

Executive Committee Meeting

Zoom Meeting

December 16, 2021

10:00am to 12:00pm

MEETING NOTES

ATTENDEES

Richard Carey, Massachusetts Department of Environmental Protection (MassDEP)

Caitlin Chaffee, Narragansett Bay National Estuarine Research Reserve (NBNERR)

Allen Hance, Roger Williams University (RWU)

Sue Kiernan, Rhode Island Department of Environmental Management (RIDEM)

Regina Lyons, U.S. Environmental Protection Agency (EPA—Region 1)

Heidi Ricci, Mass Audubon

Jonathan Stone, Save The Bay

Caitlyn Whittle, EPA—Region 1

Mike Gerel, Narragansett Bay Estuary Program (NBEP)

Courtney Schmidt, NBEP

MEETING OPEN

Regina Lyons with EPA, Executive Committee Chair, called the meeting to order at 10:03a, and summarized the meeting agenda. *Regina called for a vote to approve the Executive Committee meeting notes from November. Caitlin Chaffee with NBNERR offered a motion to approve the notes, with a second from Jonathan Stone of Save The Bay.*

PROGRAM REPORT

Financials

Mike Gerel with NBEP noted that the final report has been simplified, now just showing two categories of funding: those overseen by NEIWPC and RWU. NBEP has spent ~\$95K in FY22. NEIWPC holds ~\$334K, and will not have expenditures sufficient to spend all this money, so some will need to be transferred to RWU, likely via a subaward. ~\$1.7M remains at RWU. NBEP is in very good financial shape at this point, with an additional Section 320 monies expected in FY2023. See the [PPT](#) for this meeting for more details.

Programmatic

Mike Gerel opened by saying that he is very proud of NBEP's recent efforts, completed with short staff during our host transition. Further, our current projects, which are tackling some of the region's most complex unaddressed issues, are now bearing fruit. Mike noted that to make the best use of staff capacity, today's PPT and these notes constitute the written Program Report for this meeting, so some additional detail is provided here.

- *Host Transition.* Mostly done with transition. Punch list of 37 items down to 4: office phones, office space agreement, staff expense reimbursement, and bylaws (will be discussed later today).
- *New Hires.* Hope to post two job announcements around holidays. Plan to elevate Julia Bancroft's former position to a manager level that will focus on partnerships and writing. Modeled the replacement position for Julia Twichell to emulate the services/skills she was providing at departure. Also completed an informal performance review for Courtney Schmidt with NBEP.
 - Sue Kiernan with RIDEM noted that based on past money limitations NBEP did not specifically seek communications capacity. She also wondered how RWU and NBEP will handle press releases and similar? Mike noted that the replacement for Julia B. will be focused on building and sustaining partnerships, so verbal and written communications will be a big piece. Further the GIS position will be tasked with the technical aspects of maintaining our websites. Allen Hance with RWU responded that RWU's preference is to have eyes on press releases and other formal announcements (like the press release announcing RWU as the new host), while RWU will defer to NBEP on less formal communications like science corner updates, fact sheets, website, social media, etc.
 - Regina Lyons added that in other National Estuary Programs (NEPs) the host provides in-kind support for comms, and this can be used for match. Allen agreed, and Mike indicated that RWU Communications staff time spent on NBEP can be counted as match.
 - Regina inquired who will be on the hiring panel for the positions. Mike responded that his preference would be him, Courtney, and a few members of the Steering Committee. Allen felt this was a viable approach—RWU role will be ensure compliance with RWU Human Resources via development of job description and related documentation, but once posted hiring process is something NBEP can dictate. Mike asked Executive Committee members interested in participating to contact him.
- [DEIJ Assessment.](#) Survey launched in October. Response from community was strong—189 responses. 27 of 50 NBEP committee members completed the survey, which is lower response rate than hoped Survey results are being compiled and will be used to inform a public workshop, which will be the final information collection step prior to production of a final assessment.
- [Green Infrastructure RFP.](#) This RFP was released on November 8th. Good response so far, with 15 calls. Proposals are due December 20th. We expanded the NBEP Grants Subcommittee from 6 to 13 people to add folks outside NBEP with green infrastructure/proposal review expertise to assure careful evaluation of all proposals. Mike noted the increased numbers will allow us to lower the burden and have each person only review 6-7 proposals.
 - Mike responded to an inquiry from Sue Kiernan that NBEP would extend the deadline if response is inadequate.
- *Blackstone Initiative.* The [Blackstone River Watershed Needs Assessment Project](#) is now complete. We are very pleased with the outcome. NBEP will now be a participant in the new Blackstone Watershed Collaborative, who met for the first time on November 8th. The [Lower Blackstone Fish Passage Project](#) has held two meetings so far of a "Core Team" of all key interests in the issue. In short, NBEP is serving as a professional "nudge" to convene meetings, ask the tough questions, and maintain momentum. The meetings of the Core Team have been very productive, documenting all needs, compiling existing plans/data, and sparking important new dialogue among RIDEM, the National Park Service, Old Slater Mill Association, and the Army Corps of Engineers.

