

OPEN SPACE COUNCIL

March 18, 2020

9:00 a.m.

Virtual Meeting<sup>1</sup>

**ATTENDANCE**

Council Members:

John R. Schroeder, Chairperson  
Rep. Gerald Brady  
Sen. Bruce Ennis  
Paul Boswell, Esq  
Lorraine Fleming  
Dean Holden  
David Humes  
Dennis Coker

Advisory To:

Shawn Garvin, DNREC, Secretary – present

Staff:

Ray Bivens, DNREC, Parks & Recreation Director  
Matthew Ritter, DNREC, Parks & Recreation  
Elena Stewart, DNREC, Parks & Recreation  
Robert Ehemann, DNREC, Parks & Recreation  
Michael Valenti, DDA, Delaware Forest Service  
Kyle Hoyd, DDA, Delaware Forest Service  
Patrick Emory, DNREC, Community Services Director  
Kerri Yandrich, DNREC, Fish and Wildlife  
Tim Byan, DNREC, Parks & Recreation  
Michael Scuse, DDA, Secretary

Visitors:

Dee Durham, New Castle County Councilwoman  
Ron Vickers, Sussex County Land Trust Board member and Chesapeake Conservancy staff  
Kate Hackett, Delaware Wild Lands, Executive Director  
Blaine Phillips, Conservation Fund, Mid-Atlantic Regional Director  
Emily Knearl, Delaware Nature Society  
Jim White, Delaware Nature Society  
Julie Schmitt, NCC resident

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<sup>1</sup> Due to COVID-19 and the subsequent State of Emergency declaration from the Governor, the Open Space Council meeting was held through a series of two conference calls – one number was called into for the Public Session and one number was called into for Executive Session.

**I. Call to Order/Introductions/Announcements**

John Schroeder, Chairperson, called the March 18, 2020 Open Space Council (OSC) meeting to order. He asked that everyone introduce themselves for attendance purposes and that they introduce themselves prior to speaking for the purpose of the minutes.

**II. Minutes of September Meeting**

Mr. Schroeder asked the OSC members to review the minutes and asked if anyone had any proposed changes. Rep. Brady made the motion to approve the minutes as written. Lorraine Fleming seconded the motion. The motion was unanimously approved.

**III. Financial Report**

Elena Stewart presented the financial report:

<b>Open Space Program - Approved Projects After 12/4/2019 OSC Meeting</b>			
<b>Date Committed</b>	<b>Current Projects</b>	<b>Amount</b>	<b>Agency</b>
4/6/2018	Mispillion Harbor	\$300,000.00	F&W
9/14/2018	Geffon	\$475,000.00	Parks
6/5/2019	Borcherdt (Phase 2)	\$1,930,000.00	Parks
	Selby	\$775,000.00	F&W
	Schilling	\$450,000.00	F&W
	Aycoth	\$285,000.00	Parks
9/4/2019	Handloff/ Weinberg Trusts	\$0.00	Parks
	SPI Pharma	\$0.00	Parks
	29 North State Street	\$275,000.00	HCA
12/4/2019	Shat	\$230,000.00	F&W
	Cafini Adele	\$200,000.00	F&W
		<b>\$4,920,000.00</b>	
<b>Available Funds 3/12/20</b>		<b>\$6,672,947.18</b>	
<b>Current Commitments</b>		<b>\$4,920,000</b>	
<b>Current Balance</b>		<b>\$1,752,947</b>	

**IV. Old Business**

A. Completed projects

1. BF3 LP Property, Parks  
 White Clay Creek State Park  
 \$2,730,302, 31 acres
2. Layton Property, Parks

- Trap Pond State Park  
\$640,000, 101 acres
- 3. Isaacs Property, DFS  
Redden State Forest  
\$40,000, ~9 acres
- 4. ABC Woodlands Properties  
Redden State Forest  
\$1,580,000, 482.3 acres
- 5. Timmons Property, F&W  
Assawoman Wildlife Area  
\$390,000, ~52 acres
- 6. Cafini Property, F&W  
Eagles Nest Wildlife Area  
\$220,000, 18.25 acres
- 7. Troyer Property, F&W  
Norman G. Wilder Wildlife Area  
\$440,000, 116.37 acres
- 8. Dube Property, F&W  
Eagles Nest Wildlife Area  
\$250,000, ~22 acres

**V. New Business**

- A. Council Open Discussion  
None

- B. Public Comments

New Castle Councilwoman Dee Durham asked for an update on the OSC review of the Hercules property. Mr. Schroeder told her that it was up for discussion in Executive Session and asked if she would like to do a presentation on her update in public session. Councilwoman Durham stated she had commitments of \$200,000 in private funds committed to the project and she was gaining support in Bond Bill discussions, which have been interrupted by the COVID-19 pandemic. Mr. Schroeder suggested she let the OSC discuss the project in Executive Session and committed to having staff getting back to her in the next day or two with the recommendations of the OSC understanding time is of the essence.

Ron Vickers made a presentation on the Absher Farms property on the Nanticoke River. Mr. Vickers is representing the Chesapeake Conservancy and the Sussex County Land Trust and presenting the project to the OSC showing the support of both organizations. He began by giving an overview of the property, which is in between two portions of the Nanticoke Wildlife area on the river, although not adjacent to the existing wildlife area. If this property is protected, there is an opportunity to also protect a wooded parcel to the south of the property on the river which would then make this property contiguous with the wildlife area. The large, rectangular portion of the property was previously known as the Layton Riviera Trailer Park. Mr. Absher bought the properties two years ago and is cleaning up the site and having the trailers removed. Originally there were 31 trailers on site and only 6 will remain at the end of this month, which will have to vacate the premises prior to the sale of the property. The portion of the property which shows up as subdivided into lots does in fact have a subdivision plan on record from 2005; however, Sussex County would require updating of the

subdivision plan if that were to move forward. Mr. Vickers presented pictures from the site, showing the water access potential for non-motorized watercraft from a lagoon and the “park-like” nature of the developed portion of the site as well as the mature woods on the portion of the site which has not yet been developed. The list of partners and financial contributions that Ron has brought together can be viewed on the last slide in his presentation. The presentation is attached to these minutes.

