



Minutes
Environment and Natural Resources Committee

May 5, 2007—9:30 a.m.
Chicago Metropolitan Agency for Planning

- Members Present:** Dr. Marty Jaffe-University of Chicago, Dr. Moira Zellner, (alternate) University of Chicago, Karla Kramer-US Fish and Wildlife Service, Mike Rogers - IEPA Bureau of Air, Amy Walkenbach-IEPA Bureau of Water, Jim Van der Kloot-USEPA Region 5, Mike Warner -Lake County Stormwater Management Commission, Joe Schuessler (alternate) - Metropolitan Water Reclamation District of Greater Chicago, Patricia Young – Metropolitan Water Reclamation District of Greater Chicago, Lenore Beyer-Clow -Openlands, Jack Darin- Sierra Club Illinois Chapter, Wallace Van Buren-Illinois Association of Wastewater Agencies, Ingrid Ruttendjie - Fox Waterway Agency, John Oldenburg (alternate) – Illinois Association of Conservation & Forest Preserve Districts, Mr. Pete Harmet – IDOT District One, Howard Learner- Environmental Law & Policy Center, Ricca Slone (alternate) Environmental Law & Policy Center
- Staff Present:** Don Kopec, Kerry Leigh, Joy Schaad, Dawn Thompson, Jill Leary, Bob Dean, Jesse Elam, Hubert Morgan, Ross Petronsky
- Others Present:** Mike Klemens-WCGL, Chris Choi - USEPA

- 1.0 Call to Order**
Chairman Jack Darin called the meeting to order at 9:35 a.m.
- 2.0 Agenda Changes & Announcements**
There were no agenda changes or announcements
- 3.0 Approval of Minutes- April 4th, 2007**
It was noted on page five that Joy Schaad's name was misspelled and that under item 7.0 PPP the E&NR meeting date needed to be amended to May 2nd.

MOTION: John Oldenburg motioned and Ingrid Ruttendjie seconded to approve the April 4th, 2007 minutes as amended. Motion carried.

4.0 **Draft Public Participation Plan – Hubert Morgan**

Hubert outlined 2 challenges faced by the Citizens Advisory Committee (the Committee charged with updating CATS Public Involvement Plan), the first challenge was responding to the new federal regulations, and the second challenge was making the plan more comprehensive to meet the new mission of the Agency. He described the Citizens Advisory Committee, its regional make-up, purpose, mission, and charge. There first major project was the development of the new comprehensive Public Participation Plan. The CAC is advisory to the CMAP Board.

The CAC and CMAP Staff recognized the challenge of giving a voice to the 8.3 million residents of our region. Questions raised included:

How do you reach out?

How do you share planning related information?

How do you engage the residents?

How do you sustain the relationship?

And how do you measure the effectiveness of your strategy?

Federal requirements within the new SAFETEA-LU regulations had to be addressed to be responsive to the transportation process, with a more comprehensive emphasis on CMAP's other functional areas...for example, the environment, housing economic development. Three over arching goals were developed that became the foundation of the plan.

Public Participation Goals are As follows:

Outreach – the task of identifying and providing notice to participants across multiple demographics.

Engagement – the task of informing, educating, listening and sharing in the planning process.

Sustainability – maintaining the relationship with residents to keep them interested in participating.

John Oldenburg asked about a statement Hubert made about wanting to make sure that there is a broad spectrum of citizenry represented on the CAC, and how he has heard comments that people didn't know anything about it or how people were chosen or what that representation is. Hubert responded that if there are concerns we need to make sure that the process is as transparent as the plan.

Lenore Beyer-Clow asked what the criteria were for geographic or spatial representation, types of responsibilities, and disciplines people represented. Hubert responded that there was geographic distribution and the committee was covered by multiple disciplines, and interest areas that aligned with CMAP's new mission.

Mike Warner asked about the by-laws and particularly if the selection on process or the committee make-up is not in the by-laws could they be amended or appended to the by-laws? The assumption is that the by-laws define how the committee operates, and it also could define how the make-up of the committee occurs.

