. The group agreed that the CAC should send a letter on this issue.

Then Harvey Morginstin, Secretary of the Passaic River Club, summarized his view on EPA's proposed cleanup. The proposed approach means no more anchoring, which would adversely affect recreational boating. It would be best to dredge deeper and leave the river to fill it in. The second part of his concern is about dredged material management. Sediments would be sent to a yet-to-be-constructed facility for dewatering and then shipped out of state for landfilling. The alternative is to dispose of the sediments in Confined Aquatic Disposal (CAD) cells in Newark Bay. Ironbound and NJ state opposed this option. According to information presented at a recent meeting at NJIT, Newark Bay has very dense clay which can be taken out, filled with dredged materials, and capped. The Bay is not used for shipping or boating.

The discussion then turned to the similar issue in New York where the state attempted to use State Revolving funds to finance construction of the Tappan Zee Bridge. Meredith Comi relayed an update provided by Paul Gallay from the Hudson Riverkeeper. EPA rejected the use of the funds for all but a portion allocated for habitat restoration. It is likely that the Governor will appeal EPA's decision. Paul suggested that the CAC should send a letter to EPA commending their actions and perhaps one to the Governor, supporting EPA's decision as well as indicating what those funds should be spent on: water quality improvements, waste water treatment infrastructure, habitat, or other relevant goals in HEP's Comprehensive Conservation and Management Plan.

Sean Dixon added that one of the arguments for using State Revolving Funds to finance the bridge was that they were not being used, which is not the case. He suggested that EPA Headquarters should also get a letter from the CAC to be informed, as they will be involved if EPA's decision is appealed.

Action items:

- All CAC members are encouraged to provide their thoughts and ideas on the Passaic settlement via the online discussion forum: <http://hepcac.freeforums.net/thread/3/proposed-passaic-cleanup-settlement-sept>. Members are also encouraged to participate in other discussion threads or start new ones on other topics of interest.
- CAC co-chairs will draft a letter on the Passaic settlement, informed by the letter that NY/NJ Baykeeper is preparing and by the input on the CAC forum and will circulate for further comment. The deadline to submit the letter is October 15.
- CAC co-chairs will draft follow up letters regarding the TZB issue and circulate for discussion and approval. A new thread has been started on this topic in the discussion forum and all members are encouraged to provide their input: <http://hepcac.freeforums.net/thread/4/tappan-zee-bridge-october-03>.

4. HEP Updates

a. Strategic Plan

Rob Pirani gave a presentation on the draft Strategic Plan for HEP, which is intended to guide the Program over the next couple of years by setting priorities and identifying projects that can be completed within that timeframe. The Plan covers allocation of resources and sets the stage for a revised Action plan to be completed in 2016, 20 years since the Comprehensive Conservation and Management Plan (CCMP) was released. The Plan strives to be scalable and balanced in terms of states and core vs. whole watershed area.

Rob summarized the projects identified under each Action Plan goal, which had been previously presented to the group. In terms of the role of the CAC, Rob identified three main things that the CAC does or could focus on, which are 1. Provide input to the Program, 2. Share information with other groups, and 3. Be advocates for the estuary and provide a collective voice for additional resources. Please refer to the presentation posted on the CAC page for more details.

There was concern that the public access project is a big undertaking and might require additional support. Currently, the project is expected to be conducted with support provided by the US Forest Service, which will provide an intern, HEP staff, and a new public access work group including CAC members as well as agencies. HEP will consider additional support such as academia and crowd-sourcing. There was also concern that another map may not be needed. Rob Pirani clarified that, while this project involves spatial analysis, the final product may not necessarily be a map.

Regarding the plan of launching CARP II to look at the status and fate of contaminated sediment, there was a request to have a presentation to the CAC about the Work Plan for CARP II.

In terms the Raritan Bay Conference, the focus is expected to be on public access, floatables, impact of CSOs, and potential restoration projects. This will be a bi-state conference and HEP will engage the CAC in its planning.

Maggie Flanagan pointed out that the CAC is interested in reaching up and being a “strong voice up” through its letters. Rob Pirani noted that the group has a limited capacity and that it may be helpful to focus its limited resources in a few issues. This type of focus would also enable the HEP office to better assist the CAC.

