

New Jersey Freshwater Wetlands Mitigation Council Meeting
January 17, 2019

A regular meeting of the Wetlands Mitigation Council was held on January 17, 2019, at the NJDEP Offices located at 501 East State Street in Trenton, NJ.

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

STAFF MEMBERS PRESENT: DAG Kristina Miles, 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, 2019.

Review and approval of the November 15, 2018 Council meeting minutes

Ms. Lockwood noted two minor edits that were necessary to correct the November 15, 2018 meeting minutes. The first edit was located under New Business, Presentation by Craig Metzger, Amy S. Greene Environmental Consultants on the status of the Kittatiny-Kenco Project, second paragraph the actual acreage of the Kenco Property should say 90 plus acres since a more specific acreage is noted later in the minutes. The second change is located within the second paragraph of the Skillman Park Presentation. Within the sentence that begins with "In year 3, 2018..." the word "protectory" should be changed to "trajectory".

Mr. Renna moved to approve the November 14, 2018 Council meeting minutes with the recommended changes.

Mr. DuBois seconded the motion to approve the November 14, 2018 Council meeting minutes with the recommended changes.

All voted in favor of approving the November 14, 2018 meeting minutes as amended.

Update on the Mitigation Fund

Ms. Aspinwall stated that as of November 30, 2018, the Mitigation Fund balance is \$4,390,688.42. There was one expenditure during this reporting period: \$2,484.57 for Lake Hudsonia.

Ms. Aspinwall provided an update for each of the approved projects that are still ongoing. A total of \$3,297,368.98 has been allocated to approved projects, leaving a balance of \$1,093,319.44 of non-allocated funds. This portion of the table has been updated to reflect the total amount of wetlands created, enhanced or restored. As per the Council's request, the total number of wetlands created, restored, or enhanced will be added to the table.

The total interest earned on the account is \$307,450.44.

Old Business

New Business

Discussion by the Council regarding Kean Federation of Teachers v Ada Morell, NJ Supreme Court decision regarding Open Public Meetings Act.

DAG Miles stated that she was bringing to the Council's attention a Supreme Court decision from June 2018. The case was about how a governing body handled open public meetings, specifically RICE notices and the timeliness of distributing approved meeting minutes. The Supreme Court stated that meeting minutes should be made "promptly available," although they declined to define the term further. DAG Miles suggested that the Council maintain its current meeting schedule and should the only item on the agenda be the review and approval of the meeting minutes, the Council could telephonically call in on speaker phone to vote on the minutes. Staff would still reserve the room and the meeting would be open to the public, should they wish to attend. This process could be tweaked as we move forward.

Mr. Renna asked if there was a provision for draft minutes to be posted?

DAG Miles recommended against posting draft minutes since there is a possibility of containing inaccurate information.

Ms. Rocca stated that she is fine with the suggestion. At this time there is nothing else the Council has to do.

Dr. Tedesco asked whether or not those type of meetings would need to have an opportunity for public comment? DAG Miles indicated that this is a policy call for the Council, however the better policy would be to include the opportunity for public comment.

Discussion by the Council on whether to put out an RFP for the Raritan Region.

Dr. Tedesco stated that this topic was discussed last year, at which point the Council flagged the discussion to be raised again during the January meeting.

Ms. Aspinwall stated that the Council is under no obligation to put out an RFP. However, if they do, it would be for a project to provide mitigation for 2.09 acres at a maximum grant amount of \$773,335.00.

Ms. Lockwood stated that in the past the Council has been criticized for not expeditiously spending money in the account. The question is now, if there is credit remaining in the region if that reduces pressure on the Council. It is not clear if this distinction changes the dynamic of the Council.

Dr. Tedesco asked whether the Council could put a viable project on the ground with the money available?

Ms. Rocca stated that since the credits are already there, should we hold out for a creation project, which may be a bigger bang for the buck?

Mr. Renna stated that this is not a lot of money, however the Raritan region includes four Watershed Management Areas. While it is a difficult part of the state, Jamesburg and Deep Run Preserve were able to do it. Mr. Renna said the Council should rely on the outside public and decide on a project.

Ms. Lockwood stated that aside from the time to put together an RFP and put it out, how long do we want to wait before putting out an RFP?

Ms. Aspinwall stated that the Council has an approved RFP template and that this template would need to be updated to include the region, amount of mitigation the Council is seeking and the amount of money available.

Dr. Lenore Tedesco asked if there was any public comment.

Mr. Brian Cramer stated that Jamesburg and Deep Run Preserve were primarily phragmites enhancement and that they were part of a system where the invasive species could be eradicated. It is possible to find a project within this area, however the larger the site the better the economies of scale are.

Mr. Matt Bouadana stated that he agrees, as there is little risk to the Council to put out an RFP.

Dr. Tedesco asked what the next step would be, and suggested it might make sense to go forward with an RFP.

Ms. Rocca stated that we need to make sure the process is spelled out in the RFP.

Mr. Renna asked how and when the Council could use the interest earned on the account.

Ms. Aspinwall stated that the Council could use the interest as part of the money available through the RFP, however it would leave the Council with no contingency money if one of their existing projects required it.

Dr. Tedesco moved to put forth an RFP for the Raritan region without adding interest money.

Ms. Lockwood seconded the motion to put forth an RFP for the Raritan region without adding interest money.

All Council members voted in favor via voice vote.

Ms. Aspinwall stated that the RFP template would be updated and placed on the March agenda for final review and approval.

Council Comment

Ms. Lockwood stated that she is on the organizing committee for the Conservation Foundation's annual conference scheduled for April 12, 2019. The conference will be held in New Brunswick. The registration period just opened if anyone is interested in attending.

Public Comment

There were no comments

ADJOURNMENT: Ms. Rocca moved to adjourn the meeting.

Ms. Lockwood seconded the motion to adjourn the meeting.

All present voted in favor of adjourning the meeting.

The next Wetland Mitigation Council meeting has been tentatively scheduled for March 21, 2019.