



NOTE: The attachments referred to herein are on file at the Agency and are on the Agency's website. Copies are also available for inspection on request.

DRAFT AGENCY MINUTES

NOVEMBER 17-18, 2011

THURSDAY, NOVEMBER 17, 2011

AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT

Leilani Crafts Ulrich, Chairwoman
Richard Booth, Member
Sherman Craig, Member
Arthur Lussi, Member
Frank Mezzano, Member
William Thomas, Member
F. William Valentino, Member
Cecil Wray, Member
Judy Drabicki, Designee, NYS Department of Environmental Conservation
Jen McCormick, Designee, NYS Department of Economic Development
Dierdre Scozzafava, Designee, NYS Department of State
Terry Martino, Executive Director
John Banta, Counsel

LOCAL GOVERNMENT REVIEW BOARD PRESENT

Fred Monroe, Executive Director

AGENCY STAFF PRESENT

Richard Weber, Deputy Director, Regulatory Programs
Greg Bendell, Environmental Engineer
Matt Kendall, Associate Natural Resources Planner
Edward Snizek, Associate Project Analyst (Fresh Water Resources)
Sarah Reynolds, Associate Counsel
Keith McKeever, Public Information Director

Chairwoman Ulrich called the meeting to order at 9 a.m. She noted this was a historical moment for the Agency, to be the first woman chair of the Adirondack Park Agency and the first chair from Herkimer County, to be able to welcome the first APA commissioner from St. Lawrence County, to sit at table with the first woman APA executive director, all of this as the Board begins deliberation of the largest project ever to come before it.

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Chairwoman Ulrich stated on behalf of her mother, her daughters-in-law and granddaughters, as well as for girls and women known and unknown, that she was delighted to mirror each of their aspirations and to have the privilege of building on the work she has done in the past seven years at the Agency and now in her appointment as Chairwoman. She expressed her appreciation to her predecessors for their service and dedication to the Agency and for their efforts which paved the way for this day. She also thanked legislative leaders and especially Governor Cuomo for his trust and confidence in conferring this historic honor.

The Chairwoman noted she was inspired by the numerous conversations she has had in the past number of years which have provided her with a unique framework for the work ahead. She expressed her enthusiasm over the range of passion and perspective always embedded in the Adirondack discussion, with apathy rarely attending a meeting on Adirondack Park issues.

She also referred to the great work with Common Ground, which has informed the people that they are better for coming together and for profiling those areas of agreement, and that the most critical dangers to the Adirondacks come from outside the Blueline, in most instances. She said the driving motivation is centered in the people's love of the Adirondack Park and the interests in the environmental protection, economy and communities of this special place.

Chairwoman Ulrich advised that the next three months will see a singular focus of the Agency Board as its members deliberate on the ACR project. Following that, 2012 will give forth other opportunities to help write the next chapter of the Adirondack story, where the Adirondack Park Agency not only meets its regulatory duties with even greater efficiency, but also works in partnership with the Adirondack Common Ground Alliance and the newly emerging Adirondack Partnership; where the APA plays a transformational role in convening, listening and encouraging greater, and even more productive dialogue for the good of all who live, work and play in this magnificent place; where we collectively turn the page and reach for the true potential of the Adirondack region where people can plan, work and win by sharing mutual and shared strengths.

The Chairwoman referred to the positive words of support expressed in recent press statements and articles since her appointment. She said they were directed at all who have partnered, risked and worked for years to build bridges previously unheard of in the Adirondack Park. She also said the expectations are not only for herself as Chairwoman, the women

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on the Board, in the sitting legislature and currently leading many key entities of the Adirondacks, but they are also for all who have embraced the basic idea of what is possible if people work together for common goals. The affirmation is of all, and the challenge is to prove those currently optimistic pundits right.

Chairwoman Ulrich expressed her deepest thanks to all, especially the Agency staff and Board members.

She then welcomed Judy Drabicki, the DEC designee for the ACR project. As DEC's Regional Director in Region 6, Ms. Drabicki brings a wide range of knowledge about environmental issues. She has worked closely with Region 5 Regional Director Betsy Lowe on issues affecting the Adirondacks. Region 6 encompasses some of the state's most diverse communities and unique natural resources, including half of the Adirondack Forest Preserve, the Tug Hill Plateau, Lake Ontario and the St. Lawrence River, as well as urban areas in Utica and Rome. Ms. Drabicki is also a seasoned attorney with decades of experience in working on the complex issues facing Adirondack and other North Country communities. Prior to her appointment to Regional Director, she served as DEC's Regional Attorney in Region 6 for 13 years. She graduated from Cornell University with a Bachelor of Science and received her law degree from Syracuse University.