- [Fisheries Ecological Knowledge \(FEK\) Project](#). A final draft report is complete, an advisory panel of fisherman, researchers, and resource managers has been formed to help finalize the report, and an excellent culminating workshop (see recording of workshop [here](#)) was held on December 9th to share the results and begin to map out next steps. Feedback on the project, the draft report, and especially the workshop has been universally positive. Most notably, commercial fisherman who have historically expressed frustration with being unheard and ‘talked at’ were effusive in their praise of the project.
- [Water Clarity](#) and [Social Science Working Groups](#). These working groups are progressing nicely, with both exploring potential indicators to add to our next State of the Watershed Report and otherwise assist regional decision-making. Potential indicators for clarity (e.g., compare if better or worse than pre-2012 levels) and social science (public health, economy, public access) are being described in separate white papers to document findings and next steps.
- *Land Use Update—Solar Arrays*. Staff have collaborated with RIDEM, MassDEP, Mass Audubon, URI, Clark University, and others to complete new data analysis and draft a new science update that compiles in plain language new information on the land use impacts of solar arrays to stimulate discussion and drive informed decision-making about their installation.
- *External Projects we Fund—Subawards and Contracts*. All “shovel-ready” and “planning” projects funded by NBEP in 2019 are now complete. Two subawards and three contracts remain at NEIWPCC, and one contract is in place at RWU. By spring 2022 we expect to have one subaward at NEIWPCC, and roughly two contracts and 10 subawards at RWU.
- *Outreach*. Mike has been presenting quite a bit lately, including to the RWU staff, faculty, and students on December 10th, and doing a lot of “walk and talk” chats with potential new partners.

Committee feedback on this new work was very positive. Several members offered suggestions for keynote speakers and resources for the salt marsh event that NBEP is beginning to plan.

COMMITTEE MEMBER UPDATES

Regina opened up the floor for updates from committee members, and the following was captured:

- [Regina Lyons](#) with EPA noted that each NEP will receive an estimated additional \$910K per year for five years of Clean Water Act Section 320 funds from the bipartisan infrastructure legislation (BIL) on top of the standard allocation of \$700K. She noted that there is an effort to waive non-federal match for the additional funds, and thanked NEIWPCC for their letter to that effect. NBEP’s next work plan will need to focus on how to efficiently utilize these new funds. Regina is planning a meeting with New England NEP Directors to brainstorm how best to deploy these funds. She also noted that SNEP also received a bump in funds; NBEP will receive the \$250K it received last year.
 - Mike noted that NBEP should expect \$1.86M in new money in October 2022.
 - He noted that his plan for year one is to subaward all of the additional Section 320 money to external projects using the same streamlined process we are using for our currently open RFP. In fact, depending on remaining budget from FY22, he hopes to award at least \$1.2M to external projects next fiscal year.
 - He also noted that the NBEP and other funders need to must come up with a plan to support to municipalities—where most conservation funds are awarded and/or

deployed—who increasingly do not have the capacity to apply for the significant funding that is coming available. Mike suggested that perhaps NBEP could fund or SNEP Network could provide “on-call” grant writers to help local folks pursue the many new pots of funding arriving next year.

