

**Final Meeting Minutes of the
SOUTH SHORE ESTUARY RESERVE COUNCIL
December 11, 2008
Captree Cove Restaurant
Captree State Park, New York**

Members/Designees Present: Fred Anders (New York Department of State, for Secretary Lorraine Cortés-Vázquez/George R. Stafford); Dan Fucci (Nassau County, for Thomas Suozzi); Laretta Fischer (Suffolk County, for Steve Levy/Carrie Meek Gallagher); Joseph Febrizio (City of Long Beach, for Charles T. Theofan); Michael Foley (Town of Hempstead, for Kate Murray/Ron Masters); Nancy Kearney (Town of Oyster Bay, for John Venditto/Neil O. Bergin); Richard Groh (Town of Babylon, for Steven Bellone); Tom Marquardt (Town of Islip, for Phil Nolan/Eugene Murphy); Jeff Kassner (Town of Brookhaven, for Brian X. Foley/John Turner/Alan Svoboda); Marty Shea (Town of Southampton, for Linda A. Kabot); Hon. William Glacken (Village of Freeport); Ellen Kelly (Village of Freeport); Robert Grover (Great South Bay Audubon Society); Maureen Dolan Murphy (Citizens Advisory Committee Chair); Allan Aronoff (Citizens Advisory Committee Vice-Chair); William Wise (SUNY Stony Brook Marine Sciences Research Center, for David Conover); Ken Budny (Brookhaven Baymen's Association); Michael Eagan (Captree Boatman's Association); Charles DeQuillfeldt (NY State Department of Environmental Conservation, for Pete Grannis/Jim Gilmore); Gary Lawton (NY State Office of Parks, Recreation and Historic Preservation, for Carol Ash); Gregg Williams (NY State Department of Transportation, for Astrid C. Glynn)

Staff Present: South Shore Estuary Reserve Office: Jeff Fullmer; Patrice Benneward; Sherry Forghash; Lou Siegel; Sheri Lyn Jewhurst

Guests Present: Frank Castelli (Suffolk County Department of Environment and Energy); Adrienne Holmes (Town of Babylon); Kevin McAllister (Peconic Baykeeper, SSER CAC)

Members Absent: Cornelia Schlenk (SSER Technical Advisory Committee); Carl LoBue (The Nature Conservancy); Dennis Cataldo (NY Sportfishing Federation); Dennis Perkins (Long Island Association); Chris Squeri (NY Marine Trades Association); Michael Watt (Long Island Builders Institute)

1. WELCOME, OPENING REMARKS, INTRODUCTIONS:

F. Anders called the meeting to order at 1:10 p.m., welcomed members, and conveyed the Council's appreciation to Joe Ritigliano, operator of the Captree Cove Restaurant, and to Betsy Wintenberger, Park Manager at Captree State Park for hosting the Council meeting.

B. Wintenberger welcomed the Council to Captree State Park where the public, schoolchildren, and private boat owners have many opportunities to access the bay.

F. Anders acknowledged the new Council representative from Long Island Builders Institute, Mr. Michael Watt. Mr. Ken Budny is now serving as the formally designated representative for the Brookhaven Baymen's Association, and Mr. Gregg Williams will be currently representing Commissioner Astrid Glynn in place of Mr. Darrel Kost who has retired. On behalf of the Council, F. Anders asked G. Williams to convey a certificate of appreciation to Darrel Kost in recognition of his past service to the Council.

F. Anders began a round of introductions and thanked the Council for their participation. He recognized the passing of former Council member Southampton Supervisor Vincent Cannuscio, and extended the Council's condolences to the Town and his family.

2. MINUTES OF THE MARCH 5, 2008 MEETING

F. Anders proposed a motion to approve the March 5, 2008 Council Meeting Minutes.

W. Wise motioned to accept March 5, 2008 Council Meeting minutes, seconded by Nancy Kearney. Minutes are unanimously approved.

3. RESERVE OFFICE REPORT

SSER Office Director Jeff Fullmer gave the SSER Office Report:

Jeff referred Council members to a comprehensive written office report included with the council meeting materials. He proceeded to highlight key office activities:

New Reserve Office staff are: Patrice Benneward, Sherry Forgash, and Sheri Lyn Jewhurst. He thanked Clare O'Reilly, former Program Implementation Specialist who has moved on to graduate school.

