

Peconic Estuary Protection Committee
Meeting Summary - March 1, 2017

Cornell Cooperative Extension
423 Griffing Avenue, Riverhead, NY
10:00am- 12:00pm

ATTENDEES

Committee Member Representatives

Town of Brookhaven | Veronica King (Committee Vice-Chair)
Town of East Hampton | Mark Abramson
Town of Southampton | Christine Fetten
Town of Southold | Michael Collins
Suffolk County | Frank Castelli
Village of Sag Harbor | John Parker (for Robert Stein)

Peconic Estuary Protection Committee Coordinator | Rachel Gruzen

Additional Participants

Scott Curatolo-Wagemann | Cornell Cooperative Extension Marine Program
Sarah Schaefer | Peconic Estuary Program
Elizabeth Hornstein | Peconic Estuary Program/Department of Environmental Conservation

Committee Member Representatives Not Present

Town of Riverhead | Drew Dillingham (Committee Chair)
Town of Shelter Island | Laury Dowd
Village of Greenport | George Hubbard, Paul Pallas
Village of North Haven | Dianne Skilbred
New York State Department of Transportation | Gregg Williams

I. February 1st Meeting Summary Approved

The Peconic Estuary Protection Committee (Committee) members approved the February 1st Meeting Summary.

II. Committee Dues

Christine Fetten, representative of the Town of Southampton, which is the Committee Treasurer, noted that 2017 dues are still pending from several members. The Coordinator will remind the member representatives to facilitate payment. *Update as of March 13th: all outstanding dues have either been submitted or are in process according to member representatives.*

III. NYSDEC Draft SPDES General Permit for Stormwater Discharges from MS4s

Committee members submitted comments on February 3rd to the New York State Department of Environmental Conservation (NYSDEC) on the draft State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from MS4s. Three sets of comments were submitted:

1. Individual letters from Committee members including Brookhaven, East Hampton, Riverhead, Shelter Island and Southampton;
2. A letter from the Committee signed by the Coordinator on behalf of all members; and
3. A joint letter from the Peconic Estuary, Oyster Bay/Cold Spring Harbor, Hempstead Harbor, and Manhasset Bay Protection Committees, Setauket Harbor Task Force, Peconic Estuary Program, Friends of the Bay and the Town of Islip.

Sara Deonarine of Manhasset Bay Protection Committee was primary author of the joint letter while the Peconic Estuary Protection Committee Coordinator and Vice-Chair, Veronica King, contributed content and editing, along with Eileen Keenan of Nelson, Pope & Voorhis and Eric Swenson of Hempstead Harbor Protection Committee. The inter-municipal alliances, government entities and citizens' groups that signed the letter represented 42 local governments and one agency focused on improving water quality and restoring waterways around Long Island. The Coordinator reported that comments were also produced by the following MS4 Operators, if not more: Albany Stormwater Coalition (12 members), Chemung County Stormwater Coalition (11 municipalities), Westchester County Department of Planning and Western New York Stormwater Coalition (44 municipalities and agencies). The total number of municipalities and agencies providing comments across New York State was at a minimum 110.

The Committee conjectured that given the volume of comments submitted to the NYSDEC, the NYSDEC would likely produce another draft General Permit for public review and extend the current General Permit (0-15-003) which is set to expire on April 30, 2017. There has been no information from NYSDEC as of yet on the path forward.

ACTION ITEM:

- **Coordinator to monitor NYSDEC announcements for a determination on whether the current General Permit 0-15-003 is extended beyond its expiry date of April 30, 2017 or replaced with the General Permit 0-17-002.**

IV. Peconic Estuary Program Grant

The Peconic Estuary Program (PEP) was recently awarded a grant for \$200,000. The monies are primarily allocated to the two USGS continuous water quality monitoring stations in the Peconic Estuary located in Orient Harbor and under the County Highway 105 Bridge in Riverhead. The stations' data is available online at the websites below. The stations were installed in 2012 and monitor dissolved oxygen, temperature, pH, water level

elevation, chlorophyll (Riverhead only), nitrate, turbidity and salinity. The data supplements that collected by Suffolk County's Bureau of Marine Resources at various locations throughout the Estuary.

