

OPEN SPACE COUNCIL
December 7, 2016
9:00 a.m.
Legislative Hall
Senate Hearing Room, Second Floor
Dover, Delaware

ATTENDANCE

Council Members:

Mr. John R. Schroeder, Chairperson
Hon. Gerald Brady
Senator Bruce Ennis
Paul Boswell, Esq
Mrs. Lorraine M. Fleming
Mr. D. Wayne Holden
Mr. David Humes
Mrs. Dorothy P. Leventry
C. Porter Schutt III

Ex-Officio:

Raymond E. Bivens, State Liaison Officer, LWCF, DNREC

Advisory To:

David S. Small, Cabinet Secretary, DNREC, State of Delaware (present)

Staff:

William Kassab, Esq., DOJ
Timothy Slavin, Director, HCA
David Saveikis, Director, F&W
Matthew Chesser, Parks & Recreation, DNREC
Elena Stewart, Parks & Recreation, DNREC
Richard Phifer, Fish & Wildlife, DNREC
Michael Valenti, State Forestry Administrator, DDA
Kyle Hoyd, Delaware Forest Service, DDA
Patrick Emory, Director, Community Services

Visitors:

Lynn Williams, Christina Conservancy
Nick Roth, Reporter, Cape Gazette
Ted Becker, Mayor, City of Lewes
Barbara Vaughn, Historic Lewes Byway Committee Member
Dennis Reardon, Lewes City Council
Dave Ennis, Lewes Resident

Gail Van Gilden, Historic Lewes Byway, Chair
Andrew Manus, Citizen Conservationist/ Landowner
Molly Murray, Reporter, News Journal
Jessica Hammond, Bayshore Project Manager, The Nature Conservancy
Mike Hare, Executive Vice President, BPG
Linda Kauffman, Finance Committee Chair, Epworth UMC

I. Call to Order/Introductions/Announcements

Mr. Schroeder, Chairperson, called the December 7, 2016 Open Space Council (OSC) meeting to order. He welcomed Council members, staff, and visitors and acknowledged Elena Stewart is replacing Ron Vickers in running the meeting. Additionally, he asked visitors if they were interested in receiving materials in advance to indicate such on the sign in sheet. Lynn Williams was also acknowledged as being the retired chair that ran the Open Space Council for 20 years. Ted Becker, the mayor of Lewes was acknowledged along with former senator Dave Ennis.

II. Minutes of September 14, 2016 Meeting

Mr. Schroeder asked for a motion to approve the September 14, 2016 minutes. Motion was made, seconded and unanimously approved, with one correction. On the last page, under “The Delaware Forest Service”, the price agreed upon should have been included which was an additional \$931,000 to the original agreed upon amount of \$1M.

III. Financial Report

Elena Stewart presented the financial report:

**Open Space Program Fund
Summary
12/7/16**

Current Funds

Realty Transfer Tax	11/12/2016	\$6,626,836.22
---------------------	------------	-----------------------

Previously Approved Projects

Date Encumbered

Cooch - HCA	12/14/2013	\$1,500,000.00
Norris - F&W (settled 10/25/16)	9/16/2015	\$540,000.00
Hesseltine - DFS	9/14/2016	\$1,931,000.00
Great Marsh - Parks	9/14/2016	\$2,000,000.00
Foskey - F&W	6/18/2016	\$155,000.00
ABC Woodlands II - F&W	9/16/2015	\$1,000.00

Total Encumbered **\$6,127,000.00**

Balance **\$499,836.22**

Reimbursements

Norris		\$276,370.00
--------	--	--------------

Wilson Heirs	\$140,000.00
Morris	\$100.00
Bennett	\$35,000.00
Total Reimbursements Anticipated	\$451,470.00
Balance Available Through 12/15/17	\$951,306.22

IV. Old Business

A. Projects Completed Since September 14, 2016

- a. Norris Property – F&W
DNEER Blackbird Creek Reserve – 43 acres
Settled on 10/25/16, OSC put \$283,596.05 towards the \$540,000 purchase price
TNC will reimburse OSC \$1000
Balance was a NOAA grant

B. Update on Cooch Property

Tim Slavin told the OSC that HCA had partnered with Christina Conservancy to protect the Cooch Property and that a private foundation ended up not coming up with the funding necessary to complete the acquisition. He expressed a desire for the OSC to continue to obligate the \$1.5M for the project while he pursues other private entities. Lynn Williams presented to the OSC on the ecologic significance of the project in addition to its historic and cultural value. Tim anticipates it may take another three years.