The SSER conducted a successful Council partner boat tour and Stewardship award presentation aboard Captain Mike Eagan's excursion vessel *Lauren Kristy* on October 16, 2008. Copies of the event program were included with Council meeting materials that contain biographies of the award recipients Alexandra Mancuso for her book Great Blue's Message and the Riverhead Foundation for their marine mammal rescue and education work in the Reserve.

A South Shore Bayway Update workshop for stakeholders and Council members aboard the *Lauren Kristy* was conducted prior to the boat tour. Attendees became familiar with the contents of the draft Bayway Strategic Implementation and Marketing Plan which is near finalization. J. Fullmer indicated that Ellen Kelly, Chair of the Bayway advisory work group would be able to provide additional details about the workshop. J. Fullmer conveyed that completion of the Bayway plan will bring the Council back into the process of formally recognizing south shore Bayway destinations and connectors in the future.

The Inventory and Analysis of Barriers to Fish Passage for Six Long Island South Shore Estuary Reserve Tributaries Report was completed by consultant Nelson, Pope, and Voorhis. The full report will be made available to the Council and Diadromous Fish Workgroup shortly. The workgroup planned to meet in early 2009 to discuss recommendations to present to the Council.

The first permanent fish ladder in the Reserve was installed on the Carmans River in March of 2008. The Reserve office nominated the Carmans river fish ladder partnership for recognition by Coastal America for its annual spirit award.

A draft watershed management plan for Beaver Dam Creek in the town of Brookhaven has been prepared by consultant Nelson, Pope and Voorhis and is currently under review by the Reserve

Office. Once office review is completed, the draft plan will be distributed to the Beaver Dam Creek watershed management plan advisory committee for review. The final watershed management plan will be subject to public information meetings.

Significant progress has been made to address water quality problems in the Western Bays as identified by the Western Bays Water Quality Management Workgroup. There were discussions between key state and federal agencies and academic institutions to identify data, monitoring, and analyses needed to move forward with a Total Maximum Daily Load analysis for the Western Bays.

A new project has been initiated to develop the planning components of a Reserve Dredged Materials Management Plan as per implementation recommendations in the Reserve Comprehensive Management Plan. The office worked with a project advisory committee and technical consultant to prepare a report that will provide the information needed to proceed with development of a Reserve-wide dredged materials management plan.

Final Draft Council Bylaws for Council consideration based on the work of the Council self-study workgroup and previous Council were provided in advance of the meeting and in the meeting folder.

SSER office staff has been working on completing the draft 2006-2008 Implementation Status Report and have been receiving many great inputs. We are hoping to have a draft finished shortly. The timing of this report is important because it shows partners and policymakers what we all have been doing to advance the CMP.

R. Grover inquired if there was any further opportunity to comment on the barriers to fish passage report or whether the report was final. He suggested that Council members should be more easily able to participate in the review and comment on work being conducted by various workgroups if they were not able to participate in those groups, and suggested further notification and involvement of Council members in the workgroup processes. J. Fullmer agreed that it would be good to provide all Council members with enhanced notice of work group activities, and that the Diadromous Fish Work Group would be having a meeting to discuss the recommendations in the report.

4. DEPARTMENT OF STATE (DOS) REPORT

F. Anders gave the DOS Report:

Over \$1.1 million in 2008 EPF waterfront revitalization grants for six projects within the South Shore Estuary Reserve:

\$30,000 to the Town of Babylon for Digitization of Drainage Infrastructure.

\$100,000 to the Town of Brookhaven for TMDL development for the Forge River.

\$50,000 to the Village of Freeport for a South Shore Blueway.

\$90,000 to the Town of Islip for Tariff Street Storm Water Mitigation.

\$85,000 to Nassau County for a Comprehensive County Vision for Water-dependent Maritime Uses.

\$775,000 to Nassau County for a Nassau County Catch Basin Insert Program.

The Secretary of State recently designated 29 Significant Coastal Fish and Wildlife habitats along the south shore of Long Island. Significant Habitats were originally designated in 1989, but have been revised to include updated information and data. This information is available on the DOS website and was sent to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management for review and approval in January 2009.