- Orient Harbor: https://waterdata.usgs.gov/ny/nwis/uv/?site_no=01304200
- Riverhead, 2015 Bridge: https://waterdata.usgs.gov/ny/nwis/uv/?site_no=01304562

V. Wastewater Management Systems and Policy

Large-Capacity Cesspools

The Committee revisited the topic of Large-Capacity Cesspools (LCCs) and the latest developments in Suffolk County's Septic Code. Michael Collins of the Town of Southold reviewed the Environmental Protection Agency (EPA) regulation that cesspools are illegal for any "multiple dwelling, business establishment, community or regional business establishment" serving greater than 20 persons. Under these conditions the cesspool is considered a "Class V Injection Well". The regulation does not apply to single-family homes. Collins stated that the Southold engineering department has looked into the regulation extensively and concluded that adding a properly-sized septic tank in front of a cesspool meets EPA requirements for pre-treatment and exempts the system from the EPA regulation. See the February 1st Meeting Summary for additional links to the regulations and EPA websites on Class V Injection Wells.

- EPA Code of Federal Regulations for "Requirements for Owners and Operators of Class V Injection Wells", 40 CFR 144.80 to 144.98: <https://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol23/pdf/CFR-2011-title40-vol23-part144-subpartG-subjectgroup-id395.pdf>
- EPA website outlining where the regulation on LCCs applies: <https://www.epa.gov/uic/large-capacity-cesspools>
- EPA on Class V Wells, "When Is a Septic System Regulated as a Class V Well?" https://www.epa.gov/sites/production/files/2015-08/documents/fs_septic_sys.pdf
- EPA on Class V Wells, "When Are Stormwater Discharges Regulated As Class V Wells?" https://www.epa.gov/sites/production/files/2015-08/documents/fs_storm.pdf

Suffolk County Grant for Municipal Parks

The Committee discussed that according to the above EPA regulations, septic upgrades would be necessary at municipal facilities such as parks if there are cesspools in place, and that innovative/alternative onsite wastewater treatment systems (I/A OWTS) would be an even greater improvement to reduce the nitrogen output. Several members agreed that one of the best near-term action items that municipalities could initiate toward water quality improvement would be to conduct septic upgrades to I/A OWTS at municipal properties. Frank Castelli of Suffolk County reminded members of the availability of County funding for municipalities to upgrade to I/A OWTS at municipal parks. The grant is on a rolling application cycle. Further information on the County's Water Quality Protection and Restoration Program grant can be found here:

<http://www.suffolkcountyny.gov/Departments/EconomicDevelopmentandPlanning/PlanningandEnvironment/WaterQualityImprovement.aspx>

The Coordinator stated that there were at least two members interested in applying for the grant but unable to participate in the required pre-application information session, or Proposer's Conference, held in December. She asked whether the County would consider hosting another information session on a quarterly (March) or semi-annual (June) schedule, given there are still funds available in the rolling cycle. Castelli stated he would investigate with colleagues. *Update as of 3/13: The County will consider hosting another Proposer's Conference at the end of 2017 if there are still funds available.*

John Parker of Sag Harbor Village inquired into the performance of I/A OWTS for seasonal use at municipal comfort stations that might be open for approximately 8 hours per day during the 3-4 month summer season and closed the remainder of the year. The Peconic Estuary Program and Coordinator volunteered to look further into the topic by contacting experts including the manufacturer representative for the I/A OWTS in the Suffolk County pilot program. Collins stated that I/A OWTS take a few weeks to reach a “steady state” of biological productivity and that any I/A OWTS is better than a traditional septic system that performs zero nitrogen removal. Furthermore it was agreed that this could be an ideal opportunity to test and collect data on seasonal use performance. It was noted that wastewater treatment wetlands, such as the one under construction at Sylvester Manor on Shelter Island, may be a better design for seasonal use than septic tanks. Sara Gordon of Sylvester Manor, who presented to the Committee in 2016, could provide further information on wastewater treatment wetlands.

Sarah Shaefer surveyed the Committee’s interest in holding an upcoming Committee meeting at the Suffolk County Department of Health Services to enable the Department’s Justin Jobin, Environmental Projects Coordinator, and Ken Zegel, Associate Public Health Engineer, to present on the latest developments in wastewater subwatershed modeling and the I/A OWTS program. The Committee was highly supportive and Vice-Chair Veronica King suggested the May 3rd Committee meeting. Schaeffer will follow up with Jobin and Zegel.

Suffolk County and Local Septic Codes

The Committee reviewed Suffolk County’s progress in rewriting the Sanitary Code to allow for I/A OWTS. Article 19 was approved in 2016. It’s intent and purpose is to: “a. Facilitate development and use of I/A OWTS in Suffolk County as an environmental conservation and public health protection measure; and b. Authorize the Suffolk County Department of Health Services, as a Responsible Management Entity, to develop and use resources, standards, capabilities and systems to ensure that I/A OWTS are properly managed and maintained.” Sarah Schaefer of Suffolk County and the Peconic Estuary Program noted that the County is hiring new staff as a result of Article 19, including expanding staff for processing permit applications and conducting inspections.