The Chairwoman also introduced newly appointed Agency Board member Sherman Craig of Wanakena, St. Lawrence County. Mr. Craig was raised in Rochester, New York and currently resides in Wanakena with his wife, Annette. He operates his own business, Wanakena Woodworks, which makes rustic and fine furniture by using local resources within the Park. He is an active member of several organizations including the Clifton-Fine Economic Corporation, Adirondack Mountain Club, and the Waterfront Revitalization Project. Mr. Craig is also a retired teacher and school administrator with the Pittsford, New York schools. From 1973 to 1975, he served as the Director and Headmaster of the International School of Belgrade, Yugoslavia. He retired from the school system 1999. Mr. Craig holds B.S. and M.S. degrees from SUNY Brockport and an M.A. from University of Rochester.

Chairwoman Ulrich noted as well the introduction last month of Jen McCormick of DED, who replaced Jim Fayle as the DED designee on the Agency Board. She then presented Adirondack Park Agency lapel pins to Mr. Craig, Ms. Drabicki and Ms. McCormick as tokens of appreciation for agreeing to serve the Park as members of the APA Board.

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1. Public Comment

Carol LaGrasse, President of Property Rights Foundation of America, commented on the Wechslers, recent court decisions, and Common Ground outreach.

The full comments of Ms. LaGrasse are available in the webcast of this meeting.

http://nysapa.granicus.com/ViewPublisher.php?view_id=2

2. Minutes

On motion of Mr. Valentino, seconded by Mr. Booth, the Agency unanimously adopted the October 13, 2011 Draft Agency Minutes, as amended with minor edits to Mr. Booth's comments related to real property tax burdens, changes which did not change the substance of the minutes. (Messrs. Craig and Wray abstained from voting due to their absence from the October meeting.)

Mr. Wray referred to the Draft Regulatory Programs Committee Minutes and noted they should associate names with the dissenting votes.

3. Executive Director's Report

Ms. Martino congratulated Chairwoman Ulrich on her appointment, noting she was honored to have the opportunity to work with the Chairwoman in her new position. She recalled when they first met in 1998 immediately following Saranac Lake's designation as an All America City, the Chairwoman's commitment at that time to having a group from Old Forge learn about Saranac Lake's success in working with volunteers to secure such an important designation, and the great progress that has been made since then. Ms. Martino also noted Chairwoman Ulrich's expansive focus with the people, environment and communities of the Park as well as her unprecedented level of engagement, most noteworthy the Common Ground Alliance. She said she looked forward to the future of the Agency under Chairwoman Ulrich's leadership.

Ms. Martino welcomed Sherman Craig, a first time member from St. Lawrence County, and said she looked forward to the perspective that Mr. Craig brings in education and small business operations. She also welcomed Judy Drabicki as DEC's designee for the ACR deliberations.

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Ms. Martino then noted that the November Agency meeting marked an important milestone in the Agency's review of Adirondack Club and Resort Project 2005-100. She commented on the project chronology that has led to this day, as highlighted on the wall placards located throughout the room which reflect pre-application to application, conceptual approval to committee deliberation in 2007, and then direction to adjudicatory hearing. The updated application in June 2010 was followed by the work of the Agency hearing staff and then the hearing. In an additional step in preparation for Agency deliberation, Administrative Law Judge O'Connell supervised a project site visit for the Board on October 14, 2011. The chronology also highlights the date of October 24, when the Agency received the reply briefs from the parties, as well as October 26 when the Judge certified the record as being complete and the record was transmitted to the Board.

Ms. Martino commended the project hearing staff on their work to ensure a complete record. The team consisted of Paul Van Cott, Mitch Goroski, Shaun LaLonde, Dan Spada, Colleen Parker and Mary Palmer. She noted their work has been considerable and while not a party to the hearing, they participated fully in the hearing and advocated for the full and complete record that is now before the Board. Some of the hearing staff also engaged as witnesses for the Agency and presented testimony based on their professional knowledge, expertise and judgment.

Ms. Martino noted the record is comprised of 49 parties, 23 witnesses, pre-filed testimony from witnesses for the parties, 4,486 pages of hearing transcript, 12 reply briefs, and 17 closing statements from the parties. In addition, the record includes 258 exhibits and 236 drawings, including all project application materials identified in the project history chronology. She further noted that the full record is catalogued and located in a separate, locked room at the Agency, and is available for consultation by the Board. Additionally, the complete record is available on two discs.

