

**NATURAL AREAS ADVISORY COUNCIL MEETING**

June 5, 2012  
Environmental Laboratory  
Richards & Robbins Building  
Dover, DE 19901  
9:00 a.m.

**ATTENDANCE**

**Council Members:**

John Williams, Chair  
Debbie Heaton  
Dean Holden  
Peter Martin

**Guests:**

**Staff:**

Tricia Arndt, Office of the Secretary, DNREC  
Karen Bennett, Fish & Wildlife, DNREC  
Eileen Butler, Parks & Recreation, DNREC  
Susan Love, Office of the Secretary, DNREC  
Ron Vickers, Parks & Recreation, DNREC

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**I. Call to Order/Announcements**

Mr. Williams, Chairperson, called the Natural Areas Advisory Council meeting to order at 9:00 a.m. He welcomed Council members, and staff and asked for announcements.

**II. Approval of Minutes of Meeting**

Mr. Williams asked Council to approve the March 6, 2012 meeting minutes. Council approved minutes.

**III. Old Business**

**Natural Area Ranking Process**

Ms. Butler shared with Council a scoring process the Open Space Program uses for acquisitions. Ms. Heaton asked whether there was a formal process used to accept or reject donated land. The guidelines staff provided appear to be for internal discussions between the agencies on ways to reject or accept donated land. Ms. Heaton said it would be helpful if Council codified a document that would provide continuity over time.

Mr. Vickers said staff uses the same process whether property is acquired or donated. The Department shares information with several agencies. Sometimes scoring is not relevant because some important inholdings score low yet are crucial for a location.

Mr. Williams asked whether the state enters into donor contracts. Mr. Vickers said there is a contract involving due diligence, especially when verifying environmental issues.

Mr. Williams asked whether the State would take on additional liability, such as indemnity for a seller. Mr. Vickers said the State is precluded from indemnity.

Ms. Butler reminded Council that its focus was in dedicating Natural Areas as nature preserves, and to review restrictions placed on properties through legal means.

Ms. Heaton asked staff to prepare documents outlining methods it uses as an information source for the next generation to draw from.

#### **IV. Natural Areas Registry**

Ms. Butler and Mr. Vickers field-verified a 4.6-acre portion of the Red Clay Creek Valley Natural Area, to determine if the floodplain parcel met with the updated Standards and Criteria for designating it as a Natural Area. Staff determined it appropriate to remove this piece from the State Registry of Natural Areas. Certain floodplain parcels located just past the NVF facility in Yorklyn were of poor vegetative quality and had sediment load.

Mr. Williams moved that Council remove the 4.6-acres from the registry as described because of its low quality and did not meet the criteria established. Mr. Martin seconded. Motion carried.

Mr. Holden asked whether staff used the de-listing form. Ms. Butler affirmed. She would follow up with the appropriate paperwork.

#### **V. Nature Preserve Dedications**

- *Yardley Dale Tract of the Thousand Acre Marsh Nature Preserve* - Division of Fish & Wildlife (F&W) property

Ms. Butler said Fish & Wildlife would acquire this property at the end of July 2012. It is approximately 200-acres of which 138.12-acres is natural area. DNREC is looking to dedicate this property as part of the Thousand Acre Marsh Nature Preserve.

Ms. Butler presented a draft of restrictions to be included with the deed when transferred to Fish & Wildlife. Council asked how F&W planned to use the property.

Ms. Bennett, Program Manager for the State's Natural Heritage and Endangered Species Program, and Land Acquisition Program said she had consulted with Craig Rhodes the Regional Wildlife manager for the area. Currently, the motorized vehicle clause is limited to enforcement and emergency use. Mr. Rhodes perceives having maintenance vehicles, recreation and/or hunting vehicles, to manage the property. Ms. Bennett and Mr. Rhodes to continue discussing the management plan.

Ms. Bennett said the landowner maintains a trail through the wooded area down to the marsh. F&W may continue to maintain part of the trail as a scenic overlook for the marsh. Part of the wooded lot has an abundance of invasive species. There will be reforestation where there are gaps in the canopy. The intent is to manage this parcel on an equal balance between 'non-consumptive uses,' such as wildlife viewing, birding, and photography, as well as maintaining opportunities for hunting and trapping. "We are seeking to enhance more than other wildlife areas by promoting access to the property and adding observation towers. There is no public parking, but F&W intends to put in a stoned parking lot for a dozen vehicles and install a composting restroom."

The site also has an unimproved launch, previously used for duck hunting, below the house. F&W is in its initial planning stages but one option it is considering it to provide

canoe and kayak for low impact water access on the marsh that will not conflict with wildlife. F&W does not own the whole marsh; it has to contend with private property issues.

F&W is attempting to purchase more parcels in the area in accordance with the State's Bayshore Initiative. In addition to designating it as a Wildlife Area, Route 9 will be seen as a destination point. Staff is working to have it nominated into the federal Scenic Byway Program and be eligible for the federal 'All American Road Program.' F&W is also seeking to acquire the Bennett property, east of Yardley Dale and the Selby property, west of Yardley Dale, and other properties along Route 9.

Mr. Williams asked for a motion to approve the proposed restrictions subject to the comments raised today. The motion carried.

- *James Branch Nature Preserve - Durham Property*  
Ms. Butler asked Council to approve language used in the deed for the fee-simple acquisition of the Durham property. The language is consistent with current language used for tracts within the James Branch Nature Preserve.  
  