C. Agency Presentation

a. Joint Sunset Committee Status

Julie Fedele, the new Joint Sunset Committee (JSC) Analyst has been contacted concerning the six recommendations that came from the JSC. Elena reported that all six recommendations had been met. The only exception was that a minority member had not yet been appointed to the OSC; however, there were currently no vacant seats and the letter had been written to the Governor’s Office in 2015 expressing a desire for a minority OSC member. John Schroeder reminded the OSC that the Governor is responsible for appointing members, not the OSC.

Andy Manus expressed concern that having a searchable online database was a recommendation coming out of the JSC. Elena said it was not, but that she had put a searchable database online and would work to make it better. Andy would like it verified that it wasn’t a recommendation coming out of JSC and offered to help “test drive” any new database.¹

¹ At the March 1, 2017 OSC meeting, Andy Manus provided Chairman Schroeder with an email dated December 8, 2016 addressed to Secretary Small acknowledging that a requirement for a searchable public lands inventory was not included in the recent Land Protection Act or was it included in the Sunset Committee’s report that required DNREC to implement six recommendations aimed at improving the Open Space Program. However, Andy would like to have noted that a searchable database is an effective tool for the public to use and one that deserves recognition once it is “up and running”. The OSC was very supportive of and receptive to this concept and also several members of the Sunset Committee supported the notion of a searchable public lands inventory.

b. Timeline for next steps for LPA requirements

i. Open Space Program Plan Outline

Lorraine presented the outline to the OSC. John asked the OSC to give Lorraine and Porter any feedback on the outline, and if they didn't have input, they would take it to public workshop early next year. Wayne Holden made a motion to approve the draft and Porter Schutt seconded the motion to move forward with this version of the OS Program Plan outline. Wayne would like organizations invited to the public workshops and not just the public. Everyone is in support of this being a very public process and looking forward to public input. The motion passed unanimously. Andy requested all documents be posted online.

ii. Evaluation system draft

Elena presented an edited version of the evaluation system that was approved in 2011 for the OSC's approval. After using it for five years, Rich Phifer, Michael Valenti and she revisited the evaluation system to improve it. The OSC ultimately agreed to approve the evaluation system in its edited form to go forward for the APA process. Elena explained that the biggest change was creating a category for wetlands and prioritizing freshwater wetlands. Elena will work on developing a Start Action Notice with DNREC staff by January 15, 2017; it will be published in the Registrar on February 1st. Then February 21st would be the soonest a public hearing could take place. Porter made a motion to take the evaluation through the APA process and Lorraine seconded the motion, with the understanding that there would be a cover page to the evaluation system explaining the intent, and footnotes for some of the more ambiguous categories. The motion passed unanimously. Andy said that he liked the discussion and thought a record of why a property was purchased should be kept on record.

iii. 26 year report

John introduced the OSC to the work Ron Vickers has done for the 26 year report. John and Lorraine spoke to how comprehensive and wonderful the report is and Ray Bivens expressed our appreciation for Ron doing most of the work as a volunteer once he retired. Porter expressed how it's our job to work for the public and how important it is to get it out to the public so everyone knows about the project. There were some questions on the distribution; it definitely will be put online and some hard copies will be published. There will be a press release issued. John wants to make sure appreciation was extended to Ron. Andy wants to make sure the OSC knows this report should have been done every five years because of how valuable it is.

iv. Protected lands maps

Elena explained that now that the OSC inventory was mapped, she and Rich would work towards included non OSC funded properties, and that in combination with privately protected lands would make up the protected

lands maps. Those will be developed during the beginning months of 2017 and once they are developed, they will be available in an interactive format, such as First Map.

v. Inventory now online

Elena did post a version of a searchable database online and she explained where it was on the DNREC website. Andy pointed out that it had security issues and was not easily accessible. Elena apologized and explained she was not aware of the problem and would look into fixing it and will expand upon the database.

vi. Annual reports

Elena said that annual reports would be submitted on an annual basis at the close of each fiscal year.

vii. 5 yr reports

Elena said that after five years, the annual reports would be compiled and create a five year report.

