

Peconic Estuary Protection Committee  
**Meeting Summary – January 4, 2017**

Cornell Cooperative Extension  
423 Griffing Avenue, Riverhead, NY  
10:00am- 12:30pm

**ATTENDEES**

**Committee Member Representatives**

Town of Brookhaven | Veronica King (Committee Vice-Chair)  
Town of East Hampton | Mark Abramson  
Town of Riverhead | Drew Dillingham (Committee Chair)  
Town of Shelter Island | John Cronin (for Laury Dowd)  
Town of Southampton | Christine Fetten  
Town of Southold | Michael Collins  
Suffolk County | Elyse Jay (by phone), Alison Branco  
New York State Department of Transportation | Gregg Williams  
Peconic Estuary Protection Committee Coordinator | Rachel Gruzen

**Guests**

Eileen Keenan, Nelson, Pope & Voorhis  
Sarah Schaefer, Peconic Estuary Program  
Christie Pfoertner, Peconic Estuary Program / Cornell Cooperative Extension

***Committee Member Representatives Not Present***

*Village of Greenport | George Hubbard, Paul Pallas  
Village of North Haven | Dianne Skilbred  
Village of Sag Harbor | Robert Stein*

## I. Approve Meeting Summaries

The Peconic Estuary Protection Committee (Committee) approved the November 2<sup>nd</sup> and December 9<sup>th</sup> Meeting Summaries.

## II. Budget 2017

The Committee approved a 2017 budget at the same contribution amounts as 2016 for all members except for the Town of Shelter Island, which increased its contribution from the village rate of \$1,800 to the township rate of \$6,000. The budget sum had been miscalculated at the December meeting and presented as a number slightly below the correct amount in the table below. The Committee approved the correct budget of \$58, 200 with 8 of 11 members in favor and 0 opposed. 3 members were not present to vote.

Christine Fetten will instruct Southampton Township, the Committee Treasurer, to issue invoices to the Committee members. It was agreed the next Coordinator contract term will be approximately nine months in duration, starting late March and ending December 31, and the following 2018 contract 12 months in duration. In this way the contract cycle can match the municipalities' budget calendar and will be easier to administer.

Suffolk County at \$15,000	\$15,000
6 Towns at \$6,000: Brookhaven, East Hampton, Riverhead, Shelter Island, Southampton and Southold	\$36,000
3 Villages at \$1,800: Greenport, North Haven and Sag Harbor	\$5,400
Department of Transportation at \$1,800	\$1,800
<b>TOTAL</b>	<b>\$58,200</b>

## III. Committee Elections 2017: Drew Dillingham, Chairperson, and Veronica King, Vice Chairperson

The Committee Coordinator announced the 2017 elections. She and the 2016 Committee Chairperson, Michael Collins, gave background on the responsibilities of the position. It was agreed that moving forward the Chairperson role will emphasize administrative responsibilities and the Vice Chairperson role will emphasize technical advising. Collins stated that he was not going to seek renewal of his position.

Drew Dillingham was nominated to the position of Committee Chairperson for the 2017 term and Veronica King was nominated for a second term to the position of Committee Vice Chairperson. Both were approved with a vote of 8 of 11 members in favor and 0 opposed. 3 members were not present to vote.

## IV. Update on the Committee's GIS Land Use Data

A Suffolk County public server is currently hosting the Geographic Information Systems (GIS) Stormwater Infrastructure Map and data produced by the Committee's GIS Working Group in 2016. The Land Use Map and data are currently not on the server. The County is transferring to a new web host and GIS Working Group leader Rob Baldwin of Southampton Township and Michael Collins will follow up on whether all Committee GIS products are made publicly available on the new site.

Alison Branco informed the Committee that the County's consulting contractor on the Subwatershed Wastewater Plan is using the Committee's land use data for groundwater modeling and calculating nitrogen loads for the East End of Long Island. The stormwater modeling in the Plan is not based on the land use and stormwater infrastructure data collated by the Committee and the County and its contractor, CDM Smith, should be encouraged to do so.

Branco and Collins encouraged Committee members to update relevant audiences whenever feasible on the availability of this up-to-date land use data for the Peconic Estuary watershed.

The Committee agreed to write a letter to Kenneth Zegel, Associate Public Health Engineer, Suffolk County Department of Health Services (SCDHS), Office of Ecology; David Berg, LINAP Project Manager, Long Island Regional Planning Council (LIRPC); and the Angus Eaton, NYS DEC Division of Water. The letter would inform them of the availability of the land use and stormwater infrastructure data, and the reasons why they should be consistently utilized in all planning initiatives related to water quality, such as the Long Island Nitrogen Action Plan. The letter should recognize that SCDHS has previously indicated the inclusion of stormwater infrastructure in its models is outside the scope of work. Nevertheless we would like to bring to its attention that the information was collected by all municipalities, and is readily available, should SCDHS feel the information is useful to its modeling efforts.

