

New Jersey Freshwater Wetlands Mitigation Council Meeting
January 18, 2018

A regular meeting of the Wetlands Mitigation Council was held on January 18, 2018, at the Assunpink Wildlife Management Area, One Eldridge Drive, Robbinsville, NJ

COUNCIL MEMBERS PRESENT: Dr. Lenore Tedesco (Chair, appointed 4/24/17), Mark Renna, Claudia Rocca, Bryon DuBois, Susan Lockwood

STAFF MEMBERS PRESENT: DAG Jill Denyes, Jill Aspinwall, Kim Springer

Dr. Tedesco called the meeting to order at 9:30 am, and stated that public notice for this meeting was given to the Secretary of State's office and written notice was sent to the following newspapers: The Newark Star Ledger/Trenton Times, The Camden Courier Post, and the Atlantic City Press on January 3, 2018.

Dr. stated that Ms. Rocca was running late, so review and approval of the March 16, 2017 minutes was put on hold until her arrival.

Update on the Mitigation Fund

Ms. Aspinwall stated that as of November 30, 2017, the Mitigation Fund balance is \$4,697,615.60.

There were three expenditures since the last report: Kittatinny Kenco (\$1,499,256.29 and \$1,618.45) and Walnut Brook (\$4,455.00).

In Lieu Fee Funds received are designated by water region: Raritan Region (\$765,925.00) and Atlantic (\$8,322.00). There was a \$600.00 payment into the Raritan Region since the last report. This monetary contribution was approved and received by staff authorized under an existing Council Resolution that will be discussed later on the agenda.

Ms. Aspinwall stated that the update included all projects for which funds have been allocated but not disbursed, with the exception of Walnut Brook. This project has been closed out and will be removed from this table during the next update. For informational purposes, the project at Liberty State Park was included in the list of open projects, even though funds for the project had been disbursed by the Council. Several of the projects will be updated in more detail by the grantees later in the meeting. These projects include: Lenape, Pin Oak, Thompson Park, Jamesburg, Deep Run Preserve, and Liberty State Park.

Mr. Renna asked for an update on Cadwalader Park. Ms. Aspinwall stated that the grantee has completed the project, however they have yet to submit the required documentation to receive payment. Until all required information is received by Council staff no payment will be authorized.

Mr. Renna requested additional information concerning the balance of the Liberty State Park Project and asked why it had a \$0 balance.

Ms. Lockwood stated that because the grantee for that project is a State Agency, releasing all of the funds was allowed.

Ms. Aspinwall stated that it was part of the request by the applicant at the time of application in order for the State to partner with the United States Army Corps of Engineers. She stated that since that time the Council had established a policy not to authorize full advancement of funds to any applicant.

Summary of any projects closed out for 2017: Quakertown Preserve, Walnut Brook

Ms. Aspinwall stated that two projects were closed out in 2017, they were Quakertown Preserve and Walnut Brook. Ms. Aspinwall stated that Quakertown Preserve is located in WMA 8. The project was approved to restore 0.35 acres of floodplain, generating 0.175 credits for the Council. The project was approved for \$88,925.85. In the end, the project restored 0.35 acres of floodplain wetland, as well as 2 additional acres of wetland transition area and riparian area adjacent to the Cakeoolong Creek, a C-1 stream.

Ms. Aspinwall stated that Walnut Brook is located in WMA 8. Walnut Brook was approved to undertake 2 acres of floodplain restoration. This generated 1 credit for the Council. The total amount of the project was \$566,260.00. In the end the project restored 2.97 acres floodplain. The project met all its required success criteria.

Old Business

Presentation by GreenVest and GreenTrust Alliance on an update on the status of the Pin Oak, Thompsons Park, Jamesburg Park, Deep Run Preserve and Lenape Mitigation Projects.

Mr. Kirk Mantay, GreenTrust Alliance, Inc and Mr. Brian Cramer, GreenVest, LLC presented the 2017 year-end update on GreenTrust Alliance Restoration Projects. These are 5 projects located within three watersheds and include both tidal and freshwater components.

