

# HEMPSTEAD HARBOR PROTECTION COMMITTEE

## FINAL MEETING MINUTES

Meeting of October 26, 2005  
Sea Cliff Village Hall – 7:30 pm

NOTE: Items Requiring Action are *Italicized in Bold*.

**Present:** Eric Swenson (Director), Kevin Braun (N. Hempstead), Pasqua Dziadul (Sands Point), Aldona Lawson (Oyster Bay), Dan Fucci (Nassau County DPW), Dan Maddock (Village of Sea Cliff), Peedee Shaw (for Len Shaw – Roslyn), Carol DiPaolo (Coalition to Save Hempstead Harbor), Pat Aitken (Friends of the Bay), Doug Watson (representing Assemblyman Chuck Lavine) and Len Jacobs (resident)

### **Discussion:**

I. **Call to Order.** Eric welcomed everyone and noted that due to a conflict Chairperson Bill Clemency could not attend. With three guests in attendance, Eric asked everyone to introduce themselves.

II. **Approval of Minutes of September 14th meeting.** Motion by Dan Maddock. Seconded by Kevin Braun. Approved unanimously.

### III. **Announcements, Reminders, & Upcoming Events**

- 5<sup>th</sup> Annual Southeast NY Stormwater Conference & Trade Show, Beacon - November 9th in Beacon, NY
- National Watershed Award – we did not win but were encouraged to re-submit next year. No new application will be required but we would need to provide a brief update on the Committee's activities
- HH's Significant Coastal Fish and Wildlife Habitat Area boundary extended south of viaduct
- Captain's Cove – final waste load to be removed! (See Glen Cove's municipal report below)
- Status of LISS Stewardship site effort – we are confident of a positive outcome sometime in the next few months
- 2005 Dues reminder – Sands Point, North Hempstead and Nassau County remain due.

### IV. **Municipal Updates**

**North Hempstead** – Kevin Braun reported that the Town and the Committee held a photo shoot for the installation of the coastal signs and that an article with a photo appeared in the Port Washington News. Pasqua Dziadul brought a copy of the article and gave it to Eric. Kevin also reported that the Town is moving quickly on the acquisition of an approximate one acre parcel of property that will allow the Town to extend the Bar Beach shoreline trail. He also stated that progress is being made on the new wetland restoration grant through the Long Island Sound Futures fund.

**Sea Cliff** – Dan Maddock noted that the village received a letter from the NYS DEC with substantive comments on the village's most recent Annual Stormwater Report. ***Dan will send Eric a copy of the letter.*** The letter requests that the village address certain issues in its next annual report.

**Sands Point** – Pasqua Dziadul reported that the village has a new police chief – Mark Mandel. She also reported that a landowner with property on East Creek wishes to subdivide his 15 acre parcel and that some residents are concerned with the subdivision's potential impact on the creek. The issue will be discussed at the next Village Board meeting scheduled for November 2<sup>nd</sup>.

**Oyster Bay** – Aldona Lawson reported that the Town's SEA Fund II Committee recently met and that consideration is being given to the KeySpan parcel in Glenwood Landing. Negotiations between KeySpan and the Town are ongoing.

**Nassau County** – Dan Fucci noted that both he and Eric attended the recent DEC Workshop on Phase II Annual Reports (see discussion below) and that the County is that the County's Adopt a Waterways signs are being installed. Dvirka & Bartilucci is looking at the good housekeeping practices (such as salt and sand spreading and integrated pest management) at a few villages and preparing recommendations. Sidney B. Bowne has been reviewing the drainage situation in the three Towns and a couple villages and

is preparing a model drainage use ordinance. On the north shore, they will most likely concentrate on Oyster Bay Harbor.

**Roslyn** – Peedee Shaw noted that the village recently held another meeting in a series on the proposed BITI development of townhouses on the former Stop 'n Shop site and passed around a copy of the developer's proposed site plan. At present the proposal is for a total of 80 units in a number of various sized buildings as well as a commercial building along Old Northern Boulevard. The commercial building will be 2 stories. One townhouse building will be 4 stories with parking underneath (60 feet high) and all of the other buildings will be 3 stories in height. The main entrance will be off of Skillman Street and there will be a harbor promenade along the harbor, a waterfront plaza (gazebo) and a village green. Some concern was raised at the meeting about potential liability and insurance. The preparation of a DEIS is the next step. The village adjourned the meeting and it will resume at sometime in the future.

