

OPEN SPACE COUNCIL
March 13, 2013, 9:00 a.m.
Legislative Hall
Senate Hearing Room, Second Floor
Dover, Delaware

ATTENDANCE

Council Members:

Mr. John R. Schroeder, Chairperson
Paul Boswell, Esq.
Honorable Bruce C. Ennis, State Senator
Mr. David Humes
Mr. Porter Schutt, III

Ex-Officio:

Mr. Charles A. Salkin, State Liaison Officer, LWCF
Mr. Jeff Stone, Director, Infrastructure, &
Inter-Governmental Relations, DEDO, for Secretary Levin

Advisory To:

Secretary Collin O'Mara, DNREC

Visitors

Marlene Mervine, Nanticoke River Watershed Conservancy
Richard Jones, Delaware Chapter of The Nature Conservancy

Staff:

Patrick Emory, Office the Secretary, DNREC
Richard Phifer, Fish & Wildlife, DNREC
Henry Poole, Delaware Forest Service, DOA
Michael Valenti, Delaware Forest Service, DOA
Ron Vickers, Parks & Recreation, DNREC
Rose Ryödi, Parks & Recreation, DNREC

I. Call to Order/Announcements

Mr. Schroeder, Chairperson, called the Open Space Council meeting to order at 9:06 a.m. He welcomed Council members, staff and visitors. He especially welcomed Senator Bruce Ennis to his first Open Space Council meeting. He acknowledged and thanked Mrs. Lorraine Fleming for attending the Bond Hearing and speaking on behalf of the Open Space Council to the Bond Committee for funding for the next fiscal year. At this time, the Governor has proposed just \$2 million for fiscal year 2014.

II. Approval of Meeting Minutes

Mr. Schroeder asked for a motion to approve the December 5, 2012 minutes. Council approved the minutes as recorded.

III. Financial Report

Mr. Vickers presented the Financial Report:

- The remaining FY2012 and FY2013 Realty Transfer Tax is \$14,567,269.72
- There were seven previously approved projects totaling (\$3,978,000.00)
- There is one anticipated reimbursement: Yardley Dale - \$829,400
- This leaves an available balance of \$11,418,669.72 through December 15, 2013
- Governor's proposed Realty Transfer Tax fund for FY 2014 is \$2,000,000.00, available on December 15, 2013

IV. Old Business

A. Completed Projects

Two properties settled since the December 5, 2012 Council meeting:

- Auburn Heights Preserve - Delaware Nature Society
- Assawoman Wildlife Area - Carey et al.

Since 1991 the Open Space Program completed 353 projects, protecting 53,710 acres, using \$246,434,536 of Open Space funds plus \$74,058,661 of other funds for a total of \$320,493,197.

V. New Business

A. Conversion of Use – This agenda item is for addressing any change in use or change in ownership of land purchased through the Open Space Program. The Land Protection Act (7 Del. Code, Chapter 75) details the purposes for acquiring land through this Program. The Act also states that one of the duties of the Open Space Council is to advise and consult regarding any change from permanently protected status of open space lands acquired or protected through the Program.

1. Cape Henlopen – Epworth United Methodist Church – The Division of Parks and Recreation was approached by Epworth United Methodist about a $\frac{3}{4}$ acre parcel immediately west of the Church on Glade Road, north of Rehoboth Beach. The Church would like to buy/use/lease this area. The intent is to use it for landscaping and a columbarium. Currently it is open land not used as an active part of Cape Henlopen State Park. The Council discussed the parcel's size, location and value to other open space lands in the area. The Council agreed that the Division of Parks and Recreation should continue discussions with the Church and see if there is an opportunity to exchange land or have the Church purchase additional land for the park in the nearby area. Any proposal would come back before the Council for additional discussion.

B. Agency Presentations

Bond Bill Hearing/Funding: Secretary O'Mara said Governor Markell stated in recent discussions that his top priority was to get more funds for Open Space. Additionally there was discussion about increasing funding for agriculture preservation. With many new legislators, questions came up regarding the source of funding (realty transfer taxes) and if the location or county that is generating most of these funds is receiving its proportional share of the Open Space Program funding.

Wetlands Protection: Secretary O'Mara stated staff is analyzing the best way to protect significant freshwater wetlands. One idea is to look at conservation easements and standardizing language related specifically to wetlands.