Mr. Cramer stated that there are four projects associated with Middlesex County Parks including: Thompson Park Conservation Area, Deep Run Preserve, Pin Oak Forest Conservation Area, and Jamesburg Park Conservation Area. The partners on the project are GreenTrust Alliance, Middlesex County Office of Parks and Recreation, GreenVest, and Princeton Hydro. The project objectives are to restore impaired wetlands for the improvement of headwater functions within Middlesex County Parks. Mr. Cramer stated that the Thompson Park Conservation Area is a 26-acre parcel of agriculturally modified headwater wetlands and uplands. The project area had ditching that impaired hydrology and invasive species were dominant in fallow areas. Construction of the Thompson Park Conservation Area was completed in May of 2016 with year one of the maintenance and monitoring completed on June 30, 2017. A total of 16.19 acres of wetland creation/enhancement and 10.05 acres of upland enhancement were completed. Monitoring of the site will continue until June 2021.

Deep Run Preserve consists of valuable floodplains and upland Pinelands outlier. The project consisted of approximately 18 acres of functionally impaired wetlands with invasive species dominant throughout the site. Area A is located within the floodplains of Deep Run and contains both tidal emergent wetlands and freshwater scrub-shrub wetlands. Area A is a monotypic expanse of *Phragmites australis*. Area B is located along the banks of Deep Run Reservoir and consists of nontidal freshwater emergent and scrub-shrub wetlands and is dominated by *Phragmites australis*. Construction was completed in May 2017 with a total of 18.18 acres of enhanced wetlands. This project will be monitored and maintained until June 2022.

Pin Oak Forest Conservation Area consists of valuable floodplains and forest habitat in a highly urbanized area of NJ. The project site consists of approximately 29 acres of functionally impaired wetlands with invasive species dominant throughout the site. Wetland Enhancement Area A consists of forested and scrub-shrub freshwater wetlands that are overrun by invasive species, primarily common reed and reed canary grass. Wetland Enhancement Area B consists of emergent and scrub-shrub wetlands that border Fresh Meadows Pond and contains a monoculture of common reed. Wetland Enhancement Area C is a wet meadow overrun by common reed and reed canary grass. The Upland Enhancement Area has common reed that has crept into this low lying upland forest area and invasive shrubs dominate the forest understory. The project also included a Stream Restoration component. The stream was historically straightened for agricultural and drainage purposes. The project naturalized the stream channels by excavating low order threads, graded steep bank slopes and planted and stabilized the banks. The construction was completed in May of 2017. A total of 28.95 acres of wetlands were enhanced, 0.33 acres of uplands were enhanced, and 1,018 linear feet of stream was restored. The site will be monitored until June 2022.

Jamesburg Park Conservation Area Wetland Restoration Project contains 1,414 acres of open space protecting the Old Bridge Sands Aquifer. The site contains rare plant communities that are threatened by the colonization of invasive species. For this site GreenVest conducted herbicide test plots in the late summer/early fall of 2016 and assessed the results in the early summer of 2017. Based on the results, initial herbicide treatments were conducted in the Late summer/early fall of 2017. The remaining restoration work is planned to begin in spring/summer of 2018 and will include approximately 15 acres of enhanced freshwater wetlands.

The final project is the Lenape Farms Wetland Restoration Project in the Lenape Farms and Tuckahoe Wildlife Management Area. The partners on the project included GreenTrust Alliance, NJ Division of Fish and Wildlife, GreenVest, and Princeton Hydro. The objective was to create and enhance modified/degraded wetlands for the improvement of wildlife habitat. Area A consists of an emergent wetland enhancement to eradicate invasive, and plant native, emergent wetland vegetation. This area also includes an area of Atlantic White Cedar restoration. Area B contains a vernal pool creation area. Prior to project implementation that area did not retain enough water to support amphibian breeding. The area was then excavated to achieve target hydrology, woody debris was installed and the area was seeded with native emergent wetland vegetation and the fringe was planted with native scrub-shrub vegetation. The surrounding area was seeded with native grasses for upland grassland restoration. Area C

contained vernal pool creation, digressional wetland enhancement areas and upland grassland restoration and were enhanced in a similar manner to Area B. Construction was complete on Lenape Farms in June 2016. A total of 15.24 acres of wetlands have been restored/created and a total of 1.74 acres of upland have been restored. The first year of monitoring was completed in June 2017 and monitoring and maintenance will continue until June 2021.

Mr. Renna stated that he had been to Lenape and the site looked good. Mr. Renna asked if there were any issues with deer. Mr. Cramer stated that the deer are more problematic on the northern sites and that having a deer within a fence is worse than not having a fence at all.

Mr. Renna asked whether or not there were species breeding within the vernal pool habitat that was created. Mr. Cramer stated that they have not documented eggs or larva, but they have noted vocalization and breeding chorus.