**Glen Cove** – Danielle Oglesby was unable to make the meeting but sent the following update which Eric read and distributed at the meeting: The City of Glen Cove is holding a press conference tomorrow, October 27, 2005, at 10:30 a.m. at Captain's Cove, to celebrate the last shipment of contaminated waste off of the Captain's Cove site. Once de-listed, this 23-acre site will be ready for development.

On September 26, 2005, Mayor Holzkamp invited Congressman Peter Visclosky to the Glen Cove Waterfront. Congressman Visclosky is a ranking member of the House Energy and Water Appropriations Subcommittee. He is responsible for funding the Army Corps of Engineers, which has been a vital partner in the dredging of Glen Cove Creek. The dredging of Glen Cove Creek will commence in 2006.

The Glen Cove Industrial Development Agency (IDA) will be reapplying for the EPA Brownfields Clean up grant in December for remediation of the Doxey site. Initial testing under the EPA Brownfields Pilot program proved there is soil contamination at this site. The IDA is currently working to condemn the site to finish the phase II environmental assessment. This site once acquired will be remediated and is anticipated to be redeveloped as a public park with an inter-tidal wetlands area.

The sewer main on Herbill Road has been completed as part of the Glen Cove Roadway Connector project. The temporary bridge for the installation of utilities has been completed and the drainage structures have been put in place for the firehouse parking lot.

**V. LIS CAC and Civic Group Updates** – Carol DiPaolo reported that the Long Island Sound Study Citizens Advisory Committee recently met and that a decision is expected shortly on the designation of stewardship sites. Even though Hempstead Harbor was not on the original nomination list, it is likely to be included. Carol also noted that the Long Island Sound Futures Fund has taken over responsibility for administering the Small Grants Program. The water quality monitoring program is nearing completion for the year. It appears that we have made it though a hot, dry summer without a major fish kill, although a juvenile soft shell clam kill did occur. Pat Aitken from Friends of the Bay mentioned that their water monitoring program will end this coming Monday and that they are nearly ready to submit their quality assurance ("QAPP") application for Oyster Bay and Cold Spring Harbors. FOB has been working on the QAPP on and off since April. Carol reported that new procedures should allow for a relative quick turnaround time on the review and approval of QAPPs. In the past it could take years before a decision was rendered. It is now expected to take months.

**VI. 10<sup>th</sup> Anniversary Celebration** – Eric Swenson reported that the Committee's 10<sup>th</sup> Anniversary event at Cedarmere went well and that beautiful weather prevailed. Special thanks went to Pasqua Dziadul for organizing the refreshments. Thanks also go to Len Shaw for preparing name badges, Dan Maddock for preparing the list of invitees and the agenda for the event; Danielle Oglesby for assisting with setup on the day of the event and Kevin Braun for printing and mailing the invitations.

#### **VII. Outreach Efforts**

- Sea Cliff Mini Mart - Aldona reported that the Committee's booth was a success. The aerial photo provided by the county was a big draw and many good contacts were made. The fact that we had a canopy, custom printed tablecloths and a formal backdrop and literature rack helped draw people to the booth. Like the 10<sup>th</sup> Anniversary event, the weather fully cooperated.
- Website magnets - Eric noted that the Committee had 5,000 refrigerator magnets produced which publicize the harbor website. These were given out at Mini Mart and were distributed to members for village halls, libraries, etc.

- Step by Step brochures – Eric also mentioned that the Committee had 10,000 Step by Step brochures printed. These were also distributed at Mini Mart and to members for dissemination.

VIII. **Scudder's Pond Subwatershed Plan** - Eric reported that all comments on the plan have been received and compiled and sent to the consultant. It is anticipated that a final draft will be available in early November. Once it is received, a second public meeting will be held.

IX. **Phase II Annual Reporting Requirements** Eric reported that he and Dan Fucci and about 15 or 20 others attended an all day workshop at DEC recently to learn of proposed changes to the Annual Report forms for the Phase II stormwater program. Eric prepared a bullet item list of information gleaned from the event. A copy is attached to these minutes. Many who attended had real issues with some of the proposed changes to the form and Eric prepared a detailed letter to the state with comments and suggestions for improvements. The letter to DEC is also attached to these minutes.