**ACTION ITEMS:**

- **Committee members to update relevant audiences whenever feasible on the availability of the up-to-date land use data for the Peconic Estuary watershed produced by the Committee's GIS Working Group in 2016.**
- **Coordinator to draft a letter to Suffolk County Department of Health Services, and NYS DEC Division of Water, on behalf of the Committee informing the County of the availability of the land use and stormwater infrastructure data and the reasons why they should be consistently used in all planning initiatives.**

**V. Update on the Quality Assurance Project Plan for Water Quality Monitoring**

Branco reported that the County Purchasing Division on behalf of the Department of Health Services is still reviewing the Committee's draft Request for Proposals for "Preparing a Quality Assurance Project Plan for Supplemental Water Quality and Sediment Data Collection Services." Collins suggested that we bring the RFP pending approval to the attention of Legislator Al Krupski to expedite review.

**ACTION ITEMS:**

- **Coordinator and Branco to provide necessary information on the pending RFP approval process to Collins for forward to Legislator Krupski.**

**VI. Discussion of the Draft SPDES General Permit for Stormwater Discharges from MS4s**

Eileen Keenan of Nelson Pope & Voorhis led the discussion on the 2017 Draft SPDES General Permit for Stormwater Discharges from MS4s (GP-0-17-002) (draft General Permit) with a presentation of main comments. Ms. Keenan is the former Manager of the Sea Grant / New York Nonpoint Source Education for Municipal Officials (NEMO) Program and has fifteen years of experience with the MS4 permit. The presentation was followed by a discussion of additional Committee concerns to be incorporated in the Committee's comments letter to NYS DEC. See Appendix A for notes from the discussion. The deadline for comments to NYS DEC is February 3<sup>rd</sup>.

The Long Island protection committees are also preparing a joint letter to be signed by the Committee. Sara Deonarine of the Manhasset Bay Protection Committee has drafted the letter, which was distributed to Committee members via email. The Committee agreed that Keenan's strategic insight should be shared with other protection committee leaders and the draft letter modified before submission to NYS DEC. Branco and the Coordinator agreed to follow up with the other protection committees to organize a conference call for the committees and Keenan to converse.

**ACTION ITEMS:**

- **Committee members to draft individual letters to the NYS DEC providing comments on the draft permit. Members are encouraged to revisit their draft letters with consideration to comments made by MS4 expert Eileen Keenan. The deadline for letters to NYS DEC is February 3<sup>rd</sup>.**
- **Branco and the Coordinator to reach out to the Long Island protection committees and organize a conference call for the committees and Eileen Keenan to discuss comments on the draft General Permit.**

**VII. Priorities 2017**

This topic was deferred to the February meeting to allow more time for discussion of the draft General Permit.

**VIII. Coordinator Proposal**

The Coordinator presented a proposal for additional scope of work under her 2016 contract. The Coordinator would conduct an additional 90 hours of labor during the timeframe January through March 2017 in addition to her existing scope of work. These 90 hours, a total of \$4050, were under-billed on the Coordinator's 2015-16 contract (contract 1 of 2) and the approved funds are in the Committee treasury. The scope of work would include additional hours on the Committee website, draft MS4 permit communications and stormwater educational strategy.

The Committee approved the proposal pending confirmation by the Town of Southampton that it can modify the current contract to allow for additional scope and hours. Ms. Fetten agreed to follow up with the Town on this.

**ACTION ITEMS:**

- **Fetten to confirm with the Town of Southampton that it can modify the Coordinator's current contract to allow for the billing of hours budgeted but not billed in the previous year's contract.**
- **Pending above confirmation by the Town of Southampton, the Coordinator to perform an additional 90 hours during the timeframe January through March 2017 on the Committee website, draft MS4 permit communications and stormwater educational strategy.**

**IX. Peconic Estuary Boater's Guide**

This topic was deferred to the February meeting to allow more time for discussion of the draft General Permit.

**X. 2017 Meeting Schedule**

The following 2017 meeting schedule was approved with 11 of the 12 meetings on the first Wednesday of the month. The June meeting will be held on May 31 (4 weeks after the May meeting and 5 weeks before the July meeting) to accommodate a Peconic Estuary Program Management Committee meeting. Unless further notified, meetings will be held at Cornell Cooperative Extension, 423 Griffing Avenue, Riverhead, NY 11901.