Article 6, which is currently being revised, addresses realty subdivisions, developments and other construction projects. The Draft Article 6 public comment period was supposedly closed on March 1st. According to Collins, the revised Article 6 will require a permit for all new septic system installations as well as retrofits, expansions or replacements of existing systems. Article 6 also requires all new installations starting January 1, 2018 to perform nitrogen treatment. Even pre-existing septic systems will require an upgrade whether fixing the system, expanding or replacing it.

I/A OWTS for Industrial and Commercial Applications

No Committee member was aware of a County program in progress or planned for the future to test commercial or industrial applications of I/A OWTS. Committee members were curious whether the technology would be different from the system designs used for residential application. Jobin and Zegel could answer these questions at the proposed presentation.

Water Treatment Plant Connections

The Committee briefly discussed the economics versus efficiency of wastewater treatment plants (WTPs) to manage sewage. The cost-benefit analysis, specifically the cost per pound of sewage mitigated, would be dependent upon the cost of upgrading existing STPs and adding new connections to residences. These costs, it was agreed, can vary from community to community. One member noted that guidelines adopted by the towns on how Community Preservation Fund (CPF) monies can be spent include financing upgrades to WTPs. It was noted that there has always been community concern that WTPs allow for increased land development densities, therefore authors of the Suffolk County Article 19 included text that encouraging I/A OWTS should not lead to upzoning. Another member commented that the CPF guidelines, which allow for the financing of I/A OWTS, have text stating the same.

Greywater for Irrigation

Suffolk County Water Authority (SCWA) is considering implementing a tiered rate system whereby those who use a high volume of water beyond a SCWA threshold are charged a higher rate. This system is in large part a response to the high water consumption rate at residences on the North and South Forks for irrigation purposes. This information prompted a Committee discussion on how greywater in lieu of groundwater has been used successfully for landscape irrigation. Greywater is water from sinks, dishwashers and showers that has a low organic and bacterial load, as compared to blackwater which is wastewater carrying fecal matter. Greywater repurposing for irrigation and flushing toilets is common around the country, particularly in U.S. Green Building Council LEED certified buildings. In a related case, the Suffolk County Indian Island County Park in Riverhead has successfully designed a system whereby treated wastewater from the sewage treatment plant is used for irrigating the golf course. This reduces the amount of water discharged into surface waters of the Peconic River as well as the amount of groundwater extracted for irrigation. Members agreed that given the trend of increased water usage on eastern Long Island, and the rise in sea level which also threatens fresh water reserves in Suffolk County, it would be beneficial to advocate for water conservation measures such as the above.

ACTION ITEMS:

- Municipalities to consider applying for the Suffolk County WQPRP grant opportunity for municipal parks to upgrade septic systems. Applicants must have attended the December 2016 Proposer's Conference. <http://www.suffolkcountyny.gov/Departments/EconomicDevelopmentandPlanning/PlanningandEnvironment/WaterQualityImprovement.aspx>
- Castelli of Suffolk County to inquire on whether an additional pre-application information session can be held on a quarterly or semi-annual basis for the Call for Applications for Municipal Parks. *Update as of 3/13/17: Suffolk County will consider another Proposers Conference for the end of 2017 if there are still funds available.*
- Shaefer of PEP to coordinate with Justin Jobin and Ken Zegel on a presentation to the Committee by the Suffolk County Department of Health Services on the latest developments in wastewater subwatershed modeling and the I/A OWTS program. *Update as of 3/13/17: May 3rd has been set as a tentative date.*
- Coordinator and PEP to investigate on I/A OWTS performance in seasonal use applications and connect Sag Harbor, if interested, to the manufacturers in the Suffolk County I/A OWTS pilot program, as well as Sara Gordon at Sylvester Manor regarding the design and install of a wastewater treatment wetland.
- Members to consider advocating for the use of greywater in irrigation systems in lieu of groundwater, as a solution to wastewater management and future water scarcity in Suffolk County.

VI. NYSDEC Pending Withdrawal of the Pathogen TMDLs for Select Waterbodies

Michael Collins reported that there has been no update from NYSDEC on the withdrawal of pathogen TMDLs for select Long Island waterbodies. The last communication from Ken Kosinski, Environmental Engineer with NYSDEC Division of Water, was on December 16th, 2016, at which time he wrote representatives of the Peconic Estuary Protection Committee and other Long Island protection committees stating there was a pending NYSDEC meeting the week of December 26th for "discussions with EPA on the level of detail needed for NYSDEC's justification and documentation of the issues/errors in the previously approved TMDLs to support withdrawal."