Mr. Renna asked how much stream creation was undertaken at the site? Mr. Cramer replied that there was 1,018 linear feet of stream creation, however 50% of the total length was broad swales. Mr. Renna asked whether the budget was adequate to complete the project. Mr. Cramer replied that yes there was adequate funding for the project.

Dr. Tedesco asked if there were any additional questions. There were none.

Review and approval of the March 16, 2017 Council meeting minutes

Ms. Lockwood made a motion to approve the March 16, 2017 Council meeting minutes.

Ms. Rocca seconded the motion to approve the March 16, 2017 Council meeting minutes.

Dr. Tedesco asked if there were any questions or discussion on the minutes.

Mr. Renna asked whether or not a portion of the minutes was correct. Referring to the Liberty State Park project, Mr. Renna wanted to be sure that Mr. David Bean said “meet or exceed” the MOU requirements for wetlands enhancement.

Mr. David Bean thought he would have said “met or exceed”.

Mr. Renna stated that he was not asking for a revision but just wanted to be sure the record was correct.

Dr. Tedesco called for a vote on the minutes and all Council members voted for approval.

Presentation by NJDEP on an update on the status of Liberty State Park Mitigation Project

Mr. John King, NJDEP, gave a brief overview of the Liberty State Park project and the current status of the project. In 2012 a MOU was signed by the Council for the Liberty State Park Project, committing 1.5 million dollars to the project. In August 2012 the funds were transferred from the Council to the DEP. DEP then went to the Department of Treasury to put out a Request for Proposals. DEP went through the bid process and established a bid selection committee. Prior to the award, DEP was told that they could not move forward with the award. A few months later the bid was cancelled. In the summer of 2015 the DEP again went to Treasury to put out a Request for Proposals, and once again went through the bid process ultimately to be told again that they could not award the bid. The bid was ultimately cancelled in March or April of 2016. In March of 2017, DEP came before the Council and Mr. David Bean presented an update at that time. In June 2017 the Department once again requested a Request for Proposals from Treasury and was unable to proceed. DEP investigated an alternative route and partnered with the United States Army Corps of Engineers (USACE). The USACE did not have matching funds and therefore at the time was unable to partner with the DEP. In July the Department sent a formal request for design, bid and construction oversight. On August 16, 2017, the USACE accepted the Department's request. On November 2, 2017 the Department and the USACE signed an MOA to move forward with the project. The MOA sets forth the framework for each party's responsibilities. On January 11, 2018 a press release was issued showing the commitment to move forward with this project. The project includes Phase 1, which includes the Council's project as well as Phase 2, which addresses the remainder of the interior of Liberty State Park. The project now has the full commitment of funds and a commitment to undertake the project.

Mr. Ed Blanner asked what the difference in cost between Phase One and Two of the project. Dr. Tedesco asked what the timeframe was for the project. Mr. King replied that the USACE would be putting out the bid. Phase 2 is approximately 65% of the design. Mr. King replied that it should be about 12-18 months for the design to be completed and out to bid as they are addressing a small redesign.

Mr. Renna asked if this was the complete presentation. Mr. King replied that yes that was the complete presentation. Mr. King was there to provide the Council with an update. Mr. Renna stated that this is a complicated project and it would be helpful to have information ahead of time.

Mr. Renna stated that on page 6 of the MOU it calls for 20.6 acres, however the table given by Mr. Bean last year indicated 16 acres. Mr. Renna asked whether DEP would be able to meet the requirements of the MOU? Mr. Renna requested the Mr. King name the party that requested the redesign. Mr. King stated that the redesign was requested by Liberty Science Center to allow the relocation of a swale for continued access to an area of the property that they are currently utilizing. He stated and that they would meet the requirements of the MOU.

There was a discussion by the Council on whether or not the Science Advisory Committee was ever established. Ms. Aspinwall stated that the Council never created the Science Advisory Committee and that she coordinates with Mr. King to ensure that they are meeting the Council's MOU. There was a discussion on how staff is managing the project from a financial point. Ms. Aspinwall stated that like all grants, she coordinates with the grantee, in this case Mr. King

