Mobile Bay National Estuary Program
Government Networks Committee Meeting
Friday June 5, 2014
Original Oyster House
3733 Battleship Pkwy
Spanish Fort, AL

7:30 a.m.-9:00 a.m.

Agenda

Welcome & Approval of Minutes
Merceria Ludgood, Mobile County Commission
Charles "Skip" Gruber, Baldwin County Commission

NFWF/RESTORE update
Patti Powell, ADCNR

EPA Program Evaluation
Jamal Kadri, EPA

Watershed Planning in Coastal Alabama
Roberta Swann, MBNEP

Limits of Home Rule in Alabama
Craig Baab, Alabama Appleseed

Adjourn

Breakfast will be served

Mobile Bay National Estuary Program
Government Networks Committee Meeting
Original Oyster House, Mobile AL
June 5, 2015

The Mobile Bay National Estuary Program Government Networks Committee was established to bring State agencies and regional government administrators together with local officials of Mobile and Baldwin counties to more effectively communicate local needs/understand State agency functions and priorities. The goal of this committee is to articulate innovative ways to improve communications and management of our coastal environment.

In attendance:

Guy Busby, Baldwin County Legislative Delegation; Jeff Collier, Mayor Town of Dauphin Island; Marlon Cook, Geological Survey of Alabama; Charles 'Skip' Gruber, Baldwin County Commission; Scott Hughes, Alabama Department of Environmental Management; Merceria Ludgood, Mobile County Commission; Patti Powell, Alabama Department of Conservation and Natural Resources; Troy Ephriam, Mayor City of Prichard; Tim Kant, Mayor City of Fairhope; Mike McMillan, Mayor City of Spanish Fort; Phillip West, City of Orange Beach, Bob Howard, EPA; Chris Thomas, EPA, Jamal Kadri, EPA

MBNEP Staff: Roberta Swann, Amy Newbold, Christian Miller

Takeaways

- Additional NRDA projects are available for comment through June 19th. A draft list of the Federal Restore Council's priority projects will be available for comment by the end of August.
- The preliminary findings of the EPA program evaluation state that MBNEP has shown real leadership in marrying the CCMP update process to the watershed approach, has grown tremendously in its capacity to apply and manage available funding to implement the CCMP and watershed management plans, and appears poised to continue and enhance estuarine protection and management. The Evaluation Team will recommend a "Pass" to OCPD management.
- NFWF/Restore Council now understands the importance of watershed planning and working up in the watershed as it relates to protecting coastal habitats. The demonstrated success and willingness of partners to work together in the D'Olive Watershed has been instrumental in acquiring additional funding for implementation.
- Although local power is very limited and vested at the state level, recent legislation sponsored by Rep. Randy Davis may allow for some creative solutions to addressing environmental issues.

Commissioners Merceria Ludgood and Charles 'Skip' Gruber welcomed participants. Speakers included Patti Powell, Jamal Kadri, Roberta Swann, and Craig Baab. The meeting was called to order at 7:50 a.m. by Commissioner Gruber who welcomed the group to the meeting. Commissioner Ludgood moved to approve the minutes from the previous meeting, which was seconded by Mike McMillan.

Ms. Patti Powell gave an update regarding the RESTORE Act. Patti said that an additional round of potential NRDA projects is out for comment thought June 19th. Descriptions of the projects can be found on the Alabama Coastal Restoration website. There are several Alabama projects on this list including additional osprey platforms and living shorelines projects. Patti said that the Federal Restore Council's draft list of priority projects would be available for comment in Late August. Ms. Powell encouraged

everyone to sign up to receive emails through the state's website in order to stay up to date on all restoration efforts. Commissioner Ludgood asked what money was currently available and Ms. Powell explained that currently the civil penalties being administrated by NFWF are really the only available funds and that the state council wants to make sure that the money is available to fund large-scale projects rather than a lot of smaller projects.

http://www.alabamacoastalrestoration.org/

Next Jamal Kadri gave an update on the purpose and status of the EPA program review of the MBNEP. Mr. Kadri said that since the MBNEP receives federal money, they are required to review the NEP on a regular basis in order to ensure adequate progress is being made in CCMP implementation and that continued EPA support is warranted. Since each of the 28 NEPs around the nation are all very different it presents a challenge. The main goals of this review include: defining what is working well, identify the challenges and the limitations faced by the MBNEP, highlight environmental results, demonstrate stakeholder commitment, and to share the achievements and lessons learned between the NEPs as well as other coastal watershed programs.

Jamal said that the 2015 evaluation topics focus on the following three areas:

- Habitat restored or protected
- Budget summary
- On-site visit

Jamal explained that the final evaluation letter will only address a final rating of either Pass, Conditional Pass, or Fail. Bob said this doesn't really do justice for programs that preform at a high level, such as the MBNEP. Mr. Kadri stated that the letter will also detail support of core programs related to the clean water act, progress in areas highlighted in the previous review, the strengths and challenges of the MBNEP and recommendations. Jamal said that in the MBNEP's previous review, which took place in 2010, the evaluation recommendations included examining and adjusting the management conference strucuture to promote a broader and more collaborative stakeholder process as it update the CCMP. The EPA also recommended that the MBNEP update its finance plan to identify and diversify funding sources. Mr. Kadri wrapped up his report by detailing the following strengths and challenges of the MBNEP:

Strengths

- Excellent approach and presentation for the new Comprehensive Conservation and Management Plan (CCMP.)
- Commitment and promotion of watershed management planning and implementation.
- Strong relationship with the State of Alabama agencies (ADCNR, ADEM, GSA, ALDOT) resulting in excellent collaboration and leverage.
- Ability to match and aggregate a variety of funding sources to achieve on the ground projects and results.