Update as of 3/13/17: Ken Kosinski replied on March 8th to an inquiry from Michael Collins on the above. Kosinski wrote: "[NYSDEC is] having on-going discussions with EPA on the Bacteria TMDLs to work through the issues. EPA also provided a number of comments on DEC's draft MS4 permit. We are working to provide answers to their comments and refine our proposal for the Bacteria TMDLs. The next scheduled call with EPA is the week of 3/20."

Background: the NYSDEC formally submitted a request to the EPA on October 25, 2016, notifying the EPA of the NYSDEC's intention to withdraw, pending revision, pathogen TMDLs for:

- *Pathogen Total Maximum Daily Loads for Shellfish Waters in Oyster Bay Harbor and Mill Neck Creek, September 2003*
- *Peconic Bay Pathogens TMDL, September 2006*
- *Shellfish Pathogen TMDLs for 27 303(d) listed Waters, September 2007"*

Kosinski shared this information with the Peconic Estuary Protection Committee and other Long Island protection committees in early November by conference call and email. Kosinski stated at the time that "the basis for such withdrawal was due to new information that indicates these TMDLs incorrectly identified the sources of impairment and/or the relative contribution from certain sources of impairment, and in turn, incorrectly allocated reductions." Kosinski also stated that "the process to withdraw the TMDLs includes a formal public review and comment period of NYSDEC's justification and documentation of the issues/errors in the previously approved TMDLs and, ultimately, EPA approval of the withdrawal documents." The November 2, 2016 meeting summary provides further detail.

Committee members agreed at the March meeting that inaccurate pathogen TMDLs are costly to the municipalities. Resources are wasted producing semi-annual reports and demonstrating progress toward water quality targets that the NYSDEC agrees are flawed. The Committee discussed the importance of having the TMDLs withdrawn as soon as possible and the NYSDEC collect new data. Michael Collins outlined recommended steps in an email to Kosinski and other NYSDEC staff titled, "Re Bacteria TMDL Conference Call" and dated November 7, 2016. For further information see Appendix D in the Committee Meeting Summary for November 4, 2016. The Committee agreed that while the NYSDEC and EPA evaluate Pathogen TMDL withdrawal, the municipalities should prioritize advancing water quality sampling for pathogens with the NYSDEC Shellfish Sanitation Program to fill the data gaps on the existing data sets.

VII. Water Quality Monitoring for Pathogens with the NYSDEC Shellfish Sanitation Program

Elizabeth Hornstein reached out to the NYSDEC Shellfish Sanitation Program on behalf of the Committee to inquire into using NYSDEC laboratories to process water quality samples from waterbodies with shellfish restrictions. Hornstein spoke with Debra Barnes, Shellfisheries Section Head, and Bill Hastback who stated that the Program's laboratory will be at full capacity over coming months testing for marine biotoxins that cause Paralytic Shellfish Poisoning (PSP). Southold had conducted water quality sampling with the NYSDEC biologists over the last year, providing as many as six samples per month. The objective was to fill data gaps and reassess waterbodies closed to shellfishing that have indicators of improvement. East Hampton, Riverhead and Southampton had expressed interest in previous Committee meetings in conducting similar sampling to fill the data gaps.

It was agreed the Coordinator will reach out to Barnes and Hastback to discuss further. She will propose that if the laboratories cannot accept water quality samples over coming months, perhaps municipal staff could be trained by the NYSDEC laboratory in its collection protocols, and work with NYSDEC regional biologists to review sanitary surveys and assess for which waterbodies there are data gaps, so that in the fall sampling could be commenced.

It was agreed that the first step is for a municipality to meet with the NYSDEC biologist assigned to the region, review the sanitary surveys, and assess which waterbodies are closed for what reason, and assess where are the data gaps. It was noted that the NYS DEC maps on shellfish closures do not include data on whether waterbodies are closed for administrative reasons or because of water quality data. Hearsay is that the NYSDEC likely will not sample all closed waterbodies, such as the ones that have long-term historic pathogen impairment, but may be open to testing those that have shown signs of water quality improvement.