- |                                  |                             |
|----------------------------------|-----------------------------|
| • January 4 <sup>th</sup> , 2017 | • July 5 <sup>th</sup>      |
| • February 1 <sup>st</sup>       | • August 2 <sup>nd</sup>    |
| • March 1 <sup>st</sup>          | • September 6 <sup>th</sup> |
| • April 5 <sup>th</sup>          | • October 4 <sup>th</sup>   |
| • May 3 <sup>rd</sup>            | • November 1 <sup>st</sup>  |
| • May 31 <sup>st</sup>           | • December 6 <sup>th</sup>  |

**APPENDIX A: Discussion of the Draft SPDES General Permit for Stormwater Discharges from MS4s**

## Eileen Keenan Comments:

- There have been several NYSDEC personnel changes in the administration of the MS4 permitting in Albany. Steven McCague's role as MS4 Coordinator will now be filled by Ryan Waldron. Waldron was previously overseeing the multi-sector permit, a job to now be filled by McCague. Carol Lamb-Lafay has left the Albany office and now works in an upstate regional NYSDEC office.
- Given the above, it would be beneficial to make our comments as specific and detailed as possible. We should suggest how language should be modified and avoid diluting the impact of our comments by making too many comments on less significant line items.
- According to NYS DEC, the repetition of similar comments across multiple letters does not impact whether the comments are considered. If one member municipality makes a comment in its letter, others do not need to repeat it.
- Given the possibility of deregulation and reduced NYS DEC budgets under the next federal administration, it is likely the environmental advocacy community will increase efforts to ensure existing regulations are being enforced.
- The level of detail and specificity required under the new permit for reporting, and the increase in the amount of requirements, are staggering. Compliance will be very costly to municipalities and exceeds "maximum extent practical/practicable" (MEP). MEP is defined as "a technology-based standard established by...the Clean Water Act...where the cost is wholly disproportionate to the benefit." (draft permit glossary, p.134)
- Keenan lauded the Committee's recommendation to create a separate addendum for eastern Long Island. One could suggest an additional "Part" for Long Island municipalities. Emphasis should be given to Long Island's highly infiltrative soils and its unique geology and hydrology from the rest of the state. These conditions make several of the draft permit's extensive requirements ineffective at reducing nitrogen and pathogen discharges into surface waters.
- A recommendation for a Long Island addendum should also mention that the Island is facing mounting groundwater nitrogen concerns and the quality of its drinking water is being compromised. Expanding MS4 requirements beyond those in the current permit will take municipal resources away from addressing groundwater.
- NYS DEC has informed the municipalities that it is requesting EPA withdraw the pathogen Total Maximum Daily Load (TMDL) for select Long Island waterbodies. Municipalities should comment in their letters that recalculation of the nitrogen TMDLs is also necessary. It should be stressed to NYS DEC that if one TMDL is withdrawn based on inadequate data and flawed methodologies, then *all* TMDLs share the same inaccuracies and need to be revised.
- Many municipalities have submitted retrofit plans that were required because of, and based upon, TMDLs that are now considered flawed. It is advisable to ask NYS DEC to nullify the retrofit plans if the data upon which they are founded is now deemed inadmissible.
- It is also advisable to ask that semi annual reporting be suspended pending TMDL revisions.
- The following major foundational comment should be clearly communicated: the permit regulates discharges to and from an MS4; it does not cover non-storm sewer system discharges directly to surface waters. There are examples where the permit requires actions in locations such as marinas or waterfront construction sites where discharges are directly to a waterbody, and not to an MS4.

- Comments should be made regarding the burdensome aspects of the required Enforcement Response Plan (ERP).
- The permit should remove the new language that indicates potential enforcement against third parties. The existing language in the current permit, regarding third parties and shared implementation of MS4 requirements, should be retained.
- Municipalities should revisit their comments on *existing* requirements such as septic system and IDDE inspections, and ensure statements are not made that indicate inability to comply with the current permit. The draft permit includes many Part IX.C requirements that are exactly the same as those in the current permit. Keenan's summary document can be used to see what components of the draft permit are new.
- Keenan offers to provide preliminary review and feedback on draft letters.

Additional Committee Member Comments:

- All of the Pollutant Load Reduction should be removed on page 117.
- Municipalities should have autonomy to decide whether to use sand and or salt as a road de-icing agent, based on local conditions such as road type, height to groundwater, slope, weather conditions, etc.
- The Highway Superintendent should be required to have training and as well as the Stormwater Coordinator since so much of permit applies to Highway Department activities and facilities. It was later clarified that the draft permit (Part IV.B.3 – page 9) requires anyone with responsibility over implementation to have training, therefore Highway Superintendents would also be required to receive training.
- Concern was expressed that the draft permit was inaccurate in suggesting that municipalities have procedures for review and acceptance of municipal construction project Stormwater Pollution Prevent Plans (SWPPPs), when it is necessary for NYS DEC to ensure that regulated municipal construction activity is in compliance with the Construction General Permit. It was later clarified that all SWPPP applicants including municipalities must document compliance with design specifications in their project SWPPP. The MS4 form is the means by which NYS DEC is notified that the project plan conforms with the design requirements. The permit does not specifically state that municipalities must have separate procedures for review. The permit states for “all SWPPPs” (see page 29.)
- Clarification is needed on the applicability of Part VIII to TMDL waterbodies under revision, and to 303(d) waterbodies.
- One member suggested the Committee use USFWS data on hunting permits and capture rate of Canadian geese within each municipality's MS4 areas as goose management documentation.
- Additional note: How does the NYS DEC MS4 permit compare to other states with regard to level of detail? Suggestions for comparison include: NJ, CT, MA and Florida.