Mr. Williams asked for a motion to approve the proposed restrictions subject to the comments raised today. The motion carried.
- *Angola Neck Nature Preserve - Beigbeder Property*  
Ms. Butler asked Council to approve language used in the deed for the fee-simple acquisition of the Beigbeder property. The language is consistent with current language used for tracts within the Angola Neck Nature Preserve.  
  
Mr. Williams asked for a motion to approve the proposed restrictions subject to the comments raised today. The motion carried.
- *Nature Preserve Dedication Process*  
Mr. Williams asked staff to email Council Articles of Dedication when there is a time constraint associated with land acquisitions. Council would deem draft of articles approved within one week. If there are comments, staff should email to Council a second revised draft for approval, again, subject to the same one-week review period.  
  
Ms. Heaton asked why all three documents highlighting the restrictions were inconsistent. Mr. Vickers said he was responsible for the inconsistency. Each time he prepares a new contract, he looks to improve the language, especially when the laws change. Mr. Vickers said Open Space Council easements are very similar to the dedication language based on conservation easement handbooks that came out in 1980 and 1990. Staff uses the underlying structure.  
  
Mr. Vickers said staff is working to meld the Nature Preserve dedication process into the state acquisition process instead of working to dedicate after every property acquisition.  
  
Mr. Williams said some language was not in the Delaware Code. He wants to make sure landowners do not have too much flexibility to wiggle out of restrictions.  
  
Ms. Heaton said it would be helpful to use consistent language as a master template and fine-tune when there are special restrictions unique to a property. This way, it would be

easier legally, for everyone to have consistent wording.

Mr. Martin said Council had these discussions before when it discussed whether the State could hold an easement on itself.

Ms. Butler will bring the Management Guidelines referenced in the regulations to the next Council meeting in September for further discussion.

## **VI. Nature Preserve Management Issues**

- *Amendment of the James Branch Nature Preserve Articles of Dedication*

Ms. Butler said she would be working on an amendment to alter the restrictions found in the Articles of Dedication for this Nature Preserve to permit a small (three vehicle/trailer) roadside parking area and upland trail connections.

## **VII. New Business**

- *Sea Level Rise Presentation, Susan Love and Trish Arndt, Delaware Coastal Program*  
The Council wanted to understand how sea level rise would affect nature preserves and natural areas throughout the state. Ms. Butler asked Susan Love and Trish Arndt from the Delaware Coastal Program to present their work on analyzing sea level rise and associated impacts.

Ms. Love, a Planner with the Delaware Coastal Program, said the Department began working on sea level rise issues approximately five years ago when staff began gathering data necessary to start planning for the sea level rise.

Below is an overview their research of what is at stake for Delaware's coastal areas:

- Sea level rise is occurring in Delaware at a rate of one foot per one hundred years.
- The global rate (worldwide average) of sea level rise is 1.7mm per year, only half of what Delaware is experiencing.
- Average yearly rate is 3.35mm of sea level rise per year due to the fact that Delaware is subsiding - sinking, due to tectonic processes from the last ice age. The State is facing two problems the— sea level rise and subsidence.
- Sea level rise has begun to have an effect on our coastline.
- Climatologists expect sea level rise to increase in the future.
- The Department, in conjunction with federal agencies, and local entities, is working to ensure that a sound system of monitoring sea level rise activity is established, to obtain better data, and observe actual activities.

In 2012, Secretary O'Mara signed a policy on sea level rise, applicable department-wide. The policy establishes various rates of sea level the Department should be planning as far ahead as 2100. He directed the agency to begin considering sea level rise when project-planning buildings, purchasing land, and establishing plans for the future. The three rates of sea level rise to use for planning scenarios are .5-meter, 1-meter, and 1.5-meter.

In 2010, the Department established a Sea Level Rise Advisory Committee to develop a vulnerability assessment for the entire state. Emphasis on not just natural resources but to focus on everything of concern in the coastal areas, and to develop an adaptation plan

for the state (finding ways to adjust to the new conditions Delaware will be faced with in the future). The Committee has 25 members from around the state, comprised of state agencies, homebuilders, real estate agents, The Nature Conservancy, League of Women Voters, Delaware Nature Society, Positive Growth Alliance, and the State Chamber of Commerce.

Ms. Arndt is an Environmental Scientist III with the Delaware Coastal Program. Ms. Arndt discussed the Natural Resources Working Group that is comprised of a few members from the Seal Level Rise Advisory Committee, in addition to representatives from non-governmental organizations, the Department, Prime Hook & Bombay Hook Wildlife Refuges, academia, and the Farm Bureau.

Maps highlighting the various resources under consideration for planning purposes and areas affected under the three scenarios (.5/1.0/1.5M sea level rise), include wetlands, impoundments, beaches, riparian corridors, agricultural resources, productive soils, preserved agricultural land, upland forestry resources, and potential marsh migration areas.

The maps indicate which nature preserves will be affected the most by sea level rise. To read more on this subject, the Council can refer to the Department website.

Two documents were distributed to Council members; *Sea Level Rise - Delaware's Rising Tide*, and *Preparing for Tomorrow's High Tide*.

Mr. Williams thanked both Ms. Arndt and Ms. Love for providing the presentation and making Council aware of what will affect everyone, eventually.

#### **VIII. Public Comment and Synopsis Reports From Other Councils, Stakeholders, and Partners**

#### **IX. Next Meeting and Adjournment**

The next Natural Areas Advisory Council meeting will be held September 18, 2012 at DNREC's Environmental Laboratory, Richards & Robbins Building, 89 Kings Highway, Dover, DE, starting 9:00 a.m.

Mr. Williams asked for a motion to adjourn. Meeting adjourned at 11:53 a.m.