Marty Jaffe added a general comment noting that the discussion has been focusing primarily on the structure and asked if it is possible to expand somewhat on the process? For example, to link it to the administrative procedures act saying that people have access to information through the Freedom of Information Act, and could it be broadened beyond outreach to just stakeholders? Because something that happens in South Holland may not consider Waukegan to be a stakeholder. But in fact they may have an interest in having input into some decisions happening elsewhere in the region. The way it is phrased now when defining who a stakeholder is, is more constrained than the public as a whole. And those types of issues in terms of scope of outreach which are process issues in how you define the audience and things of that nature. He asked if there is a way to layer around the bylaws of the procedures or is there something beyond these general statements and then refine them down a level.

ACTION ITEMS: May 10th deadline for all comments to the PPP. Hubert will provide the criteria as to how the CAC representation was selected for the June meeting of the Committee. Hubert will also address and respond to Mike's question about the by-laws and Marty's comments about expanding the process beyond just the committee structure and expanding the conceptual role of 'stakeholder' versus the public as a whole. Also there will be a map created in response to a request to depict the spatial distribution of the CAC members.

5.0 Facility Planning Areas – Dawn Thompson

Staff requested the committee to make a short term and a long term recommendation to the CMAP board. The first is in reference to the makeup of the CMAP committee that would assume the NIPC Water Resources Committee responsibilities for reviewing the FPA applications, and the second is to request the board to assign working groups to undertake a study to analyze alternatives to the current FPA process. These alternatives could include the DRI process and/or a watershed planning based process as well as other successful processes in use around the country. This alternatives analysis process would include study sessions for the working groups to discuss the future of the process under CMAP.

Dawn distributed comments received and a table synopsis of comments received on the draft *Wastewater Planning & Management in Northeastern Illinois* document dated May, 2007. Comments were received from the Campaign for Sensible Growth, USEPA, IEPA, Lake County SMC, Openlands Project, Will County Land Use Department, and the Metropolitan Water Reclamation District of Greater Chicago. Dawn noted that many comments concern the planning aspect of the FPA process such as TMDL's and anti-degradation, and will be a part of future discussions, therefore it is not necessary at this point to get consensus from the group.

One comment from the IEPA states “these 208 plans were also required to include alternatives for wastewater treatment and management should be removed”. Dawn requested a rationale for that comment. Amy responded that for the 208 Plans as part of the Clean Water Act, those alternatives analysis are specifically directed towards the facility plans that were developed under the 208 grant program. For clarification Dawn quoted a reference in the Clean Water Act in Section 208B1, that says “that not later than one year after the date of designation of any organization under subsection A of this section, such organization shall have an operation in continuing area-wide waste water treatment management planning process consistent with 201 of this act. Plans prepared in accordance with this process shall contain alternatives for waste water treatment management and be applicable to all waste generated within the area involved” and requested clarification. Amy responded that it can be interpreted differently, however the way IEPA looked at it is that the Areawide Management Plan does not need to contain each one of those specific practices for specific areas. It’s an overall plan for looking at waste water treatment under a 20 year planning process.

Dawn’s next question concerned the IEPA comment about the current process not being in place for many years. Dawn noted that the process with the 9 criteria has been in place since 1983. Amy replied that what was meant by that comment was more the robustness of the process that has only been in place since the last 6 years or so.

Additionally, Dawn indicated that the statement in the document about politics playing into the mix of the FPA process will be deleted from the document.

The Lake County Storm Water Management Commission sent several comments primarily of clarification. There is a document in the packet that breaks down how many FPA amendment applications there were by county and by each year 2002 –2006.

Specific comments were received from Openlands about changes to the recommended language. Dawn initially suggested getting consensus on the changes to the language. There is a particular concern about the applicant duplicating data to NIPC and the IEPA to satisfy the agencies different foci and goals.

Karla noted that in general, that if all you have to do is duplicate data, put it on a copier and send it out to two different sources, that is probably not going to be a problem. But if you have to collect different sets of data, that overlap but are slightly different, that is a different story. So she requested some clarification from Openlands as to what they meant.

Don interjected noting that the IEPA has a charge and the Commission also has a charge by the Governor, and so in that sense there can be a duplication in that instance. The Commission has a set of nine criteria that we review and though the IEPA basically looks at five, they look at things such as the non-point source ordinances, the population projections, as well as the quality of the water. But as a Commission, we also have a charge to look at

some other planning aspects that deal with comprehensive plans, and trying to resolve inter-governmental issues that occur. So in that sense there is some duplication.