**Next Meeting** – Wednesday, December 7th at 7:30 pm at Sea Cliff Village Hall.

The meeting adjourned at 9:30 pm

## A FEW TIDBITS GLEANED FROM *PATHWAYS TO COMPLIANCE* WORKSHOP

- New draft formats for Municipal Compliance Certification and Annual Report forms
- Comment period open until December 31<sup>st</sup>
- Remember that while annual reports are due by June 1<sup>st</sup> of each year, full compliance is required by January 2008.
- While DEC will always issue Construction Phase II permits, they are looking to have municipalities do all of the substantive work (inspections, etc.) so that their issuance of the permits will be more or less ministerial
- NYS Building Code (not final yet) will include plumbing code requirements for stormwater.
- In order to claim that you are working with other municipal partners on the annual report, there must be a formal written agreement specifying which municipality is responsible for the achievement of which measurable goal
- Annual reports can no longer be submitted in three ring binders
- No comments have gone out yet on the original Notices of Intent and the only comments that have gone out on annual reports have been to note where information was missing. DEC may send out substantive comments on annual reports to a dozen or so municipalities soon.
- DEC & DOS stormwater documents and draft documents are on a CD-ROM that was mailed out to MS4s and they are also on an ftp website:  
<ftp://www.dec.state.ny.us/dow/stormdocuments>
- Annual report has been broadened to require information over and above the tracking of progress on meeting measurable goals
- A mandatory process called “Gap Analysis” must be undertaken to compare municipal stormwater and sediment and erosion control laws with the state’s model local law.
- Sediment and erosion requirements should be in the form of a local law and not simply an ordinance.
- A Critical Path to Compliance method was also developed to assist municipalities in meeting compliance deadlines for the measurable goals.
- DEC is encouraging MS4s to think about methods for permanently funding stormwater programs.
- A new NY Standards and Specifications for Erosion & Sediment Control manual is nearly completed and will be posted on the DEC’s website.

October 24, 2005

Ms. Carrie Wafer  
MS4 Program Coordinator  
NYS Dept. of Environmental Conservation  
625 Broadway – 4<sup>th</sup> Floor  
Albany, NY 12233-3505

Re: Comments on Draft Municipal Compliance Certification Form and Annual Report

Dear Ms. Wafer:

Please allow me the opportunity to comment on your draft Municipal Compliance Certification and Stormwater Program Annual Report forms that were provided at the *Pathway to Compliance* workshop that was held on October 18<sup>th</sup>.

As you may be aware, the Hempstead Harbor Protection Committee is Long Island's first inter-municipal watershed organization (voluntarily established in 1995). Since stormwater was identified as the single-largest threat to the harbor (*Hempstead Harbor Water Quality Improvement Plan* (Coastal Environmental Services, 1998), our nine member municipalities have been involved in achieving "MS4 measurable goals" before the implementation of the Phase II regulations. We feel that we are thus in a somewhat unique role to comment on the Phase II program and the direction that we see it heading.

At the outset, I would like to state that we fully support the goals of the Phase II program and appreciate all of the outreach and funding provided to date from the state. However, we believe that some of the proposed changes to the annual reporting process are too cumbersome and that the report deviates from its original intent by asking for information not directly related to the achievement of the MS4's measurable goals. We are also concerned with what appears to be an increasing lack of flexibility on how MS4s carry out their measurable goals.

In our experience, the more that state and federal agencies step in and dictate what needs to be done and how to do it, the more that the municipalities begin to treat the program as a burden and begin to go through the motions because it needs to be done rather than embracing it and being creative because it is a good thing to do and they have such flexibility available to them. We believe that the state should allow for such flexibility (but still be a few steps behind us to make sure that we stay on track and to provide help where needed).

Now that we have expressed our general comments, please allow us to provide you with the following specific comments and suggestions:

## MUNICIPAL COMPLIANCE CERTIFICATION FORM

### OVERALL

1. Comment: We like the idea of being able to use the same form for subsequent years and to be able to download the form.

Recommendation: no change required.

### SPECIFIC

1. Comment: Section B – Local Water Quality Information – we do not see the necessity of requesting that the MS4 indicate whether it discharges to 303 (d) and/or TMDL waters. This information is already known to the Department and will simply cause confusion on the part of the MS4 with no benefit to the state or the MS4 since the MS4 will still be required to carry out its measurable goals regardless of the status of the waters it discharges to.

Recommendation: Delete the question. If the Department insists on keeping this question, then a list of 303(d) and TMDL waters should be included in the annual report package and its availability referenced at this point on the form.

2. Comment: Partnership information – the wording of the question is such that partners who are actually working together under a legal agreement that is not specific to Phase II measurable goals cannot claim to be working in partnership with others. This is inequitable and is the case of the Hempstead Harbor Protection Committee. Partnerships in any form (formal or informal) should be encouraged as long as they can be documented. In some cases, obtaining a legally binding Phase II agreement with several MS4s may take longer than 2008 to effectuate.