Sen. Ennis asked Mr. Vickers about the appraised value of the property. Mr. Vickers stated the fee simple value was appraised at \$1.25M with the conservation easement value being \$1,072,000 which represents 85% of the fee simple value. Sen. Ennis then asked what Mr. Vickers was asking of the OSC, to which he responded \$200,000 to contribute towards the conservation easement purchase.

Mr. Schroeder asked if the conservation easement would be placed over the entire property to which Mr. Vickers stated that it could be. Mr. Vickers said no residences would be allowed on the property but there is a potential for restrooms on the property to support the public use proposed for the site. Mr. Schroeder thanked Mr. Vickers and told him the OSC would discuss the request in Executive Session.

Rep. Brady inquired of the OSC’s level of interest in the Hercules property and pointed out that staff had committed to formally evaluating the property at the last OSC meeting. Sec. Garvin told him that his staff had evaluated the property and stated that it would be more appropriate to discuss the property as well as the evaluation in Executive Session.

Councilwoman Durham questioned if the OSC would be going back into public session after the Executive Session call. Staff shared that voting would be memorialized and made public through the online publication of the minutes<sup>2</sup>. Director Bivens committed to having the minutes available as soon as possible and reminded everyone there was a second call in number that was required to go into Executive Session. Mr. Schroeder reiterated that it was necessary to hang up the present call and to call back into the second number that was provided for all that were to call back for Executive Session. Motion was made and unanimously approved to go into Executive Session.

## **VI. Executive Session**

### **A. Discussion of Site Acquisitions**

## **VII. Open Session**

### **A. Council Project Recommendations**

Mr. Schroeder asked for motions for the projects presented in Executive Session.

1. Delaware Army National Guard Property, Parks  
White Clay Creek State Park, ~3.3 acres  
Did not require vote from OSC as there was legislation authorizing the transfer. Parks brought the property to the OSC as a FYI
2. Mispillion Harbor Property, F&W  
Mispillion Harbor Reserve, ~0.13 acres  
Ms. Fleming made the motion to recommend an additional \$300,000 to purchase the additional 0.13 acres representing the second parcel of the acquisition. Rep. Brady seconded the motion.  
The motion was unanimously approved.

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<sup>2</sup> All meeting documents related to the OSC meetings can be found on the DNREC Public Meeting calendar <https://dnrec.alpha.delaware.gov/public-meeting-calendars/>

3. Kersey Conservation Easement, F&W  
Norman G. Wilder Wildlife Area, ~83.98 acres  
Paul Boswell made the motion to recommend putting a conservation easement on the 83.98 acre property for a purchase price of \$250,000 contingent the State getting a right of first refusal on the property. Sen. Ennis seconded the motion. The motion was unanimously approved.
4. Troyer Phase 2, F&W  
Norman G. Wilder Wildlife Area, ~15.3 acres  
Sen. Ennis made the motion to approve \$125,000 for the purchase of the Troyer Phase 2 property. There was no second for the motion. Motion died.
5. Little Creek Inholdings, F&W  
Little Creek Wildlife Area, 0.98 acres  
Ms. Fleming made the motion to accept the donation of the 7 parcels totaling 0.98 acres in the Little Creek Wildlife Area. Sen. Ennis seconded the motion. The motion was unanimously approved.
6. Katz Property, DFS  
Blackbird State Forest, 47.64 acres  
Mr. Boswell made the motion to recommend the acquisition of the Katz Property totaling 47.64 acres for the purchase price of \$210,000. Ms. Fleming seconded the motion. The motion was unanimously approved.

Mr. Schroeder asked if any OSC members would like to make motions on the Absher, Hercules or Jones (Townsend) properties discussed in Executive Session. Sen. Ennis made the motion to go on record that the OSC would be supportive of the Absher and Townsend properties contingent on the projects receiving additional funding from other funding sources. Ms. Fleming seconded the motion and emphasized that additional funding sources would be necessary. The motion was unanimously approved with Mr. Schroeder abstaining due to a conflict of interest with his being on the Board of Directors of the Sussex County Land Trust.

Sen. Ennis brought up his concern with the legality of not voting in public session and questioned whether we would have to vote on all the projects again at the next meeting. Mr. Schroeder asked Ms. Stewart to follow up with Sen. Ennis' concern by getting a formal legal opinion. Ms. Stewart said she would.

Mr. Schroeder questioned staff whether they anticipated going to settlement on any projects that they had just voted on prior to the next meeting. Both Kyle Hoyd and Kerri Yandrich stated they did.

Mr. Schroeder asked if the OSC would like to postpone the June meeting to July so that we would definitively know the economic impact of the COVID-19 pandemic and how that would impact Open Space funding. OSC members agreed upon moving the next meeting date to July 8, 2020.

#### **Next Meeting Date/Adjournment**

The meetings for the Open Space Council for 2020 are as follows:

- July 8, 2020

Open Space Council Meeting  
March 18, 2020

- September 2, 2020
- December 2, 2020

John asked for a motion to dismiss. Ms. Fleming made the motion to dismiss, Rep. Brady seconded the motion. OSC unanimously approved the motion.

John thanked everyone and asked for a motion to adjourn.