Wally spoke of his experience as Chair of the Water Resources Committee overseeing the FPA process noting that the area in which they are speaking of duplication of effort is where we become involved in the science, and as this is also being done at the permitting level with often two different people looking at the same set of data or the same item will come up with different answers. This becomes a great frustration to the applicant to find out when they get their information that they've already gone through the work and the engineering costs, and all this now has to be redone because there is another review with ultimately the IEPA responsible for the permit.

Lenore said that she thought that the intent here is to recognize that there are some inefficiencies in the current system and that we need to make sure that we are asking the same questions for the end product. But at the same time that CMAP looks at things from the regional perspective of planning in this area and really understanding those implications, there are some additional criteria that need to be brought into that planning process. So while moving forward in this next stage that you've mentioned and working out some of those inefficiencies, Openlands definitely agrees that that piece needs to be addressed in that next step. Lenore agreed that while there is some duplication there is a reason for that.

Mike Warner asked if the document was created by Openlands and Dawn responded that it was created by CMAP staff and Openlands inserted language into the original. He then asked if other groups should also make changes to the document and if so does staff want us to provide actual wording changes in the document? Staff indicated that it preferred general comments that staff would integrate into the document, but Dawn said that if anyone wanted to make changes to the document that would be acceptable to submit in that format. Dawn clarified that today we were looking at incorporating specific language into the document and also looking at other comments that can be discussed at a further stage.

Wally added that the FPA process is basically the contract that we have with IEPA. As they define that, that is the FPA process. If they didn't have a contract with us then that would go away. Now we may have a lot of other desirable planning objectives to put and saddle on to that but the IEPA doesn't consider that their purview, and that's something that as a regional planning agency we are responsible for and the FPA process is for them. They have defined it down quite a bit because they feel that the process has been considerably augmented in the last few years. So basically what we're saying here is that this is what the FPA is, it is that contract, nothing more – nothing less.

An unidentified speaker asked: But moving forward, aren't we at this stage asking the CMAP board to adopt an FPA process that will really address the regional planning issues that we're looking at?

Wally responded that they may be asked to do that but basically what the contract says with IEPA will be the FPA process. That is the FPA process, and if they didn't renew the contract that would go away. That's not to say all of our planning responsibilities would go away as we'd still want to make sure that our planning efforts would go forward. It's really as simple as that.

Amy clarified that IEPA has a contract with NIPC right now to do some very specific reviews. Everything that is done above and beyond that is a regional planning decision and that is something that Illinois EPA doesn't have any concern over or say into so they have stepped back from that.

What is the term of that contract? Amy: The term is one year – July 1st is when the new contract will begin.

Dawn clarified that the final document will be presented to the Board and that this is not the final document. The committee will have an opportunity to review the final document with all comments integrated before it goes to the Board. Jack clarified that there will be discussion of this at the coordinating committees prior to it going to the Board. Staff will bring back a document that has all the other committee comments to the June meeting which is one week prior to going to coordinating committee. Don reiterated that the other issue is whether the committee wants the process to continue as is until such time that the Board decides to reconsider, and if so this will be the standing document which will guide the process.

Mike agreed that the SMC staff can do some word crafting changes to the document itself if that would make it easier. If not the huge amount of changes that we are suggesting is just to incorporate some concepts in regards to the watershed planning process and how it might work in the future similar to how Openlands commented.

John returned to a fundamental procedural question he had with the RTP comments and with this document, the comments were made and then nothing, he didn't see that comments had been incorporated into the document.

Jack suggested that we have a procedure for when we go through these documents to review and submit comments, that we have follow up as to how they were incorporated into the document, or if they just are comments for consideration.

Mike explained that his comments weren't meant that staff didn't do a good job and he appreciated the comprehensiveness, but now that we understand how to work with staff a little better they will make specific document changes in line by line and strike out, so that staff can see one document and avoid putting staff on the spot.

Kerry suggested having the comments incorporated 1 week prior to the June mailing to send out to the committee to look at before the June 6th meeting, therefore she would like to e-mail May 30th.

