

**MANY MIND CREEK STEWARDSHIP:
Interactive Learning about the NY-NJ Harbor Estuary Ecosystem**

NEIWPCC Job Code: 0355-002

Project Code: 205-024

Final Report as of May 31, 2007

1. SUMMARY OF WORK

The grant budget of \$1,000 has been 100 per cent spent. The necessary documentation is being submitted to NEIWPCC with this report, with a request for reimbursement of expenditures that Atlantic Highlands Borough made on behalf of the project but has not yet invoiced to the grantor. In addition, actual and in-kind costs beyond the grant were over \$3,800.

An estimated 98 per cent of the planned project work has been completed. We await our contractor's completion and delivery of weather-proof text panels for the information boxes along Many Mind Creek, which should be completed within a few weeks.

2. PROGRESS IN ACHIEVING PROJECT OBJECTIVES

Following is a brief summary of progress achieved in reaching the project's four objectives (for details, see the periodic progress reports).

• Increase estuary-related education among students

Student participation ranged from elementary to college level.

The youngest group was the local WEBELO scout group under the leadership of scoutmaster Michael Burke, who constructed six information boxes using recycled plastic, financed by the grant. The locations of the six boxes and their educational display panels are next to the bay, at the mouth of the creek, two bridges overlooking the creek, the grassy edge of a small tributary, and at the headwaters.

All elementary school pupils were invited to the annual estuary day events, and many attended with their parents. Local Cub Scouts were particularly enthusiastic about kayaking, which for many was their first time out on the creek and bay.

Students from the high school science club worked on beach clean-ups on estuary days and displayed educational exhibits (e.g. about habitat, wildlife, water pollution) based on their studies.

Brookdale Community College "Water Watch" members also took part with presentations and exhibits.

• Increase number of adults working for waterfront acquisition

This effort peaked in April 2006 when a petition signed by over 1,300 residents was presented to the Borough Council, calling for the town to acquire the waterfront property known as the Giuliani tract, which contains the saltmarsh, the mouth of Many Mind Creek and a bayfront

beach. Attached is the petition package, consisting of a one-page petition text and a signature sheet that repeats the four main requests in the petition. Our public nature-education activities and waterfront events got people so concerned about acquiring and preserving this property that more people signed the petition than ever vote for any candidate in municipal elections in our small town (population 4,700). This helped galvanize the opposition of elected officials, politicians and Planning Board members to the proposed development. The developer withdraw its plan in September 2006, citing this significant opposition as one cause, together with the softening of the housing market. Town officials have done extensive funding research, professional property appraisals, and owner notices, have met the owners about pricing and possible sale structure, and are pushing for delineation of contaminants on the property as part of due diligence. There is still a considerable distance to travel toward acquisition.

• **Increase awareness of elected officials about estuary stewardship**

Speaking when the petition was presented to him and the Council, Mayor Donoghue said that the petition drive had reached "impressive numbers of people." He and several Council members spoke in favor of acquisition. Awareness of the importance of the acquisition is evidenced by the fact that several elected officials said they were even ready to exercise eminent domain if necessary. Of course, the acid test of this heightened attention will come when, as is hoped, elected officials have to vote formally to acquire the Giuliani tract. There is backing for this from the NY-NJ Harbor Estuary Program, which designated the tract as a priority for acquisition and restoration (site RB-17).

At our annual celebrations of National Estuaries Day at Many Mind Creek, one Council member always mans the seining net (often with his daughter), another served as overall organizer one year, the Mayor and his wife always attend, and all Council have at least appeared at one or more of the days.

Debate on and adoption of a stringent stormwater ordinance in 2006 also provided important occasions for raising awareness of elected officials about the dangers of pollution in Many Mind Creek, its estuary and bayfront.

• **Increase interest in kayaking and waterfront leisure activities**

The kayaking events on the annual estuary days have been a hit with both adults and children. In particular, Cub Scouts really "got into it," as previously reported. Bringing an Audubon Society expert to talk with attendees about waterfowl, including those observable every day in the estuary and bay waters, was a first. Seining, shell talks, guided observation of dunes and saltmarsh, beach clean-ups that nearly filled two dumpsters, and even games of "ultimate Frisbee" all heightened people's awareness of the interesting resources that need protection and offer recreation. However, lasting results in this sphere can of course only be obtained once the privately owned bayfront Giuliani tract is turned into a publicly owned park and recreation zone.

3. PROBLEMS ENCOUNTERED and how they were dealt with

A factor that set the project back was the move to Boston of our project leader, Dr. Jacqueline Royce, in late March 2006. The new project leader, Dr. Paul Boyd (chair of the Environmental Commission), needed time for catch-up and familiarization not only for this project, but also several others that Dr. Royce had led. This added workload on top of his pre-existing

responsibilities also contributed to the need to extend the project's duration. Finally, he had surgery in January 2007 which ended up requiring four months of recovery and rehabilitation and held up completion of the display panels for the info boxes along the creek..