A draft report from the New York Oceans and Great Lakes Ecosystem Conservation Council to the Governor and Legislature will establish a road map for how New York's commitment to ecosystem-based management will be implemented. It is a collaborative effort with nine state agencies that comprise the Council. The report and recommendations were drafted and reviewed by this Council and had an anticipated release of February 2009.

M. Dolan Murphy asked if there will be a comment period for the draft ecosystem-based management report and how long it will be. F. Anders responded that there will be a comment period and the Council will be notified of it when it occurs.

F. Anders continued the DOS report:

The Great South Bay Demonstration Area continues to serve as a pioneer for ecosystem-based management initiative. Initiatives this summer included shellfish management, documentation of concentration and sources of nitrogen entering the bay.

The Nature Conservancy's preparation of a Great South Bay Ecosystem-based Management Plan, which will be provided as a technical report to the Council, is nearly complete. Once finalized it will be released to the public for comment and used in management activities. A major strength of the report includes its thorough biologic assessment.

Work on the New York State Coastal Atlas continues. Currently there are approximately 400 datasets including storm drains, wetland boundaries, parks, and fisheries. It is anticipated to have approximately 900 datasets in the future. You can download these datasets online at www.nyoglatlas.org.

5. CITIZENS ADVISORY COMMITTEE (CAC) REPORT

CAC Chair Maureen Dolan Murphy gave the CAC Report:

There have been five CAC meetings since the last Council meeting. At the March 11 CAC meeting a presentation from biologist Dr. Kenneth Barnett discussed the rare species, the Dwarf Eastern Hognose Snake, as living in the Reserve wetlands near Tobay Marina in the town of Oyster Bay. Barnett will be petitioning the regional office of the NYS Department of Environmental Conservation to designate the snake's habitat as an area of "unusual local importance" (ULI). The CAC prepared correspondence to DEC commissioner Pete Grannis in May asking about the status of the wetland, and received a response in June indicating that the wetland area in question is not protected habitat under the state regulations. The DEC response indicated that the wetlands in this area are on the list for inspection to determine if they meet ULI criteria.

At the July 8, 2008 meeting the CAC discussed the process for nomination of 2008 Council stewardship awards recipients. M. Dolan Murphy thanked the Council, the CAC, the Stewardship Subcommittee, and the chair of the Stewardship Subcommittee for making this event successful.

J. Fullmer inquired about the Citizens Advisory Committee or the Council's perspective on expanding the Stewardship Awards to recognize a broader group of organizations or stakeholders each year. M. Dolan Murphy noted that the award is now in its third year and has been expanded from one to two awards, one for a group and one for an individual. She feels it is important to have a limited number of awards so that there is a prestige attached to them, and shared that the CAC will discuss the 2009 Stewardship Awards with the subcommittee. She added that although the program is now in its third year, applications and nomination recommendations still need to be increased.

M. Dolan Murphy continued the CAC Report:

CAC members discussed a road construction project in the Copaigue/Lindenhurst area and expressed questions on how the project may be impacting the Great South Bay relative to stormwater control. The CAC requested information about the project and its potential impacts. The SSER office followed up with the Town of Babylon and confirmed the installation of 38 new leaching basins to improve stormwater quality in connection with the Strong's Road improvements.

CAC members had a discussion on the current regulations regarding the taking of horseshoe crabs, the increased presence of out of state harvesters due to the closure of horseshoe crab fisheries in other states, and water quality issues affecting horseshoe crabs. Brookhaven Baymen's Association will be working with Fire Island National Seashore to craft regulations that allow for taking horseshoe crabs for personal use as bait through a quota system based on regulations already in place in Alaska.

Trout Unlimited updated CAC members on the state of the Carmans River. Water level has decreased in lakes along the river, and members are looking into possible causes of this decline. Trout Unlimited has been conducting an insect survey which indicates that the river is in a healthy state. Invasive plants in Upper and Lower Lake are still a concern, and different options are being examined by the Town of Brookhaven's Carmans River Task Force. The fish ladder at Hard's Lake Dam has been working well but needs to be cleaned out.