Recommendation: Remove phrase “Legally Binding” from Section C.

## Stormwater Management Program Annual Report

### OVERALL

1. Comment: we like the fact that the report is designed so that it can be used over several years.

Recommendation: no change required

2. Comment: MS4s have yet to receive comments on their original Notice of Intent and have not received substantive comments on previous annual reports. If an MS4’s NOI was acceptable, the annual report should provide for a means for reporting progress or lack of progress in the simplest manner possible. If an NOI was not acceptable, an MS4 will be at a severe

disadvantage to learn of the deficiency years down the road when steps could have been taken earlier to rectify any deficiencies.

Recommendation: provide comments on NOIs and annual reports to all MS4s as soon as possible.

3. Comment: the report form has been broadened to encompass more than tracking progress on achieving measurable goals. This goes beyond the original intent of annual reporting as we understood it. In some cases, this will cause confusion and will require substantial additional work on the part of MS4s that will outweigh any benefits to the Department and will take time away from carrying out measurable goals.

Recommendation: limit the annual report to tracking progress on measurable goals set forth in the Notice of Intent (or as revised). See more detailed comments under “Specific” comments below.

## SPECIFIC

1. Comment: Minimum Control Measure 3. Illicit Discharge Detection and Elimination (IDDE) Local Law – Permit Reference IV.C.3.c – paragraph 1) – the box to the right has an error. “(go to question 4)” should be listed after “Yes” not “No”.

Recommendation: move “(go to question 4)” so that it is listed after “Yes” not “No”.

2. Comment: (same section as # 1 above) – these questions go beyond the tracking of progress on measurable goals and require the preparer to compile substantive information about local laws and the process. If the measurable goals set forth in the NOI were deemed sufficient to achieve the Department’s goal, then all the Department should need is to see that the measurable goals are being accomplished.

Recommendation: delete the questions numbered 1 through 7 in this paragraph.

3. Comment: Minimum Control Measure 3. Illicit Discharge Detection and Elimination (IDDE) Local Law – Permit Reference IV.C.4.b.i.,5.a.i. –as with the comment immediately above, we feel that responding to this section goes beyond the intent of the annual report. Further, we believe that MS4s should be free to use any method they wish to compare their ordinance with the model ordinance. The Department’s Gap Analysis should be available as a tool but not mandatory. Even with guidance from Department personnel at the *Pathways to Compliance* workshop, different groups arrived at different conclusions using the Gap Analysis. Most MS4s will not have the advantage of being instructed in its use and will be confused by the method. In addition, the person completing the annual report most likely will not be the municipal attorney or planning professional

that has experience in analyzing ordinances and statutes, Personally, I found the Gap Analysis procedure somewhat awkward and would use a modified version of what you developed. The bottom line is that performing Gap Analysis would take a lot of time, would produce questionable results and goes over and above the original intent of the annual reports.

Recommendation: delete the questions numbered 1 through 7 in this paragraph but provide the gap analysis as an optional tool for MS4s. Hold additional workshops on its use.

4. Comment: Additional Techniques for Minimum Control Measure 6 (pages 12 to 20 on the draft document) – the questions on these pages ask for details on municipal operations that are either already being covered by measurable goals set forth in the MS4's Notice of Intent or are over and above the goals set forth in the NOI. If they were already covered in the MS4's NOI, they would have been addressed earlier in the annual report and asking that the answers be repeated on these pages is a waste of time and effort. If they were not part of the NOI, they do not belong in the annual report since the purpose of the annual report is to track the progress of implementation of the NOI measurable goals. To use the annual report mechanism to require efforts not contained in the MS4's already-approved SPDES permit is unfair and a "back door" method of regulation.

Recommendation: delete all questions following section IV.C.6.a.

In conclusion, we would like to thank you for the opportunity to comment on these forms. We believe that most MS4s know the value of their waterways and support the program. To achieve the goals of the Stormwater Program, MS4s need guidance (in the form of workshops, website resources, etc.) and not additional burdens (such as report forms that require enormous amounts of time to complete or which ask for information for which the report was not intended or which require the use of techniques that they are not familiar with).

The Department need only look to itself and the fact that it has yet to provide comments on the original Notices of Intent to see that we are all already burdened with too much reporting. We need flexibility and guidance not unnecessary burdens!

Sincerely,

Eric Swenson  
Executive Director

*Copies to:*  
*William Clemency, HHPC Chair*  
*Eileen Keenan, NYS DEC / Sea Grant*