

**New Jersey Freshwater Wetlands Mitigation Council Meeting
August 18, 2022**

A regular meeting of the Wetlands Mitigation Council was held on August 18, 2022. The Freshwater Wetlands Mitigation Council meeting was held virtually via Microsoft Teams Meeting.

COUNCIL MEMBERS PRESENT: Dr. Lenore Tedesco (Chair), Bryon DuBois, Susan Lockwood, Claudia Rocca

STAFF MEMBERS PRESENT: DAG Jay Stypinski, Faelyn Meyers

Ms. Meyers confirmed the time was 9:30 a.m. and a quorum was present.

Dr. Tedesco called the meeting to order at 9:30 am and announced that public notice for the meeting was given to the Secretary of State's office and written notice was sent to The Newark Star Ledger/Trenton Times, The Camden Courier Post, and the Atlantic City Press on August 4, 2022. A statement on the COVID-19 pandemic and the virtual meeting was included.

Ms. Meyers took roll call attendance:

Dr. Tedesco- Present

Ms. Rocca- Present

Mr. DuBois- Present

Ms. Lockwood- Present

Review and decision regarding the June 16, 2022 Council meeting minutes.

Dr. Tedesco opened the floor for Council Discussion.

Dr. Tedesco noticed no discussion and asked for a motion to approve the minutes.

Ms. Lockwood moved to approve the minutes.

Ms. Rocca seconds.

Ms. Meyers took a roll call:

Dr. Tedesco- Yes

Ms. Rocca- Yes

Mr. DuBois- Yes

Ms. Lockwood- Yes

Review of Wetland Mitigation Fund

Ms. Meyers stated that the balance of the Wetland Mitigation Fund (Fund) as of August 11, 2022 was \$2,511,651.98. She continued to give a verbal overview of the Fund. She stated that there were several deposits from Intertidal subtidal shallow in-lieu fee payments to the fund into the Atlantic Water Region making the balance \$867,760.99. Total Funds allocated are \$1,344,960.53 leaving an available Fund balance of \$1,166,691.45. Ms. Meyers continued to explain that she had conducted 3 site visits for project close-outs with in the last 2 years. These projects were Lenape Farms, Thompson Park, and Kittatinny Kenco. Ms. Meyers assured that the official closeout procedure would be completed prior to the next meeting. Ms. Meyers also gave a brief update regarding the Liberty State Park Project. The project was moving forward slowly and Ms. Meyers has invited John King to speak at the October or December Council Meeting.

Dr. Tedesco opened the floor for Council Discussion.

Dr. Tedesco noticed no discussion.

Monetary Contribution Review Subcommittee Discussion

Dr. Tedesco opened the floor to Ms. Lockwood.

Ms. Lockwood explained that in the Subcommittee two questions were posed. The first question was, “Should there be a change to the rules and policy that allow a “single family” property owner to make a lesser contribution to the Mitigation fund than other non-single family applicants?” The second question was, “Should there and can there (legally) be a simplified method for determining the monetary contribution for applicants obtaining an Individual permit?” Ms. Lockwood continued to explain that the single-family contribution amount was developed many years ago by the Mitigation Council in consideration of those who had owned land since before passage of the FWPA in 1987. Due to subsequent court decisions, there is no longer a distinction during the Department’s permitting process, between those owning land pre-FWPA and those obtaining it at any time after. Further, due to the passage of time, there are fewer applicants that have owned the land before 1987. Thus, the consideration that the past Councils originally decided to give to single family property owners, by requiring a lesser monetary contribution, no longer exists. The Subcommittee recommended eliminating the separate number for single family homeowners and instead using one number for all applicants. That number should be the current number used for non-single-family homeowners obtaining GPs (currently \$394,400 per acre) since this number is closer to the actual cost for replacing wetland resources, and changes yearly based on the Consumer Price Index.

Ms. Lockwood continued to the second question. Many of the single-family homeowners that appear before the Council obtained Individual permits. The amounts described in Question 1 above relate to General permits. The Subcommittee considered whether there could be a formula or simplified method for determining these costs. Ms. Lockwood described the process in the Freshwater Wetlands Protection Act for how an Individual Permit (IP) monetary contribution for a non-single-family homeowner is calculated. That process requires applicants to calculate how much it would cost to enhance or restore wetlands and how much would it cost to create wetlands. The lesser number is how much the IP contribution should be. Ms. Lockwood believed

that there is not a clear answer to the second question and suggested that the Department could be more flexible or simplify the calculation for non-single-family homeowners. For example, Ms. Lockwood suggested that the applicants could use assessed land value instead of obtaining appraisals. Finally, if the single-family number was no longer available under the General permit, applicants may not be so attracted to trying to use the wrong process.

Dr. Tedesco asked if there was any other Council Discussion.

Dr. Tedesco asked for the Subcommittee to develop a full report with DAG Stypinski to be presented to the Council at the next meeting and then to be sent to the Department.

Ms. Rocca moved to develop a report.

Ms. DuBois seconds.

Dr. Tedesco- Yes

Ms. Rocca- Yes

Mr. DuBois- Yes

Ms. Lockwood- Yes

New Business - RFP

Dr. Tedesco asked the Council if they believed there to be enough money in the Fund to send out an RFP for a new project. Dr. Tedesco reiterated that there was \$847,407.80 available in the Raritan Water Region and \$867,760.99 available in the Atlantic Water Region. Dr. Tedesco stated that the Council does not wish to hold money in the Fund but had to be realistic about the cost of a mitigation project.

Ms. Rocca asked Ms. Meyers and Ms. Lockwood if there were any applications in the waiting that would add money to the Fund.

Ms. Lockwood stated that she believed there to be enough money to do a project in the Atlantic Water Region. Even though there was a similar amount of money in the fund for the Raritan Water Region, it is very costly to do mitigation work in the Raritan area.

Ms. Rocca moved for an RFP in the Atlantic Region.

Mr. DuBois seconds the motion.

Dr. Tedesco stated that the RFP process was recently reviewed and streamlined and does not need to be discussed at this time. Dr. Tedesco asked Ms. Meyers to move forward with the process in hopes of bringing it to the next Council meeting.

Dr. Tedesco- Yes

Ms. Rocca- Yes

Mr. DuBois- Yes

Ms. Lockwood- Yes

Public Comment

Dr. Tedesco asked for members of the public to identify themselves and opened to floor to comments.

Mr. Mark Renna identified himself and asked to provide comment to the Council. Mr. Renna commented on the Fund. He stated that most of the Atlantic Water Region money came from ISS impacts accepted through the ILF program of the Department. He applauded the RFP being discussed and suggested that the RFP should be created for a tidal mitigation project or that the Council purchase credits from an approved bank. Also, Mr. Renna requested an update from John King regarding the Liberty State Park Project. Mr. Renna stated that the Council funded \$1.5 million to the project and had not heard from Mr. King since 2019. The plans that were presented in 2019 did not match the Council's resolution and construction was expected to be underway by 2021.

Dr. Tedesco thanked Mr. Renna for his comments and asked for any other public comment.

Adjourn

Dr. Tedesco stated that the next meeting date has been scheduled for October 20, 2022.

Mr. Dubois moves to adjourn.

Ms. Lockwood seconded.

All members voted to adjourn.