- [Caitlin Chaffee](#) with NBNERR shared that NERRS are also getting a dedicated funding from BIL. Funds for capacity-building, habitat restoration, and land acquisition (with no match) are expected, will be competitive within the reserve systems, and are likely not restricted to within reserve boundaries. NOAA is also receiving significant funds for habitat restoration and fish passage. She also noted that the Rhode Island Habitat Restoration Fund preproposal review met yesterday and several excellent projects are moving forward to full proposal. Finally, the Rhode Island Infrastructure Bank (RIIB) received NFWF funding to more effectively incorporate nature-based solutions into the Municipal Resilience Program (MRP).
- [Sue Kiernan](#) with RIDEM shared that State Revolving Loan (SRF) funds are also receiving a bump in funds next year and will come with loan forgiveness that opens up who can/will participate. Large projects, including those in the planning phase, will be eligible. She added that 2022 is the national clean waters survey to capture 20-year needs under the CWA. Sue continued that RIDEM has postponed the implementation of the new freshwater wetland regulations until July 1, 2022.
- [Jonathan Stone](#) with Save The Bay shared that the “South Key” parcel (filled in the 1980s as a marine terminal) is now under new ownership and will be used to assemble offshore wind infrastructure. Save The Bay identified freshwater wetlands on the site and CRMC agreed, so the new owner will work with CRMC to complete a large 3:1 wetland restoration effort on the Seekonk River. He also noted that the Army Corps is involved in expansive and expensive effort to create more confined aquatic disposal (CAD) cells and use dredge spoils to use as living shoreline in Stillhouse Cove in Cranston/Warwick. Design and costing work are needed for it to be shovel ready. The Army Corps will not pay for the work, but there is time to find funding as dredging is not expected for two years.
- [Heidi Ricci](#) with Mass Audubon shared that they have a [position](#) open related to its “billion dollars for nature” campaign.

FIRST DRAFT NBEP BYLAWS DISCUSSION

Mike next walked through a 15-slide [PPT](#) (see slides 7-22) that provided an overview of the first draft bylaws, created by RWU and NBEP staff, which were shared with this committee on November 28th. Provided for each of the 11 articles in the PPT was a short description, comments received, some notes from Mike, and questions for the committee. A fairly detailed overview of the discussion during the meeting is provided below to ensure we fully capture input on this important document. Suggested changes that seemed to have uniform support from the group are provided in italics in these notes.

Article 2, Section 1—Management Conference (Bylaws, pages 1-3)

- Regina Lyons noted that the governing body for NBEP has historically been the Steering Committee, so the Management Conference language may not be necessary. Others had this same comment Further, she suggested that we clarify whether the listed term limits apply to “all” committees, or just the committee where someone currently sits.

- Mike responded that the Management Conference language comes from the Clean Water Act and the intent was to maintain the direct connection to the law and reduce redundancy by capturing the concepts that apply to all three standing committees in the Management Conference section. *He suggested that a solution could be to swap out “Standing Committees” for Management Conference throughout.* Several in the group supported this approach. Mike also added that Section 2 of the bylaws explicating states the connection the law. He asked members to consider this change when reviewing the draft again as part of full Steering Committee review next month.
- He concurred that a *sentence should be added to clarify that term limits only apply to the committee upon which someone currently sits* (i.e., they can shift to another committee such as from the Steering to Science Advisory Committee).
- Sue Kiernan offered that the Management Conference purpose on Page 1 of the bylaws isn't in line with how NEPs/NBEP approach their work today. She specifically noted items 1 and 2 on page 1. Other on the committee agreed that some more current language can be used with losing the connection to the Clean Water Act. Other members agreed some of the language was awkward or outdated.
 - Mike concurred and said he would *tweak the language in items 1-9 on page 1-2 to be more current and consistent with NBEP's approach*, yet not so different as to lose connection the Clean Water Act origins.