Challenges

- Provide leadership for a coordinated approach to monitoring water quality and ecosystem status and trends within the NEP service area.
- Engaging local governments through greater investment and implementation of watershed management plans.
- Engaging and building the capacity of management conference partners in providing the science based approach through the CCMP to restore and protect coastal resources.

Preliminary Findings of the Evaluation Team

- Mobile Bay has shown real leadership in marrying the CCMP update process to the watershed approach.
- The Program has grown tremendously in its capacity to apply and manage available funding to implement the CCMP and watershed management plans.
- The Program appears poised to continue and enhance estuarine protection and management.
- The Evaluation Team will recommend a "Pass" to OCPD management.

Next on the agenda, Ms. Roberta Swann updated the group on the progress of watershed management planning in coastal Alabama. Roberta first talked about the need to address the "nine key elements" specified by the EPA. These basically boil down to the following four areas:

- **Partnerships**, key stakeholders and solicitation of community input and concern
- **Characterization**, causes and sources of impairments, data gaps and pollutant loads
- **Management Measures** for pollutant reductions needed and measures to achieve goals
- **Implementation Program** schedule, milestones, monitoring, education program, regulatory, financial assistance

Roberta said that while addressing the EPA's nine elements was the primary goal of these plans, it was important to address other areas that were specified by the project implementation committee. These include the seven values specified in the CCMP (Access, Shorelines, Fish & Wildlife, Heritage/Culture, Resiliency, and Water Quality) as well as addressing concerns related to climate change and sea level rise, which may include modeling potential impacts of storm surge and habitat alteration.

Ms. Swann next displayed a map of the group highlighting all the 12-digit HUC watersheds in Mobile and Baldwin County that planning was either: complete and in implementation, in progress/soon to commence and funded through NFWF/GEBF, and for future efforts pending other funding. Roberta explained that the initial planning effort in the D'Olive Watershed was the catalyst for all of the funding of implementation and current planning efforts. The teamwork, commitment, and demonstrated success led to $6.8 million dollars in current restoration projects that are committed to occurring in the D'Olive Watershed.

Ms. Powell stated that she could not emphasize enough how important the planning and local government involvement were to NFWF related to funding the projects in the watershed. Mayor McMillian said that it's proven to be very successful for his city (Spanish Fort). Mike further stated that the city had been working to acquire more land in the headwaters to address stormwater issues. He further emphasized the importance of being able to cooperate with other municipalities/county to solve similar issues since stormwater doesn't "follow municipal boundaries". Roberta explained that initially it was difficult to get

NFWF to buy in to addressing issues up into the watershed (through planning and implementation of watershed plans), but now they see the value in protecting upstream of designated coastal habitats. Mayor Kant said that he needs help addressing issues in the City of Fairhope, and that developers are constantly trying to fill in wetlands. In response the City of Fairhope has set a 300' stream buffer ordinance with no disturbance allowed within 100' of a stream bank.

Craig Baab, a senior fellow with Alabama Appleseed in Montgomery, addressed the group on the legal limits of home rule in Alabama. Mr. Baab began by affirming that in Alabama all legislative power is vested at the state level (section 44, state constitution), and that authority must be given to the local level through the state legislature to act on most issues. This was by design through the state's constitution, and Mr. Baab asked if we should continue to expect counties and municipalities to function as they did in 1901. This was done at the time in order to concentrate power in Montgomery, and is why it makes it very difficult to accomplish tasks at the local level. Mr. Baab said the question that needs to be addressed by this group is, "What would you like to do, but can't, because you do not have the authority to act?"

Mr. Baab talked about some of the bills that were passed through the legislature this session and will likely have to pass a statewide ballot referendum (e.g. a cost of living adjustment for bar pilots working in Mobile County) as an example of items of local interest that cannot be accomplished without the consent of the state legislature.

When local measures are passed that affect just one or two counties those have to be approved by every member of the house and senate to only appear on local ballots, if one legislator dissents then that issue must be passed statewide. Mr. Baab said that every year many laws of local importance are not passed (eg. 2009, 172 local laws passed and 159 failed) which delays the ability of local municipalities and counties to act on these issues of local importance.

In 2011 Sen. Del Marsh established a constitutional revision commission, chaired by former Gov. Albert Brewer and including several locals (Randy Davis and Ben Brooks). The charge of the commission was to look for recommendations for reforming the state constitution, focusing on moving towards home rule, but was forbidden from looking at issues related to taxation. The commission didn't make any recommendations related to home rule, which discouraged many members of the commission.

Mr. Baab said that due in large part to the tireless effort of Rep. Randy Davis, legislation was passed this session (that was subsequently signed into law by Gov. Bentley) that allows for limited administrative decision making authority at the local level.
Summary: http://www.ciclt.net/ul/acca/AdministrativePowersHOUSE.pdf
Full language: https://legiscan.com/AL/text/HB193/id/1238476/Alabama-2015-HB193-Enrolled.pdf

Mr. Baab said that while this is legislation was very limited in its scope of allowing local control (not touching on taxing or zoning), there should be creative ways to use this law to accomplish some of the goals of this committee (the GNC). Mr. Baab said that the language was changed (e.g. removing "but not limited to") in order to prevent granting more local authority. Mr. Baab encouraged the group to be as creative as possible in interpreting the rights granted through this authority and using it to address issues on the local level. Mr. Baab said that this legislation should provide the ability to exercise local authority that may not have been possible before, esp. related to wetlands. The question Mr. Baab said must be answered is, "What doors does this legislation open that we might not have been able to address previously?" Commissioner Ludgood said that the members of the GNC should thank Rep. Davis for his tireless efforts related to improving the ability of local government, even as limited as this legislation is, to address issues on the coast.

With no further comments, Commissioner Ludgood adjourned the meeting at 9:05 a.m.