and Mr. Bean. Who Mr. King and Mr. Bean subcontract with is up to them. Ms. Aspinwall ensured that they are meeting the MOU and that any money that is being spent on the project is in compliance with the terms of the MOU. There was a discussion by the Council that more information should be sent to the Council members prior to each meeting. Ms. Aspinwall stated that she sends the information she has prior to the meetings and that these presentations were meant to be updates. The Council reviews and approves projects when they are originally approved. In addition, there were discussions by the Council and a request to the DAG to review the MOU to determine if the Council is under obligation to create a Science Advisory Board. If there is an opportunity or requirement to create a Science Advisory Board then this may be done by committee. This topic should be included on the next Council meeting agenda. Dr. Beth Ravit asked whether or not the Science Advisory Committee is for the Council or would it include outside entities. Dr. Tedesco asked how the committee would perform in an oversight role. There was a question about whether or not to revise the MOU. Mr. Blanner asked whether or not the \$1.5 million had already been released. Dr. Tedesco confirmed that it had been released. Ms. Aspinwall stated that for this project all the funds were released to the Department in order to help facilitate the project. Typically, the Council no longer follows this format when it comes to releasing funds.

Mr. Renna began a discussion on the In Lieu Fee (“ILF”) document. The Council has oversight and approval of the ILF funds and that Mr. Renna felt that the Council was running behind and blind. Mr. Renna stated that for the record he was supportive of the Liberty State Park project, but was concerned with the Federal help. The Council’s MOU is tied to this very large project. Dr. Tedesco stated that she would like to see maps of the design plans and any key maps, as well as a summary of anticipated credits and planting targets. She also stated that there was a concern that the contract was being forwarded to the USACE. Dr. Tedesco asked for a review by the DAG whether the MOU required the creation of a committee to serve as Science Advisory Board with a memo stating the findings and recommendations. The Council can either accept or reject those recommendations. In order to avoid a quorum and public notice requirements, any committee could have not more than three Council members. Ms. Rocca stated that they should wait to see if it is necessary to establish this committee. Ms. Rocca stated the updates provided by grantees are courtesy.

Discussion on the ILF document continued. Mr. Renna made a motion to move the Liberty State Park project to a new category of pending credits rather than completed credits. Ms. Lockwood seconded the motion so that there would be a discussion. Ms. Lockwood stated that it was her understanding that we keep a current ledger. It is important to keep a current ledger for ILF projects. Ms. Aspinwall stated that a current ledger is kept for all the ILF projects and that in order for the ILF documents to be modified all parties-including the Council, the EPA and the Department would have to agree to the change. Dr. Tedesco called for a roll call vote:

Mr. Mark Renna- yes

Ms. Susan Lockwood- no

Ms. Claudia Rocca- no

Mr. Bryon DuBois-no

Dr. Lenore Tedesco-no

The motion did not pass.

Discussion by staff on updates to the Council Resolution entitled “RESOLUTION MEMORIALIZING THE DECISION OF THE FRESHWATER WETLANDS MITIGATION COUNCIL TO AUTHORIZE STREAMLINED APPROVALS OF GENERAL PERMIT, SINGLE FAMILY HOMEOWNER AND ENFORCEMENT MONETARY CONTRIBUTIONS MEETING THE CHECKLIST AND REGULATIONS” dated December 3, 2009.

Ms. Aspinwall stated that the Council has been operating under this resolution that was passed in December of 2009. The resolution allows those monetary contributions that were prepared in accordance with the regulations to be made to the Fund without the applicant having to appear before the Council. This resolution does not apply to individual permits. Ms. Aspinwall asked the Council if they wished to continue operating under this resolution. If so, then the resolution must also be updated to reflect recent changes to the Freshwater Wetlands Protection Act Rules that amended the amount of monetary contributions for general permits.

Ms. Lockwood strongly suggested that the Council continue to work under the resolution. Ms. Lockwood believes that the process is working fine.

Ms. Rocca asked for clarification that this resolution only applied to general permits. Ms. Aspinwall stated that yes, the resolution only applied to general permits and that all individual permit applicants must appear before the Council.

Ms. Lockwood motioned to continue to operate under the resolution and to update and revise it accordingly.

Ms. Rocca seconded the motion to continue to operate under the resolution and to update and revise it accordingly.

Dr. Tedesco asked for a roll call vote:

Mr. Mark Renna- yes

Ms. Susan Lockwood- yes

Ms. Claudia Rocca- yes

Mr. Bryon DuBois-yes

Dr. Lenore Tedesco-yes

The motion passed. Ms. Aspinwall stated that a draft resolution would be prepared for the next Council meeting.

Discussion by the Council on whether or not to put out a Request for Proposals for the Raritan Water Region

Ms. Aspinwall stated that this discussion was requested at the last Council meeting. At this time the Council was not under any obligation to put out a Request for Proposals (RFP).

Dr. Tedesco asked the Council how they would like to proceed.