4. RELATED ACTIVITIES

This summer, as part of an Eagle-candidate project, local Boy Scouts are planning to drag out a number of truck tires and a truck body that are embedded in the bay bottom offshore. Borough public works employees have removed one very large truck tire from the bay, and a half-buried bicycle, a silt fence and a traffic cone from the tidal portion of the creek bed.

As of May 2007, the data gathering phase was completed for a project that will produce a regional stormwater management plan for the Many Mind Creek watershed, which is shared by Atlantic Highlands and Middletown. The project is funded by a grant from NJ Department of Environmental Protection under the program for pollution control and stormwater management (Section 319H). The project is managed by the Atlantic Highlands Environmental Commission with a technical subcontractor and a steering committee that includes representatives of Atlantic Highlands, Middletown, NJ-DEP, Monmouth County Planning Board, Freehold Soil Conservation Division, Monmouth University, Brookdale College field station, Surfrider Foundation, Clean Ocean Action, and others.

The work done so far has included sampling and laboratory analysis of water quality; identification of the presence, number and variety of benthic macroinvertebrates (pollution sensitive and pollution tolerant) in the stream; modeling the hydrology and hydraulics of the stream, including flooding issues; analysis of conditions of the creek channel and banks (e.g. erosion, sediment, vegetation, stream debris, etc.); assessment of fish and wildlife habitat; spotting illegal infill of wetlands and prompting action for its removal where possible; compilation and map-plotting of historical and current data on exceedances of DEP water quality criteria, particularly those regarding fecal coliform; and initial suggestions for follow-up projects.

The data have been used to prepare a characterization and assessment of the creek and its watershed, including identification of main problems that need to be addressed in the regional plan. The professional characterization and assessment of the creek and its watershed has been completed. A meeting on June 19, 2007 at the NJ Department of Environmental Protection in Trenton, N.J. will evaluate this study, overall progress made and future plans for completion of the project.

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NO to condos
YES to park

WATERFRONT FOR EVERYONE

PETITION TO MAYOR AND COUNCIL OF ATLANTIC HIGHLANDS TO ACQUIRE THE GIULIANI TRACT

We, the petitioners who have read the following full petition statement and have signed its accompanying signature sheet:

URGE the Borough Council to act decisively as soon as possible on the long-planned acquisition of the bayfront Giuliani tract for public park and recreation, conservation of beach, dunes, and saltmarsh, fish habitat, control of flooding and water quality, and waterfront parking.

CALL ON the Mayor and Council to use all available means to achieve acquisition as a bipartisan effort – outside of electoral politics.

RECOGNIZE that use of eminent domain is an available, legitimate, and fair means of acquiring this tract for public use.

RECOMMEND immediate acquisition action in view of the disturbing proposal for an extremely dense condo development (80 units) on both sides of Many Mind Creek, estuary and saltmarsh on the Giuliani tract, contrary to the public interest and environmental concerns.

RESCUE OF THIS LAND IS LONG-PLANNED, FAIR, AND AFFORDABLE

PREVIOUS ACTIONS:

- Acquisition of the property on our central waterfront is foreseen in the town's Open Space and Recreation Plan (2001) and Master Plan (2002).
- Both Republican and Democratic administrations have made energetic purchase efforts over several years – the goal is completely non-partisan.
- Public acquisition was endorsed by 83 per cent of respondents in a town-wide survey (October 2003).
- Environmental Commission special consultants prepared detailed plans for saltmarsh restoration, dune preservation, vegetated creek buffers, fish habitat, and passive recreation on the western 5 acres of the tract, leaving space for some ferry parking on the east bank (2004).
- The Mayor's waterfront advisory committee recommended that the town use "all available means" and act "expeditiously" to "acquire the Giuliani tract for public ownership" and for the restoration and recreation purposes described above (September 2004). Negotiation efforts are now dead-ended.

EMINENT DOMAIN FACTS:

- Use of eminent domain to acquire the Giuliani tract will abuse no one. No homeowner will be evicted: there are no houses on this land. The property owner won't be forced to sell: he already has a sale-option contract with condo developer K.Hovnanian. Acquisition is for public use, not private profit.
- Private property can be "taken for public use" so long as there's "just compensation" (US Constitution 5th Amendment; NJ Constitution Article 1). The purchase price will be set by a fair, objective judicial process that is established under NJ State law.
- The NJ Legislature and Superior Court agree that land acquisition for open space/recreation is a public use for which towns can use eminent domain.

FINANCING THE ACQUISITION:

- Pledges for the purchase have come from regional, state, county, environmental, and municipal harbor funds, as named below.
- Specific commitments are from a 2003 bond issue of the Borough's Harbor Commission, the NY/NJ Baykeeper, and Monmouth County.
- Port Authority pledged from its bayside-land acquisition fund and will set its figure once the Borough has a purchase contract.
- Green Acres gives high State priority to this acquisition, will provide 50-50 matching funds, and says that "requisite funds" will be forthcoming.
- If needed, significant financing is available in the Open Space Tax Fund that was approved by a vote of 2 ½ to 1 in a 1999 Borough referendum.
- No added property tax should be needed to acquire the property – total potential funding exceeds high estimates of likely purchase price.

NO TIME TO LOSE - THE COST WILL NEVER BE LOWER