At the September 9, 2008 CAC meeting, Rob Weltner of Operation SPLASH gave a presentation on boat bottom paints and screened a video entitled *Time for a Change: Alternatives to Copper-based Boat Bottom Paint* by the University of California. He reported that Long Island boaters commonly used ablative bottom paint that contains cuprous oxide. As the bottom paint leaches off boats, harmful deposits of cuprous oxide accumulate in the sediments. SPLASH believes the toxicity may be directly responsible for the absence of many desirable species in SSER canals. Operation SPLASH is working to educate marina owners through the NYS Clean Marina Program and recommends using a product called ePaint that does not contain harmful chemicals.

At the November 18, 2008 meeting the CAC received updates on the SSER Bayway Workgroup and the Western Bays Workgroup. CAC members continue to support the advancement of a Total Maximum Daily Load for the Western Bays and are encouraged by the recent progress.

F. Anders thanked M. Dolan Murphy and J. Fullmer for their reports, and moved to an update report from the Council Workgroups.

6. COUNCIL WORKGROUP REPORTS (Dredged Materials Management, South Shore Bayway, Western Bays Water Quality Management, and Council Self Study Workgroups)

Lou Siegel gave the Dredged Material Management Workgroup Report:

The contract for the Planning for Dredged Material Management in the South Shore Estuary Reserve project that was announced at the last Council meeting was executed in March of 2008 by the Department of State with Woods Hole Group as a contractor. A Project Advisory Committee made up of government and non-government stakeholders with interest and expertise in dredging management issues has been established. The SSER Office worked with the workgroup chair and the contractor to organize and plan the initial scoping meeting which was held on August 19, 2008, and a second meeting was held on November 19, 2008. The purpose of this project is to develop the components that will ultimately be used in the formation of a Final Dredged Materials Management Plan.

The goals and objectives of the plan are to “enhance and improve navigability for water dependent uses, reduce navigational hazards and maintain vessel access.”

The project will include:

- An internet portal used to manage information for the workgroup and public concerning the project.
- An assessment of Current Dredging conditions and Future Needs including a GIS database
- An Inventory and Distribution Assessment of Contaminated Sediments
- An investigation of Opportunities for Improved Sediment Management
- An investigation of Beneficial Use Opportunities
- Recommendations to Facilitate Implementation

The Reserve office assisted the contractor in setting up the internet portal and collecting data from the necessary sources for the initial database upon which much of the recommendations of the project are based.

The final report will include the Recommended Components of a Dredged Materials Management Plan for the South Shore Estuary Reserve.

The workgroup or Project Advisory Committee will continue to hold quarterly meetings, the next of which is scheduled for February 11, 2009.

Three regional public meetings will be held in the Western Bays region, Eastern Bays region and Great South Bay. A presentation to the Reserve Council will be made at the completion of the project.

Charles DeQuillfeldt presented the Western Bays Water Quality Workgroup Report:

The Western Bays Water Quality Management Workgroup met on November 18, 2008. The workgroup is working toward establishing a Total Maximum Daily Load (TMDL) for nitrogen. Before this can be accomplished, data gaps must be filled to establish defensible, direct causal links between pollution, loads, and impairment. The largest identifiable gap right now is stormwater quality, and there are also some gaps regarding the presence of the macroalgae *Ulva* and where, why, and what kinds of impacts it is having.

There was a presentation from Steve Terracciano of the USGS at the November 18 meeting. The presentation informed about a USGS water quality monitoring station in Reynolds Channel as well as a new USGS estuary monitoring station to be located in mid-Hempstead Bay that will record additional water quality information to be displayed on the internet (<http://ny.water.us.gov>). Water quality information can be viewed on the internet over multiple time frames and dates at the website. The new monitoring station hopes to be operational in 2009. Information from the new monitoring station in Hempstead Bay will be directly relevant to establishing the TMDL, although it does not provide all necessary data.

There was also a presentation from SUNY Stony Brook School of Marine and Atmospheric Sciences (SoMAS). This presentation focused on 7 different tasks to gather hard information needed to calculate the TMDL. These tasks include reviewing historic and available data, conducting bathymetry studies and creating GIS datasets, updating hydrodynamic models, conducting pelagic water column surveys, conducting sediment and residence time studies, estimating marsh subsidence, and assessing fish species population dynamics. The tasks are estimated to take from 1-2 years to complete. This research will be significant for the establishment of the TMDL and fills some data gaps. They hope to begin this research some time during 2009. SUNY SoMAS and NYSDOS have yet to sign an MOU agreement, but have an understanding and they will be working toward signing an agreement. After research is completed and data gaps are filled, it is estimated it will take 3-5 years to establish the TMDL.