Article 2, Section 2—Steering Committee (pages 3-4)

- Sue thought that Item 3 under Steering Committee responsibilities should be more explicit what amendments to the work plan and budget require Steering Committee review and approval. Her feeling that with four meetings a year, that doesn't leave NBEP nimble enough to make decisions quickly, so waiting for full committee approval/voting should be reserved for large changes, such as a substantial new funding source, task, or shift in staff roles). The Executive Committee and NBEP staff can handle other more day-to-day decisions in the interim.
 - Jonathan Stone with Save The Bay and Heidi Ricci with Mass Audubon agreed that this sort of flexibility is a good idea.
 - Regina noted that we could use a test of 'no surprises'—what would the full Steering Committee be surprised or upset that they didn't approve?
 - Mike said creating such lines can be a challenge, but perhaps certain 'substantial' actions could trigger consultation with the Chair about whether the full Steering Committee must approve. He asked members to consider this issue in the context of the Steering Committee and Host (see Article 3 below) and said he would add revised language in the next draft
- Regina stated that she did not have strong feelings on whether EPA should have a vote when serving as Chair. The intent was for EPA to not be too forward as the overseer and funder of the program.
 - Mike noted he liked the compromise of EPA remaining non-voting unless their representative is serving as Chair or Vice Chair. *He asked the group to consider this solution.*

Article 2, Section 3—Executive Committee (page 4)

- Mike opened the discussion by noting that the make-up the Executive Committee was the trickiest issue encountered so far as we switch from Guiding Principles to bylaws. The bylaws proposed three “at-large” members for the Executive Committee, instead of specifying two state resources agencies (one from each state) and two slots for non-government agencies (one from each state) as was done in the principles. In comments on the draft, Sue Kiernan with RIDEM had suggested specific slots for RIDEM and MassDEP based on the bi-state nature of the program their state-level Clean Water Act implementation role. Mike’s view was that this approach in appearance gives preference to certain members of the partnership over others, and in substance, could limit the pool of candidates for Executive Committee officers, which has been a challenge for NBEP. He felt first and foremost we need folks on the Executive Committee who have the time and interest to serve.
 - Richard Carey with MassDEP said he shared Sue’s perspective. He felt it was important to have the state agencies on the Management Conference. He asked Mike for a bit more explanation about what he meant by giving preference to state agencies, as he felt Sue’s proposed language addresses the state’s desire for representation while maintaining a diverse Executive Committee. He added that there need not be a requirement that state folks be officers.
 - Mike clarified that he was not saying that states were seeking greater oversight, just simply that saving two slots for them presumes that there will be agency staff with time and interest to participate into the future. His comments were not personal—all structural thinking out 10-15 years. Due to RIDEM and MassDEP staff and others support of the program we haven’t had an issue getting folks to fill Executive Committee slots to date, with the exception of Chair.
 - Heidi Ricci added that Sue and Richard’s comment reflect discussions at the last Executive Committee meeting, and that these seats would be balanced by the seats held for NGOs in each state.
 - Mike agreed this would help, but noted that the NGO slots could not be filled by existing municipal or federal agency reps on the Steering Committee or that should join in the future. Widening the pool for officers especially was a reason for the use of at-large.
 - Allen Hance with RWU stated that when RWU legal looked at the Guiding Principles and started drafting the bylaws, they sought to be less prescriptive so they can work with whomever is filling a particular role. So, they moved away from named entities as possible. He added that the make-up of the committee should be tied to its purpose, which in the bylaws as drafted is to offer counsel to the Executive Director and oversight of major program actions. He felt it was critical to have representatives from all three states and multiples perspectives on the Steering Committee, but questions why we would want to lock the representation on this committee via the bylaws. Allen said that perhaps the Executive Committee make-up would change based on NBEP’s work focus.
 - Jonathan Stone said he understood the tension on this issue. He feels it is critical to have RI and MA agency staff engaged in the program, and having slots for them on the committee set aside for them over the last 9 years has helped achieve this goal. He does generally agree with Allen that other traits are important (time, energy, expertise), but this program really thrives with engagement from both states, so he leaning toward naming agencies is best.

- Sue Kiernan added as context that the real work on collaborating happens at the Executive Committee level by vetting what is presented to the Steering Committee. She would not be comfortable with RIDEM just being at four Steering Committee meetings a year to ensure the partnership thrives. She offered that the state made a commitment to EPA to serve on the Executive Committee, and in general, most issues addressed by NBEP rests largely at RIDEM, so want to keep that strong connection to preclude need for extra coordination.
- *Regina closed the conversation and asked everyone to think about this further, provide any thoughts, and be ready to reach consensus or take a vote at the next meeting.*
- Mike thanked everyone for their honest input and noted that a single slide is included in the Steering Committee presentation for later today that summarizes the Executive Committee's comments. This slide does not include the additional commentary or questions offered to this group to prevent biasing their perspective.