In answer to a question about local government engagement, Rob indicated that it is difficult to engage local government on general estuary issues; it makes more sense to make sure we engage local government for specific projects. Bob Alpern asked that this position be revisited.

Bart Chezar noted that the CAC can serve as a forum to hear about various waterfront development projects, present ideas and hear about the issues.

Merryl Kafka stressed the importance of recognizing partnerships and the work that others are doing. For example, Pratt Institute has conducted an assessment of community needs in Coney Island Creek, which stated the value of including activities such as bike paths, kayaks, marine biology programs, providing enrichment and job opportunities for the youth, and others. She also highlighted the work of a private concession that rents kayaks and paddle boats in the area and has shown its commitment to conservation and education by putting signs at their own expense. Rob Buchanan suggested this could be a topic for a next meeting.

David Burg noted the importance of being an independent voice for environmental protection. He was also concerned about the seeming lack of focus on the protection of habitats in the strategic plan.

Merryl wondered whether local politicians know of HEP and the CAC as a resource to help them make decisions. Beryl Thurman stressed that elected officials do need a tutorial about environmental issues.

Rob Pirani noted that this is the start of the conversation. The plan is to get input from the Management Committee and approve a plan. HEP CAC co-chairs should provide their input on the CAC’s role and focus for the next two years.

Action Item:

- CAC co-chairs to provide their input to the Strategic Plan by October 16.

b. Grants and Projects

The CAC was referred to the written update provided with the meeting materials and to contact HEP staff with questions. Gabriela Munoz announced an upcoming event for the HEP-funded Citizen Science project. On November 21, the four grantees will be presenting their results to a wide audience (including agencies, community groups, and academia) at the EPA building in NYC. There will be an announcement circulated shortly and the CAC is encouraged to attend and invite others that may be interested.

5. Open Industrial Uses

Mike Marrella of the NYC Department of Planning introduced the presentation on the Open Industrial Uses Study. He indicated that over the years, the Department heard from CAC members and other groups that were concerned about industrial uses in NYC and this Study is an attempt to address these issues and an example of successful lobbying pushing for this study.

Stacy Passmore, the Project Manager for the Study, gave a presentation. Please refer to the slides posted on the CAC site for more detail.

The Study strived to strike a balance between businesses that provide jobs and cost-effective environmental protection measures.

In addition to surveying open industrial sites in the city, the Department also reached out to neighborhoods on how to define facility types. Six categories were defined, including a broad category for unenclosed storage that includes large piles of sand, rocks, and other materials that could be carried by air or water. These facilities tend to have fences but no pollution prevention measures.

The Department also looked at the regulatory framework, which is very complicated. They found that EPA and the federal government delegate to the states the State Pollutant Discharge Elimination System (SPDES) program that applies to all these facilities. City regulations are handled through NY City Department of Environmental Protection. Sanitation and City Planning regulations (which address vibration, smoke, noise, odor, etc.) were ahead of their time, however they were never enforced. These were superseded by various codes but are still not enforced.

The next step was to hire consultant to look at a range of best management practices (BMPs), apply them to a number of prototypical sites, and determine which practices were most cost-effective. All the work was distilled into a draft report that was released in the spring. It includes six main recommendations:

1. Update definitions for Open Industrial Uses and reconcile with other regulations.
2. Require physical design standards that represent best effective controls. Pollution prevention controls would be retroactive with 5 years to comply.
3. New facilities would have to have off-street loading berths.
4. Adjust flood resiliency designs. They are working with building codes to define standards. DEP is revising the air code, including provisions to cover dusty material and/or apply other dust suppression tools.
5. Provide financial and technical assistance to comply with the proposed regulations.
6. Identify other ways to improve the study to include monitoring, increased research, and other topics.

Materials that are not hazardous should be isolated and contained but could get wet. Hazardous materials should be 1 ft above the flood elevation (100-yr storm as defined by FEMA, which was recently updated).

The Draft Open Industrial Uses Report was issued this year and was reviewed with agencies and the broader public. Lots of comments were received. Broadly, most comments indicated that the study focus was correct but that more financial assistance was needed for physical improvements. There were different opinions on some areas, such as some opposition over paving, also a request to also apply the regulations to parking areas, a call to look at the 500-yr flood plain and to broaden the scope of the study to look at climate resiliency rather than just flood resilience.