Along with the completion and distribution of the record to the Board came an important transition within the Agency with the creation of the Executive Team, whose membership includes her, John Banta, Greg Bendell, Sarah Reynolds, Ed Snizek, Rick Weber and Matt Kendall of Agency staff. The Executive Team will provide aid and advice to the Board in the discussion of the record and project issues. Pursuant to SAPA, the work of the Executive Team remains separate from the work of the project hearing staff. As such, members of the team have not been involved in any substantive discussions with the project hearing

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staff about the project or the staff recommendation. Beginning with this meeting, Executive Team staff will be in attendance to assist the Board and ensure their questions are recorded.

Ms. Martino recalled the Regulatory Programs Committee's recommendation and the Board's agreement by resolution in July 2011 to have the project reviewed by the full Board throughout the deliberations on the project. In its resolution, the Board also agreed to a three consecutive meeting schedule that was also agreed to by the applicant. Accordingly, the November 17-18 meeting agenda outlines the project throughout both days for full Board discussion and deliberation.

The agenda begins with the review of the Board's statutory responsibilities, a project description, an action item related to three appeals in the record, and a discussion of issues. Ms. Martino noted that Issue 10 will be held for discussion in December primarily because it is related to compliance. The November meeting is devoted to Executive Team presentations and questions from Board members.

The Executive Team will return in December with material from the record that responds to the Board's questions. Also in December, the Board will have further opportunity to fully engage the record and have additional discussion about opposing argument. The Board will also begin to review the proposed Findings and Conditions proposed by the project hearing staff and others.

The January meeting agenda will be focused on the Board's decision to approve the project with conditions, deny the project, or return the project for additional information through further adjudication.

Ms. Martino noted it is the obligation of the Executive Team staff to present the record for Board consideration according to its statutory responsibilities. At this meeting, the Executive Team will begin with the project description and the material that comprises the responses to questions posed by the Board for the adjudicated issues. On Friday, the Team will review ideas, questions and approach for the December agenda, welcoming additional input from the Board for the organization of the December Agency meeting.

All meetings are being webcast live from the Agency with alternative web viewing locations at the Wild Center in Tupper Lake and at DEC in Ray Brook. Because any outside location

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would result in a 24-hour delay in the webcast, the Agency decided to hold the meeting at its Ray Brook office where it will be webcast live.

Referring back to the meeting agenda, Ms. Martino noted there were no scheduled breaks, with the recognition that they will be available as time permits. She also noted flexibility in time adjustments to accommodate actual deliberations.

As a member of the Executive Team, she said the Team looked forward to this important opportunity for engagement with the Agency Board over the next two days on the ACR project.

4. Board Determination on Three appeals of ALJ Rulings

Counsel advised that the Agency process for an adjudicatory hearing, which is set out in Part 580 of Agency Rules and Regulations, provides that for post-hearing motions the Hearing Officer, or ALJ O'Connell in this hearing, is authorized to rule upon all motions made prior to the last day of the hearing. The Agency will rule on all motions and requests submitted thereafter in the course of its determination on the project. As a threshold question to what the complete record would be, there were three appeals that were submitted with the post-hearing brief and closing statement of Protect the Adirondacks!, Inc. ("Protect") in Appendix A, and that material was presented to the Agency in summary form in a memorandum transmitted by Executive Director Martino with a public mailing on November 9, 2011.

Counsel briefly reviewed the three appeals. The first appeal seeks reversal of ALJ O'Connell's ruling on Exhibit 195. Exhibit 195 was offered as an impeachment exhibit. Judge O'Connell heard argument and then he excluded the exhibit from the record. Counsel recommended the Agency affirm Judge O'Connell's ruling.

The second appeal requests preclusion of testimony based on alleged problems with the discovery process and that would preclude certain testimony presented by the applicant. Judge O'Connell examined the argument and ruled that the testimony would be included in the record. Counsel recommended the Agency affirm the Judge's determination.

The third appeal involves the exclusion of impeachment evidence offered by Protect to examine the credibility of one of the applicant's witnesses. The particular exhibit that was offered involved activities involving the Agency at the time of its

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approval of the visitor interpretive center, about twenty years ago. This exhibit was excluded by Judge O'Connell as not relevant. Counsel recommended the Agency affirm Judge O'Connell's ruling.

Counsel reported that there was argument on the appeals, with the Agency hearing staff presenting a careful and cogent statement in support of the Judge's rulings. The argument raising the appeals is presented in Appendix A which begins at page 112 of the post-hearing brief and closing statement of Protect. He advised the Board that a motion and determination is required from the Agency.

Mr. Wray moved the Agency affirm all three rulings of Judge O'Connell, and Mr. Mezzano seconded the motion.

Prior to voting, in response to a question of Mr. Booth, Counsel advised that a decision was required by the Board at this time because it establishes whether there is a complete record for the dialogue and deliberation of the issues.