Jim commented that this is a conceptual document that is for a fairly limited purpose, and that it's not a legal document, so when we each make specific wording changes it puts CMAP in a bit of a bind. The question is do staff agree with it exactly the way that it is worded? The speaker proposed making conceptual comments rather than word-smithing individually, then allowing one author to make a combined, integrated document, then we have something that we can look at a second draft of. We've just spent a very long time going over some specific language. We spent about 10 minutes talking about the difference between duplication of effort and the alternatives which was really splitting hairs, and we could get into many such discussions like this as a committee if we try to word smith things as a group of 20. It could lead us to spending a lot of time in an ineffective way. My suggestion is that we should submit conceptual comments rather than specific wording language on documents such as this. If we have a legal document, it's a different story.

Kerry noted that for example, the comments that we received on the RTP update were conceptual for the most part and we took those comments and inserted them into the most appropriate places where they worked as a whole in the document. I think it would really work for us to be able to do that with this document as well.

John reminded everybody that this committee is part of the consultation process under SAFETEA-LU and thinks that if it is the consensus of this committee to provide a document change then it needs to at least go before that board as the consultation process. It is no longer just an advisory of what we think and then staff makes those recommendations. This is part of the federal consultation process in part. It's a new ballgame.

Mike wondered if we are approving Openlands comments today, and there is no response to our comments or IEPA comments today but those would be reflected in changes to the document from a staff level, and do we want the comments to the document from a staff level or do you want that from us?

Dawn reiterated Jim's point about just giving conceptual level comments with the May 30th mailing deadline, so May 23rd would be the date to have comments in to Kerry so staff has time to incorporate the comments of concept and create actual changes to the language.

It was suggested that it would be helpful if the format for the draft documents had line numbering to make it easier to review and discuss and that it would be really useful if there are specific concerns that CMAP has with the language that was submitted by Openlands to just go right to those rather than going through line by line each submitted sentence and to focus on those concerns rather than each line.

Howard emphasized what John said is exactly right that this consultation process is different under SAFETEA-LU. We provide comments, the advice goes into the hopper and it's reviewed and you agree with it disagree with it, etc. This is part of statutorily required consultative process and I think it just elevates both the importance of both the comments that we provide now and then the deliberations we make later in terms of what to do then. Its different statutorily than the system has been in the past where there is what I'll call friendly or not friendly advisory panels when it's simply somebody providing advice and you either take it or leave it. This is consultation.

Jack reiterated that the committee has a plan for how to get to what we hope will be a consensus draft document at the June meeting. Two other questions that are more substantive and pointed in the immediate future are the committee of jurisdiction the Kendall County issue.

Dawn noted that historically we have included Kendall County area in an FPA boundary expansion if the applicant is in Will and the boundary expansion extends into Kendall County.

Don said that he didn't believe that it had been discussed in detail with the CMAP board at this point and that he doesn't know of any opposition from Kendall County, although when it comes to paying the \$10 per acre fee the County did not want to be part of this FPA process. Including Kendall County would mean making an amendment to the area-wide plan, and there needs to be consensus from this committee.

On the committee of jurisdiction question Jack asked Wally if he would have any words of caution about what we might be getting ourselves into if we take this charge on with CMAP.

Wally sees this as a two track approach. We have a regional planning agency with planning process concerns simultaneous to the requirements that we have with the IEPA. The difficulty that we've been having in administration of it is where we took our plans and imposed them on the applicant in order to get their NPS permit. So rather than directing those comments to IEPA who has no interest, they should be separated out by simultaneously communicating with the applicant about our concerns, for example, do you have the model ordinance in place, so that it's a very opportune time to touch on those issues that really are a concern to us in our regional planning. Also we've had a reduction in funding available to us at NIPC as the IEPA funding was drying up, so we thought, what does the IEPA really need from us? How can we continue to provide this review process effectively with reduced funding? That does not minimize what we want as a planning agency but there are two separate items even though they should occur simultaneously. While we wish it to go into the future, I think that that is part of what we are doing now. Where we'd like to see it go, for example, watershed planning.

Dawn asked Amy if the Governor would have to de-designate NIPC as the area-wide planning agency. Amy explained that under the Clean Water Act, IEPA is directed to give

40% of funds from 604B money to area-wide planning agencies as designated by the Governor. How those funds are split can be determined by the agency. Right now there are three different area-wide planning agencies that are funded, NIPC receives the lion's share of those funds at this point. But the IEPA has that flexibility as to how funds are allocated. If those funds decrease as Wally was talking about, of course the percentages decrease for each of those area-wide planning commissions. If those funds were to disappear totally we would have the opportunity to not fund any of the area-wide planning agencies any longer. What could happen then is either there are no funds available or Illinois EPA decides to shift those funds to NIPC but for other practices. There is a laundry list of activities that can be funded under this pot of money. We could choose to write a contract for NIPC do some watershed planning for example instead of implement the FPA process.