ACTION ITEM:

- **Coordinator to reach out to Debra Barnes and Bill Hastback at the NYSDEC Shellfish Sanitation Program to discuss ways in which the municipalities and NYSDEC could collaborate on water quality sampling in waterbodies with shellfish restrictions due to pathogen impairment.**

VIII. Grant Application Pre-Proposal by Cornell Cooperative Extension Marine Program, “Application of qPCR As a Tool to Enhance DNA Source Tracking Techniques Within the Peconic Estuary”

Scott Curatolo-Wagemann presented on Cornell Cooperative Extension Marine Program’s recently submitted grant proposal to New York SeaGrant titled, “Application of qPCR As a Tool to Enhance DNA Source Tracking Techniques Within the Peconic Estuary”. The grant proposal was shared with the Committee members on February 27th under the email titled, “CCE and Bacterial Source Tracking – Grant Proposal”. Under the qPCR process, pathogen analysis would be faster and cheaper, and researchers could rapidly assess whether the pollutant is human-sourced or not, as well as the quantity of the bacteria in the system. In short, scientists could rapidly assess whether there is human waste in the system which helps determine the remediation strategy for that waterbody.

The Committee and Curatolo-Wagemann agreed that if the project was awarded grant funds, Committee members could contribute with in-kind donations of time collecting water quality samples. This would pair well with collecting water quality samples for the NYSDEC Shellfish Sanitation Program described above. As for other entities conducting water quality sampling on the East End, members mentioned that the NYSDEC and Suffolk County are collecting pathogen and nitrogen data, and Dr. Christopher Gobler and his team at Stony Brook University have contracts with several of the municipalities and their trustees to monitor water quality, with focus on nitrogen and Harmful Algal Blooms (HABs).

IX. GIS Working Group 2017 Land Use Update & New Data Request

Ross Baldwin, GIS Manager to Southampton, and leader of the Committee’s GIS Working Group, wrote to the Working Group members on February 28th requesting their updated 2017 land use data. The data can be used to update our Committee land use maps. Any updates to outfalls can also be provided at this time. Baldwin also inquired into members’ interest in providing data on zoning and protected/preserved lands inventory to develop build-out scenarios to estimate the maximum development footprint. This data could be integrated into nitrogen modeling for eastern Long Island.

Update as of 3/13: Dr. Alison Branco of the Peconic Estuary Program organized a conference call for March 17th between the Committee GIS Working Group, Suffolk County Planning Department and Suffolk County Department of Health Services and their consultants working on the Subwatersheds Wastewater Plan. Agenda includes review of the land use data and discussion on developing build-out scenarios.

X. Peconic Estuary Boater’s Education

The Coordinator worked with the Association of Marine Industries (AMI) Long Island to provide edits to its 2017 Boater’s Guide. AMI graciously welcomed the Committee to update text on the Peconic Estuary and environmentally responsible boating practices, as well as add text on the Peconic Estuary Protection Committee and its mission. The educational text, which spans 8 pages of the booklet, was originally drafted by the Peconic Estuary Program. AMI is a “non-profit trade organization consisting of over 135 marine related businesses dedicated to enhancing the Long Island boating public’s enjoyment of our clean coastal waters.” The Coordinator will survey members on their interest in distributing copies at municipal marinas and boating facilities and AMI can mail out copies free of charge.

ACTION ITEM:

- **The Coordinator will survey members on their interest in distributing copies of the AMI Boater’s Guide at municipal marinas and boating facilities and AMI can mail out copies free of charge.**

XI. Website

The Coordinator will focus on the Committee website in March. This entails finalizing individual webpage content and text, and collecting documents for the members' library. The Coordinator will reach out to individual members to collect existing educational material and documents on water quality protection and stormwater management.

XII. Coordinator Contract

The Coordinator's contract will expire March 31st. She presented for the Committee's consideration a proposal for a rate increase under the next contract, if the Committee chooses to renew it. The proposal was outlined in the document titled, "Coordinator Scope of Work" and distributed on February 23rd. Given there was not a quorum to discuss the above or vote, it was agreed that the Chair and Vice Chair would reach out to members individually to discuss and vote on the above before the expiry of the Coordinator's contract.

XIII. Committee Priorities 2017

Given the absence of several members and the allocation of time to a discussion of wastewater topics, the Committee agreed to postpone discussion of Committee Priorities 2017 to the April 5th meeting. This item will be at the top of the April agenda.

XIV. Date Change for Upcoming Committee Meetings

All upcoming meetings are scheduled for Cornell Cooperative Extension unless otherwise noted. There are date changes for the June and July meetings:

- To accommodate a Peconic Estuary Program Management meeting, the June Committee meeting will move from June 7th to Friday, June 9th.
- To accommodate the July 4th holiday schedule and associated vacations, the July meeting will move from July 5th to Wednesday, July 12th.

Kindly note your calendars for the 2017 meeting dates:

*April 5th, May 3rd, June 9th, July 12th, August 2nd,
September 6th, October 4th, November 1st, December 6th*

*Meetings are held at Cornell Cooperative Extension, 423 Griffing Avenue, Riverhead, NY 11901
unless otherwise noted.*