J. Fullmer asked about federal funds going to environmental projects as economic stimulus and whether there are opportunities to move toward infrastructure updates like capital projects for stormwater or wastewater treatment. C. DeQuillfeldt responded that the DEC is going through the process of identifying shovel-ready projects for whatever funds might come within the next six months to a year. C. DeQuillfeldt also clarified that the TMDL will not be ready by then, but if there are other projects the town and county want to move forward on, they should be identified. J. Fullmer asked that counties and municipalities consider how shovel-ready projects are consistent with the CMP.

M. Shea pointed out the need to incorporate the DEC into permitting for these projects as they are getting ready to move forward, and notes the lengthy time it takes to get permits. He noted the importance of communication between the DEC and the towns to get these projects on their lists in case there is money coming from a federal stimulus package. C. DeQuillfeldt said the DEC recognizes this and conveyed that it would not hurt to present the shovel-ready projects in the context of the CMP collectively.

B. Grover asked about marsh subsidence as an issue in the TMDL, and C. DeQuillfeldt replied that wetland loss throughout New York State is affecting sediment budgeting and the subsequent release of nutrients from peat breaking down in the marsh. W. Wise added that biogeochemical processes are going on in marshes that could be affected and it is important to study this.

J. Febrizio asked about how the TMDL will relate to the plan the City of Long Beach is currently implementing to reduce ammonia discharges from its wastewater treatment plant and whether they may have to do subsequent reductions. C. DeQuillfeldt responded that they could be required to do additional reductions as a result of an adopted TMDL.

Ellen Kelly presented the South Shore Bayway Workgroup Report:

All the members of the project advisory committee have been very diligent in working with the consultant on the draft Bayway strategic implementation and marketing plan. At a stakeholder meeting on October 16, 2008, the committee was able to discuss these issues with key stakeholders including Council members. The meeting was very well received by the 30 or so people who participated. All work that has been done with the marketing consultant – the visual identity, website, color palette and logo – went through a review by the committee and was tremendously educational. Now that a Bayway website is in pre-launch, the advisory committee can take a look and begin to consider its potential.

Some next steps are to zero in on specific geographic areas and bring more local stakeholders to the table to familiarize them with the Bayway. For the Council, now that we have gone through this process and we have the framework, the continuing task is recognizing the destinations and connectors. Many of these are focused on in the report but some still need to be identified. We needed to be at the stage we are now so the Council can resume the development of the Bayway destinations and connectors.

William Wise presented the Council Self Study Workgroup/Council By-laws Report:

W. Wise noted the final draft by-laws prepared for Council consideration as a result of meetings of the self study workgroup and previous Council discussion. He expressed his desire as workgroup chair for the Council to act to adopt the by-laws and noted that they were intentionally brief and developed to address a certain number of critical issues identified by the workgroup and Council.

He reviewed the sections of the final draft by-laws and made particular note about the impact and outcome of abstention votes relating to by-laws revision. He distributed a memo on the topic of abstention votes. There were questions and discussion about the use of video conferencing as a substitute for physical attendance and voting. It was agreed based on legal opinion that members could vote utilizing video conferencing, provided the public notice for the meeting informs the public that videoconferencing will be used, identifies the locations for the meeting, and states that the public has the right to attend the meeting at any of the locations.

J. Fullmer noted the topic of the public's involvement in the process of amending the CMP, consistent with Article 46 which established the Reserve and the Council. If the Council determines the need to amend or revise the CMP, there would have to be public hearings in two

locations consistent with the way the CMP was originally adopted in 2001. He suggested that proposed revisions or amendments be grouped and presented together.

J. Febrizio asked about any revision regarding the location of the meetings so that locations will be relatively convenient for all Council members. It was agreed that past efforts to move Council meeting locations throughout the Reserve area were desirable and did not need to be addressed in by-laws.

L. Fischer asked for clarification regarding absences and if absent from two or more meetings would it result in loss of voting rights. B. Wise responded that it would not, but the Council Chair could issue a friendly reminder to determine interest to continue as a voting member.