Article 2, Section 4—Science Advisory Committee (pages 4-5)

- Mike Gerel stated there were no comments submitted on this section. He noted that the lack of a meeting frequency was an unintended omission, and that a frequency of at least three times as year would be added, which is the same as the Guiding Principles.

Article 3—Host Institution (pages 5-6)

- Sue Kiernan explained her suggested text related to the provision in the bylaws that the host has sole discretion over personnel decisions. She proposed that changes to NBEP staffing structure that constitute amendments to the work plan or budget should be subject to approval by the Steering Committee. She felt that if the Article 2, Section 2 was revised to clarify what decisions require Steering Committee approval (as discussed earlier today), the host sole discretion text may not be necessary. In her view, any time positions are added or subtracted that should require an amendment and trigger the need for Steering Committee approval.
- Regina Lyons added that depending on the final language in Article 2, some consensus or voted decisions may need to be completed via email in between quarterly Steering Committee meetings.
- Allen Hance agreed with Sue, and is thinking through the appropriate level of discretion for the Executive Director so s/he has the latitude to make day-to-day decisions to advance the program. On FTE or contractual personnel, it is explicit in RWU's EPA agreement that NBEP staff are RWU employees, and as employees they must work through the required RWU contracting processes.
- Sue offered that her intention was to protect RWU from getting inundated with contracts and to know what staff if working on.
- Allen noted that the Executive Director must send any actions related to personnel, contracting, etc. through HR, procurement, and general counsel as appropriate, so checks are in place.
- Mike suggested members think about this issue within the larger context of what actions require Steering or Executive Committee approval in Article 2.

Article 8—Advocacy (page 8)

- Mike Gerel started discussion of this article by noting that the intent was to leave the door open for NBEP to pursue lobbying in the future if the Steering Committee decides it is appropriate and funding is in place to pay for it that allows such activities.
- Jonathan Stone responded that a lot can be accomplished by educating elected officials in a manner that does not constitute lobbying.
 - Mike concurred and pointed to permission language around education in this article to preclude some past concern on the Steering Committee that NBEP was prevented from any interaction with elected officials.
- Sue Kiernan urged caution noting the practical reality of such a small program digging in on lobbying and for us to be clear about what's lobbying and what's not.
- Allen Hance added that RWU is agnostic on this issue. They are interested in NBEP doing its educational work, and lobbying is permissible, but doesn't have keen interest at this point.
- Richard Friesner with NEIWPC noted that all current funds are federal, so NBEP would need charge lobbying time to another pot of money.
- Mike said he doesn't feel strongly about this issue, but likes the short paragraph of explicit language about what is permissible to alleviate confusion about education vs lobbying. He asked the group to review the article and offer any further thoughts.

Mike concluded this part of the meeting by asking committee members to submit any further comments to him by January 21st. In terms of next steps, the full Steering Committee will be introduced to the bylaws for the first time this afternoon and will have the same deadline for comment. The plan is to seek approval of final bylaws in February (likely by email). Both Regina Lyons and Allen Hance confirmed that because a solid draft and path toward approval is in place, they are fine with NBEP finalizing bylaws after the December 31, 2021 deadline in the EPA grant agreement.

MEETING CLOSE

Mike proposed that this committee meet the second Tuesday of February, May, August, and November in 2022. Committee members preferred the afternoon on these dates. Therefore, meeting next year will be from 1:00-3:30pm on 2/8/22, 5/10/22, 8/9/22, and 11/8/22. Members should expect Outlook invites for these meeting shortly.

Regina and Mike thanked everyone for joining today and wished everyone happy holidays. The meeting adjourned at 12:10pm.

ACTION ITEMS

1. All who are able to attend the NBEP Steering Committee later today from 2:00-4:15pm via Zoom.
2. NBEP will post today's presentation tomorrow, so between these notes and today's PPT, committee members will have copies to all the comments they have provided on the draft bylaws to date.
3. Committee members to provide any additional comments on the draft bylaws by January 21st.
4. NBEP will send out Outlook invites for 2022 Executive Committee meetings ASAP.
5. Committee members interested in participating in new hire interviews should get in touch with Mike by February.