

NEW JERSEY STATE TDR BANK BOARD

REGULAR MEETING

**REMOTE MEETING DUE TO CORONAVIRUS
EMERGENCY**

October 12, 2021

The meeting was called to order at 2:33 p.m. by Douglas Fisher, Secretary of Agriculture, Chairman.

Ms. Payne read the notice stating that the meeting was being held in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.

Roll call indicated the following:

Members Present

Douglas Fisher, Chairman
James Fruscione (rep. State Treasurer Elizabeth Maher Muoio)
Susan Weber (rep. NJDOT Commissioner Diane Gtierrez-Scaccetti)
Alex Ambrose (rep. Jennifer Coffey, ANJEC)
David DeFrang (State Board of Agriculture)
Gina Fischetti (rep. DCA Commissioner Sheila Y. Oliver)

Susan E. Payne, Executive Director
Jason Stypinski, Deputy Attorney General

Members Absent

Elizabeth Semple (rep. DEP Commissioner Catherine McCabe)
Donna Rendeiro (State Planning Commission)
Marlene Caride (Dept. of Banking and Insurance)

CHAIRMAN'S REPORT:

Chairman Douglas Fisher stated he had no report at this time.

EXECUTIVE DIRECTOR'S REPORT:

Ms. Payne indicated Woolwich Township adopted a TDR program in 2008 and in 2016, the State TDR Bank approved a \$5 million grant, which was matched with \$2 million provided by the Township, to purchase TDR credits on approximately 825 acres of land. The rationale for Woolwich's grant request was to compensate landowners located in the township's sending areas who had been down-zoned from 1-2 acre lots to 15 acre lots, and the TDR receiving areas were not yet ready to accommodate growth. The Township

requested the State TDR Bank participate by providing grants to purchase the credits from interested landowners to help protect their land equity.

After the funds were approved by the Board, the Woolwich Township TDR Bank held a reverse auction and used the \$7 million to purchase and acquire credits to preserve those farms. The intention was that those credits were then to be sold to the development community, and the state and township would recover their grant funding.

Ms. Payne stated Woolwich Township has requested forgiveness of the \$5 million grant, by letter dated August 10, 2021, from John Gillespie, an attorney representing the municipality. Staff responded, asking for further information in order to consider the request. Staff will update the board at a future meeting after the information is received and reviewed.

Chairman Fisher asked if the township has a responsibility to pay back the grant or a responsibility to sell the development credits. Ms. Payne clarified that if Woolwich sold the credits that the state helped purchase, the state would receive a proportionate share of the proceeds. However, Woolwich's request is to dismantle their TDR program and for permission to do away with having receiving areas. As a result, the township would have no means to sell the credits.

Ms. Payne stated the grant agreement between the state and Woolwich provided that if the TDR program was ever modified or cancelled, the township would have to retain enough of a receiving area to absorb the purchased credits.

Chairman Fisher asked if Woolwich provided special reasons as to why the township should be eligible for forgiveness. Ms. Payne stated that Mr. Gillespie's letter claimed the program was unsuccessful, which is why staff has requested more information.

APPROVAL OF MINUTES:

State TDR Bank Regular Meeting of October 12, 2016

Ms. Payne noted three corrections needed in the minutes, such as the spelling of Mr. Kernan's name in two locations and correcting "Woolwich Adult sending area" to read "Woolwich Adult Project" on page 5.

It was moved by Mr. Fruscione and seconded by Chairman Fisher to approve the Open Session minutes of the State TDR Bank meeting of October 12, 2016. A roll call vote was taken. The motion was unanimously approved.

PUBLIC COMMENT

Ann Dorsett stated she was very familiar with the TDR program. She asked how many acres were preserved in Woolwich using the \$5 million grant. Chairman Fisher stated it was 817 acres. Ms. Dorsett asked if the TDR program were cancelled, would the easements recorded against the lands already preserved be transferred to the state. Ms. Payne stated that was cited in the staff's letter as an item needing discussion.

NEW BUSINESS

A. Fiscal Year 2022 Budget

Ms. Payne referred the Board to the FY2022 administrative budget sheet.

It was moved by Ms. Fischetti and seconded by Mr. DeFrango to approve the FY 2022 administrative budget. The motion was unanimously approved.

B. Authorization to File Readoption of N.J.A.C. 2:77 Without Change

Mr. Smith explained that Executive Order 244 ended the public health emergency and terminated several executive orders issued by the Governor. Executive Order 127, issued in April 2020, was left in place and extended the expiration date of various agency rules, including the TDR program, which technically expired on November 12, 2020. When Executive Order 244 was issued, along with companion legislation, the rules were extended for approximately 3 or 4 months. As a result, the TDR rules are now set to expire on January 2, 2022 and the Board has until December 2, 2021 to adopt a short form readoption.

A short form readoption is just a notice that the rules are being readopted without change. The Administrative Procedure Act only requires the rule to be posted in the New Jersey Register, but does not require public comment, and the rule would become effective for another seven years. When the Board acts today, the short form notice still needs to be approved by the Governor's office before it can be sent to the Office of Administrative Law. The Board still has the ability to revise the rules using the regular rulemaking process anytime during the seven year period if it chooses.

It was moved by Mr. Fruscione and seconded by Ms. Ambrose to approve the authorization to file readoption of N.J.A.C. 2:77 without change. The motion was unanimously approved.

PUBLIC COMMENT

None at this time.

TIME AND PLACE OF NEXT MEETING:

To Be Determined

The meeting was adjourned at 2:55 pm.

Respectively Submitted,



Susan E. Payne
Executive Director
State Transfer of Development Rights Bank Board