The Department is now waiting for the Municipal Separate Storm Sewer System (MS4) permit to be finalized before finalizing the Open Industrial Uses Report, so both are consistent.

Bob Alpern was astonished to never have heard about this initiative, given his involvement in various NYC projects. Stacy indicated that he will be added to the group and stressed that it's not too late to get involved as the Report is still draft.

Beryl Thurman noted that there is concern about buffer zones, as most of these facilities are not conducive to being close to public waterfront access or residential areas because of noise and other issues. She also indicated that many of these businesses have operated for a long time without being confronted with enforcement.

Sean Dixon mentioned that Riverkeeper is involved in litigation with many of these facilities because of their impact to adjacent infrastructure. For example, materials often get to and clog storm drains but when the sites are inspected, the surroundings are not looked at. The problem is exacerbated by trucks parking over a storm drain where spillages could occur.

Bart Chezar pointed out that many closed facilities have buses and trucks parked. Stacy indicated that the intent for the study was to focus on the most extreme polluters. Rob Buchanan asked how the parking lots are being addressed and asked whether it is too late to say that these need to be included, citing the great impact that facilities like the Navy Yard have. Stacy suggested contacting NYCDEP to see how this is being handled via MS4s.

Shino Tanikawa suggested that it would make sense to separate the charges for stormwater and sewage, as industrial sites likely have minimal sewage use but huge stormwater impacts.

There was some discussion regarding low attendance at public meetings (LTCP meetings were cited) and Bob Alpern noted that public hearings are no substitute for having Advisory Committees locally and city-wide to educate people. Robin Kriesberg added that educational tools are needed throughout the city.

Stacy mentioned that it is also being proposed to install signs at all facilities that provide information on the type of operation at the site and contact for more information.

6. Announcements

Gabriela circulated a flyer for an upcoming citizen science training session conducted by NJDEP at Duke Farms on October 20 and 21.

Gabriela also conveyed a message from Fran Dunwell, Director of the Hudson River Estuary Program. The HREP will be updating their Action Agenda around the benefits the public perceives from a clean vital estuary. Fran is interested in giving a presentation and engaging the HEP CAC in the process as they would like to know how they can be more relevant in the harbor area. This could be a topic for a future meeting.

Merryl Kafka reminded the group about the NY State Marine Educators Association (NYSMEA) annual conference, which will take place on October 25 at the Rachel Carson High School in Brooklyn. She encouraged everybody to attend.

The meeting was adjourned at 12:30 PM.

ATTENDEES

Robert Alpern
Kate Boicourt, NY-NJ Harbor & Estuary Program
Peter Brandt, US EPA Region 2
Nancy Brous, NYC Water Trail Association
Rob Buchanan, Village Community Boathouse
Jeff Byles, Being Here
Don Chesley, Stevens Institute of Technology
Bart Chezar, Gowanus Dredgers Canoe Club
Meredith Comi, NY/NJ Baykeeper
Sean Dixon, Riverkeeper
Willis Elkins, Newtown Creek Alliance
Maggie Flanagan
Merryl Kafka, NY State Marine Education Association
Robin Kriesberg, Bronx River Alliance
Roland Lewis, Metropolitan Waterfront Alliance
Peter Malinowski, NY Harbor Foundation
Michael Marrella, NYC Department of Planning
Bhavin Mistry, Future City, Inc
Harvey Morginstin, Passaic River Boat Club
Gabriela Munoz, NY-NJ Harbor & Estuary Program
Douglas Pabst, US EPA Region 2
Stacy Passmore, NYC Department of Planning
Robert Pirani, NY-NJ Harbor & Estuary Program
Joseph Reynolds, Bayshore Regional Watershed Council
Manuel Russ, Concerned Citizens of Bensonhurst
Clay Sherman, NJ DEP DWM
Rosalie Siegel, Port Authority of NY & NJ
José Soegaard, Metropolitan Waterfront Alliance
Daniel Tainow, Lower East Side Ecology Center
Shino Tanikawa, NY Soil & Water Conservation District
Beryl A. Thurman, N. Shore Waterfront Conservancy of Staten Is, Inc.
Nellie Tsipoura, NJ Audubon Society
Ben Weiland, Trust for Public Land
Nina Zain, The River Project