However, the way I understand it, legally NIPC is still the owner of the area-wide water quality management plan. Therefore, that would still give you the authority to implement that plan. I think that is what you are getting at and kind of took the long way around getting there. But that plan is still the regional plan and can be implemented if you so choose.

John commented that the magnitude of additional work is appreciated, but what is important to recognize is that the resource itself needs the planning. I think we need to look at it from the standpoint of what is necessary, and then figure out a way to accomplish it, not to decide whether or not we can consider it. With regard to Kendall County, that county is crying out and needs rapid help because there are entities taking advantage of the fact that there is no process out there. I just want to throw that out that we are sensitive to the amount of work and the ramifications of that work, but the work has to get done because it's necessary.

Another speaker agreed we need to focus on the resource benefit more than the workload. So if there is a resource benefit we should do it. Jack asked if anybody disagreed with that, and no-one responded.

CONSENSUS SUMMARY: Jack felt comfortable for the purpose of next week's coordinating meeting if he is asked that the sense of this committee is 1) that Kendall County should be included in the way that CMAP construes the FPA region, and 2) that this committee is willing to be the host committee to advise the board as the process goes forward.

Lenore questioned if we don't want to make something a little stronger than that to say that we endorse CMAP moving forward and taking this responsibility? Jack asked Don if he felt that was consistent with what he thought the board wanted, and Don concurred.

ACTION ITEM: Jack Darin will provide a report to the Planning & Programming committees as to the E&NR working group consensus on incorporation of Kendall County into the FPA program at CMAP and that the E&NR working committee would agree to act as the committee of jurisdiction for the FPA process in the interim until a new process is defined.

ACTION ITEM: Staff will incorporate the comments received so far into the draft document for distribution prior to the June 6th meeting of the Environment & Natural Resources Working Committee. Any additional comments or insertions of language into the draft document should be sent to Kerry by May 23rd for dissemination of the revised document on the 30th.

6.0 **Regional Comprehensive Plan** –Bob Dean/Jesse Elam

6.1 Identification of Major Issues within Goals & Objectives

Staff went through and identified which goals the committee thought were most relevant to deal with from the last planning session. The format of this is the same but the order is different, as all the central goals were put up front and are now concentrated on the first three pages to make it clearer to see what this committee is going to be asked to focus on. The point of this exercise was to pull out the major ideas from these goals. There will be a visioning event which will be either in August or September for all the committees to participate in. Today's exercise is to get the major ideas out of the goals to figure out what the ideas are that this committee thinks needs to be included in the regional vision. In August we will start to work on what that draft's vision will look like. This is a multi-step exercise that we are doing today to pull the ideas out of these goals.

The committee broke into groups of two people and discussed 2 or 3 of the goals and pulled out a couple of words to capture the essence of the main idea of each goal.

ACTION ITEM: Bob will summarize the discussion prior to the meeting for e-mailing.

6.2 Schedule of Committee Activities

Bob handed out a schedule of the committee activities.

6.3 Summary of Regional Snapshot Report on Sustainability

Jesse gave a summary of the regional snapshot report.

7.0 **Discussion Items for Future Meetings**

Modeling: Modeling needs and capabilities with the modeling team for the Comprehensive Plan.

Air Quality Presentation: Statutory requirements.

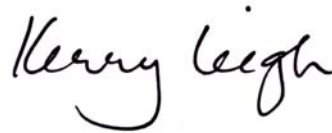
8.0 Public Comment

There was no public comment.

9.0 Adjournment

MOTION: At 12:00 noon, Chair Jack Darin motioned to adjourn the meeting. Motion was seconded by Ingrid Ruttendjie. Motion carried.

Respectfully submitted,

A handwritten signature in black ink that reads "Kerry Leigh". The signature is written in a cursive style with a large, sweeping "K" and a long, trailing "h".

Kerry Leigh
Staff Liaison

/kl
05-02-07