Ms. Lockwood thought that there was too much money sitting in the Fund that could potentially be used to undertake a project. Several members of the Council expressed concern that the amount of money in the fund was not enough to complete a project within that region. Ms. Rocca asked if staff was aware of any potential projects. Ms. Lockwood stated that there are no banks in WMA 7 and that there are no projects in the pipeline. Dr. Tedesco asked the Council if they should establish a subcommittee. Ms. Lockwood suggested the development of a RFP template. Ms. Rocca motioned to create a subcommittee to create an RFP template for future use. Ms. Lockwood seconded the motion. All Council members voted in favor of the motion.

The Council then discussed the second question at hand which was whether or not to move forward with an RFP in the Raritan Region. Ms. Lockwood suggested revisiting the topic again in 6 months.

The Council formed a subcommittee to develop a RFP template. The subcommittee members include Ms. Rocca, Mr. Renna, and Ms. Lockwood.

Review and approval of 2018 Meeting Schedule

Ms. Aspinwall stated that for the March meeting, she already knew of two Council members with scheduling conflicts. Mr. Renna indicated that he also had a conflict with the March Meeting date. Ms. Aspinwall asked the Council to review the remaining schedule for 2018, excepting the March meeting date. The Council reviewed the schedule and Ms. Claudia Rocca motioned to approve the 2018 meeting schedule with the exception of March. Mr. Bryon DuBois seconded the motion to approve the 2018 meeting schedule with the exception of March. All voted in favor.

Council Comment

Mr. Renna asked how the Chair was selected and whether or not the term of the Chair corresponds with Council's individual terms. Ms. Aspinwall stated that the Chair was appointed by the Governor and that the term corresponds with the Council's individual terms.

Mr. Renna asked if the Council could be given an updated ledger showing the history of all Council funds in and projects approved. Ms. Aspinwall responded yes.

Mr. Renna asked the members of the public if the Council were to go out with an RFP for \$760,000 would there be interest? Mr. Brian Cramer stated that yes there would be interest, however he believes more money should be collected by the Council.

Mr. Mark Gallagher asked whether or not the RFP would be for tidal or freshwater wetlands. Ms. Aspinwall stated that in accordance with the ILF document, the Council could accept money for both tidal and freshwater wetlands and whether or not the RFP would be for tidal or freshwater wetlands would be at the discretion of the Council.

Ms. Lockwood handed out a page from the CZM rules relating to a provision at N.J.A.C. 7:7-17.11(c), which states that "At a single family home or duplex property that is not part of a larger development, mitigation for the filling of intertidal and subtidal shallows shall be in the form of a monetary contribution to the Wetlands Mitigation Fund. The monetary contribution shall be in the amount of the value of the land filled and the cost of creation of intertidal and subtidal shallows of equal ecological value to those which are being lost." Ms. Lockwood stated that she was asked by her management to ask the Council to think about a process that would streamline the process for single family homeowners and would allow for consistency. Most of these impacts are in the same part of the State. Ms. Lockwood stated that without a streamlined process from the Council she is concerned that people will not want to appear before the Council and there will be significant compliance issues.

Dr. Tedesco stated that a review from the Council's DAG would be a good place to start. Ms. Lockwood stated that she has already sought out DAG review. Dr. Tedesco stated that the Council will think about it and perhaps this would be a future agenda item.

Public Comment

Dr. Beth Ravitt, Rutgers, stated that Rutgers recently published a document entitled "Urban Wetlands: Restoration or Designed Rehabilitation." which discusses the challenges of designing urban wetlands projects particularly those with contamination. Within the document is a case study on Liberty State Park. Dr. Ravitt stated that in her opinion, the State and the US Army Corps of Engineers must follow regulations that were not written with urban wetland restoration projects in mind. She stated that the Council should utilize any scientific input that they have access to and that much more scientific input was necessary for urban areas. She stated that the science and understanding was more important than meeting regulations. For example, she stated, on a site at Liberty State Park, many variances were given to some of the normal regulations relating to hydrology and plant communities. She said that the Council has an opportunity to look at data related to urban sites and guide engineers who may not have experience in urban wetlands. Dr. Ravitt further stated that she would send a copy of the published document to Susan Lockwood so that it could be distributed to the Council.

ADJOURNMENT: Ms. Rocca motioned to adjourn the meeting.

Mr. DuBois seconded the motion to adjourn the meeting.

All present voted in favor of adjourning the meeting.

The meeting was adjourned.

The next Wetland Mitigation Council meeting has been tentatively scheduled for May 17, 2018.