B. Glacken requested that the question of adoption of the draft by-laws be moved for Council consideration. F. Anders asked for a vote on adoption of the By-laws. The vote of members present was unanimous: 16- yea, 0- nay.

J. Fullmer agreed to distribute copies of the adopted by-laws to the Council electronically.

7. IMPLEMENTATION PARTNER REPORTS

Kevin McAllister of the Peconic and South Shore Baykeeper presented on the status of a No Discharge Zone (NDZ) petition for the South Shore Estuary Reserve:

K. McAllister described his organization's participation working with the Reserve Towns in the process of nominating the south shore bays within the Reserve as a federal vessel no-discharge zone (NDZ) and explained that a completed nomination had been prepared and submitted to the DEC Commissioner for consideration prior to submittal to the EPA for adoption.

There was discussion and questions about NDZ enforcement, and how a NDZ determination would be consistent with the implementation recommendations of the Reserve CMP.

K. McAllister requested Council support for the NDZ designation and asked that any expression of support be conveyed to the DEC Commissioner. There was consensus that a letter be prepared by the Reserve office on behalf of the Council and forwarded to the DEC Commissioner expressing Council support for a NDZ designation as consistent with the Reserve CMP but not attesting to completeness of the NDZ petition as it had not been reviewed by the Council.

J. Fullmer agreed to prepare and send the letter.

William Wise presented on efforts to increase clam populations:

W. Wise discussed the status of efforts by the Bluepoints Bottomlands Council and the Nature Conservancy to increase hard clam populations by establishing spawner sanctuaries in Great South Bay and the initial results of surveys to document spawning activity and the presence of juvenile clams. He reported the 2008 survey documented a sizable increase in juvenile clams and expressed cautious optimism that previous clam restoration efforts may be having some success. He cautioned that the jury was still out as many of the juveniles may be predated and there were other factors that could impact success including Brown Tide levels, but that it would be important to continue closely monitoring the growth of the juvenile clams. He reported that the Suffolk County Executive's Office was initiating a new advisory group including the towns,

County and TNC to address specific issues key to rebuilding and protecting the spawning population of hard clams. An early priority issue will be enforcement and maximizing the levels of cooperation and coordination between the various agencies that play a role in managing shellfish. A second issue will be consistency of harvest limits and permitting requirements that are maintained by the towns and by the state.

There were various questions about clam restoration. There was consensus that hard conclusions could not be drawn from the data at this time and that the population of juvenile clams has increased. The 4-5 years worth of data the Nature Conservancy has collected are not yet being synthesized in a way that would make clear whether the observations are significant trends or not. It was also pointed out that the Bottomlands Council is not only interested in clams, but also in nutrients, seagrass, and other issues that are important for information gathering.

8. NEW BUSINESS

J. Fullmer distributed a preliminary list of potential ideas for future projects that could be undertaken by either the Reserve Office or the Reserve Council and appropriate partners to advance the CMP. He explained that the majority of suggested project ideas were based on previous program work that had been undertaken by the Office, Council, committees and workgroups. He suggested that if the 2009-10 state budget provides new appropriations for SSER implementation activities, the Council should consider identifying priority areas the Council would be interested in moving forward.

J. Fullmer continued that there has been increasing discussion and interest about the Forge River in Brookhaven. A TMDL will be established for the Forge, and major issues are the relationship between the role of groundwater in surface water quality and the contributions of onsite wastewater systems in the watershed. He explained that this is a potential problem in multiple parts of the Reserve watershed and is not a topic that the existing CMP addresses clearly, but that this may be an example of an issue to consider when discussing CMP revision or amendment.

J. Fullmer requested that the Council provide some feedback on the list of potential projects or additional suggestions that Council members may have in the near future. F. Anders added that because of the state fiscal status, contracting takes longer than ever and getting through an RFP process can be lengthier than usual. Input to the Reserve Office, aside from being consistent with the bylaws, is important to keep the work moving forward.

9. PUBLIC COMMENT

F. Anders asked if there was anyone from the public who wished to address the Council. There were no comments.

10. ADJOURNMENT

There being no further business, **F. Anders requested a motion to adjourn the Council meeting. M. Eagan motioned to adjourn the meeting, seconded by R. Grover. All were in favor and the meeting was adjourned at 3:45 p.m.**