V. New Business

A. Council Open Discussion

B. Conversion of Use

a. Rockford Falls – Alapocas Run State Park

Matt Chesser presented on the conversion of use in Wilmington at the Bancroft Mills complex. Buccini Polin Group (BPG) presented a project to Delaware State Parks that would take 1.53 acres of current State owned property, realign it to become a more cohesive 3.92 acre parcel, and BPG would do capital improvements including a 25 parking space parking lot for the park use, take down an existing building and create a pavilion and open space, create bathrooms and a pavilion at the old train station across the river. Lorraine made a motion to move forward with the conversion of use based on the capital improvements including bathrooms, pavilions, benefit to the stream bed, full ownership of the dam, potential to create a loop trail and Wayne seconded the motion. The motion passed unanimously.

C. Legislative Contact

a. Support for Sussex County Athletic Fields

John said that we got two letters from Speaker Peter Schwartzkoph and Senator Ernie Lopez in support of taking open space property behind the Seaside Outlets that would be accessed through Holland Glade Road and a non-profit would operate athletic fields. Ray went into details on the proposal and explained that Parks brought the project to the OSC for information purposes only, but using it for athletic fields would not require a decision by the OSC. John asked that when land issues come up that DNREC does come to the OSC and let them know. Ray agreed.

D. Public Comments

- Ted Becker, Mayor of the City of Lewes, spoke in support of protecting the Great Marsh properties and talked about reasons it was so important to the City of Lewes. Gail Van Gilder, Dave Ennis and Gail Van Gilder were also there to offer their support to the project. John explained that we have already obligated \$2M towards the acquisition of a conservation easement on the Groome Church property, but with our current funding

situation we could not afford to protect the properties. Porter offered that if the City was so interested in protecting the property that they could help find money to protect the properties.

- Sarah Cooksey, director of conservation for the Nature Conservancy, spoke up expressing the importance of tying back the Open Space Program Plan outline to the statute. Also how supportive TNC is of removing the dam on the Brandywine River by the Bancroft Mills property in conjunction with the conversion of use of the site.
- Linda Cauffman, the chair of the finance committee for Epworth UMC, explained that the church no longer has any intention of putting a cemetery on their property at the Rehoboth Little League fields and she appreciates the OSC's consideration of the sale of the property to Parks.

VI. Executive Session

A. Discussion of Site Acquisitions

VII. Open Session

A. Council Project Recommendations

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

- DNREC, Fish and Wildlife
Manwearing Property – Paul Boswell made the motion to recommend obligating \$100,000 of Open Space funds for the acquisition of 16 acres at Blackbird Creek Reserve (DNEER). Dorothy Leventry seconded the motion. Motion was approved unanimously.
- DNREC, Fish and Wildlife
Sinclair Property – Paul Boswell made the motion to recommend obligating \$1000 of Open Space funds for the acquisition of 61 acres in the Tappahana Wildlife Area. Dorothy Leventry seconded the motion. Motion was approved unanimously.
- DNREC, Fish and Wildlife
Felician Sisters Property – Paul Boswell made the motion to recommend obligating \$250,000 for the purchase of a conservation easement on the 173.12 acre property pending negotiations with New Castle County for a partnership. This money can be withdrawn at any time. Porter Schutt seconded the motion. Motion was approved unanimously.
- DNREC, Parks and Recreation
Epworth UMC Property – Lorraine Fleming made the motion to recommend obligating \$225,000 for the purchase of 5.76 acres of the Rehoboth Little League fields with the encouragement to seek an endowment. Porter Schutt seconded the motion. Motion was approved unanimously.
- DNREC, Parks and Recreation
Groome Church Property – Paul Boswell made the motion to continue to reserve \$2M for a conservation easement on the Groome Church portion of the Great Marsh properties subject to the contingency that the funds can be withdrawn at any time. Wayne Holden seconded the motion. Sen. Bruce Ennis opposed the motion. The motion carried.

Next Meeting Date/Adjournment

Open Space Council Meeting
December 7, 2016

The next meeting of the Open Space Council is scheduled for March 1, 2017 in Legislative Hall, Second Floor, Senate Hearing Room, Dover, DE 19901, starting at 9:00 a.m. The other meetings will be held at the same location on June 7, 2017, September 13, 2017 (pushed back a week because of Labor Day) and December 6, 2017.

Mr. Schroeder thanked everyone and asked for a motion to adjourn.