Delaware Bayshore Initiative: Secretary O'Mara said that the Initiative is receiving a lot of support from legislators and local officials. It is also generating interest from landowners regarding conservation and public use. As this moves forward he would like input from the Council as to how to continue the interest and leverage funding for protection work. In his presentations about the Initiative he emphasizes the link between natural resources and the economy. Tourism generates more jobs than agriculture in Delaware. He emphasizes the four B's of this type of ecotourism: Beaches, Bikes, Boats, and Birds. Each of these activities generates millions of dollars for the economy. When the investments in open space are put in this perspective, we realize this is not just an environmental issue. Open Space is an economic and jobs issue that cannot be outsourced.

Mr. Schroeder said the Council discussed some meetings back that it was interested in maximizing its dollars when pursuing open space. It briefly discussed the Agriculture Lands Preservation system and how it uses a bidding process. In light of the fact that the Open Space Program may only get \$2.0 million, it may be worthwhile to look at how this type of bidding may work for open space projects.

Secretary O'Mara said the various scoring systems would need to be analyzed to see if this would work for fee simple purchases and conservation easements.

Mr. Salkin said the farm land preservation program does not prioritize sites for protection. Instead it allows the bidding process to determine what parcels are protected. The Open Space Program has a systematic approach for determining its priorities geographically; typically dealing with properties adjacent to protected sites and inholdings.

C. Council Open Discussion: No discussion was brought forward.

D. Public Presentations

Ms. Marlene Mervine from the Nanticoke River Watershed Conservancy said her group is working on several projects in the Nanticoke River watershed. The problem is a lack of funding. One project is adjacent to the 200-acre Chapel Branch preserve. The Conservancy would like to protect three adjacent parcels. Mr. Schroeder said he is on the Sussex County Land Trust and suggested she contact it about help with funding ideas.

Mr. Jones from Delaware Chapter of The Nature Conservancy noted that his organization did a recent study of the Delaware River and Bay and its findings on priority sites for protection fits well with the Department's Delaware Bay Initiative. He will send the report to Council members.

VI. Discussion of Site Acquisition Contracts - Executive Session

The Council adjourned to Executive Session at 09:52 a.m. to discuss site acquisition contracts. The Council returned to Open Session at 11:11 a.m.

VII. Project Recommendations

Based on discussion in Executive Session, the Council recommended the following:

- A. Justice: 98.3 acre addition to Trap Pond State Park; protects land along the James Branch; Council moved, seconded, and unanimously agreed to recommend to the Secretary to

- purchase in fee simple the property for approximately \$690,000, final price to be determined after a survey reflecting \$7,000/acre for farm land and \$3,000/acre for forest land.
- B. Gore: 3.08 acre donation as an addition to White Clay Creek State Park W.L. Gore & Associates, Inc.; provides critical trail connector and protects mature forest and riparian corridor; Council moved, seconded, and unanimously agreed to recommend to the Secretary to accept this donation with a letter of acknowledgement and thanks to the landowner.
 - C. Morris: 740 acre expansion of the Ted Harvey Wildlife Area; protects habitat of conservation concern; allows for inland migration of habitat due to sea level rise; preserves additional DNERR core area; potential for leveraging federal funds and conservation partners' funds; Council moved, seconded, and unanimously agreed to recommend to the Secretary to purchase in fee simple the property for \$3,200,000 and enter into a Right of First Refusal for the family's remaining acreage.
 - D. Webb: 2 acre addition to Concord Pond Management Area; protects rare mussel, freshwater fisheries and historic mill foundations; Council moved, seconded, and unanimously agreed to recommend to the Secretary to purchase in fee simple the property for \$60,000 total.
 - E. DTCC Educational Foundation: 665 acre addition to the Midlands Wildlife Area; potential to provide connection between protected state lands; Council moved, seconded, and unanimously agreed to recommend to the Secretary to purchase in fee simple the property for up to \$3,200,000, pending final survey and to be paid in multi-year installments.

VIII. Next Meeting/Adjournment

The next Open Space Council meeting will be held at Legislative Hall, Second Floor, Senate Hearing Room, Dover, DE 19901, on June 5, 2013, starting at 9:00 a.m.

Mr. Schroeder asked for a motion to adjourn. The meeting adjourned at 11:15 a.m.