Mr. Booth requested further characterization of the appeals from Counsel.

Counsel advised that the first appeal involves tax records relating to individuals associated with the project sponsor. Judge O'Connell refused to admit said records. The second appeal involves a request for broad preclusion of substantive pre-filed and other testimony by the project applicant's witnesses based on alleged failures in the discovery process. The Judge admitted said testimony and it is part of the record. The third appeal involves an alleged statement made under oath by a principal of one of the applicant's consultants relating to an Agency determination that had been made with respect to the visitor interpretive center. The alleged statement was made some ten years after the Agency's determination and the Judge excluded this document, although he did allow some other related exhibits that were offered also to impeach the credibility of the applicant's witnesses. Said information is in the record before the Agency.

Chairwoman Ulrich called the question, which passed unanimously.

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5. Agency Deliberation of Adirondack Club & Resort P2005-100

The webcast is the record of this deliberation:

http://nysapa.granicus.com/ViewPublisher.php?view_id=2

Questions posed by the Board are Attachment 1. The PowerPoint presentations used during the deliberation are grouped as Attachment 2.

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FRIDAY, NOVEMBER 18, 2011

AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT

Leilani Crafts Ulrich, Chairwoman
Richard Booth, Member
Sherman Craig, member
Arthur Lussi, Member
Frank Mezzano, Member
William Thomas, Member
F. William Valentino, Member
Cecil Wray, Member
Judy Drabicki, Designee, NYS Department of Environmental
Conservation
Jen McCormick, Designee, NYS Department of Economic Development
Dierdre Scozzafava, Designee, NYS Department of State
Terry Martino, Executive Director
John Banta, Counsel

LOCAL GOVERNMENT REVIEW BOARD PRESENT

Gerald Delaney, Chairman, Adirondack Park Local Government
Review Board

AGENCY STAFF PRESENT

Richard Weber, Deputy Director, Regulatory Programs
Greg Bendell, Environmental Engineer
Matt Kendall, Associate Natural Resources Planner
Edward Snizek, Associate Project Analyst (Fresh Water Resources)
Sarah Reynolds, Associate Counsel
Keith McKeever, Public Information Director

**1. Continued Agency Deliberation of Adirondack Club & Resort
P2005-100**

The webcast is the record of this deliberation:

(http://nysapa.granicus.com/ViewPublisher.php?view_id=2)

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2. Interim Reports

a. Regulatory Programs Committee

Counsel Banta noted Mr. Wray's correction to the draft committee minutes regarding the recording of dissenting votes.

Mr. Booth noted two insignificant changes to the draft committee minutes that he had conveyed to the Executive Director.

On motion of Mr. Lussi, seconded by Mr. Valentino, the Committee unanimously adopted the draft minutes of its October 13, 2011 meeting, as amended.

b. Park Ecology Committee

On motion of Mr. Lussi, seconded by Ms. McCormick, the Committee unanimously adopted the draft minutes of its October 13, 2011 meeting.

c. State Land Committee

On motion of Mr. Booth, seconded by Mr. Thomas, the Committee unanimously adopted the draft minutes of its October 13, 2011 meeting.

d. Local Government Services Committee

Mr. Thomas highlighted Local Government Day, which is scheduled for March 20-21, 2012.

e. Economic Affairs Committee

Mr. Lussi reiterated the need for an Agency staff economic specialist, and noted the Agency's review of the large-scale ACR project demonstrated the need from an analytic standpoint.

Chairwoman Ulrich suggested Mr. Lussi's appeal for an economic specialist would be satisfied in the near future.

3. Member Comment

Mr. Mezzano expressed his appreciation to all who were involved in the ACR project, particularly the Agency hearing staff.

Ms. Drabicki thanked the Agency for the warm welcome. She stated that as a supervisor of many staff who must work together on a daily basis, she was sensitive to the difficulties involved with ex parte concerns involving Agency hearing staff and Executive

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Team staff. She commended Agency staff for doing an extraordinary job and for laying out the issues before the Board.

Mr. Lussi expressed his appreciation for the education he had received in opposing briefs and discussion between the parties in the ACR project. He said he continued to keep an open mind. Mr. Lussi also applauded the process for presenting questions, noting it allows opportunity for questions which Board members might otherwise be reluctant or shy to ask and opens the door for further questions in the forthcoming weeks. The process enables a better decision in the end.

Mr. Craig expressed his thanks for the warm welcome. He expressed his appreciation for the quality of the Agency staff and also for the support he has received both at the staff and the Board level since his appointment. He said he looked forward to many times together working and making decisions, and hopefully making a better Adirondack Park. Mr. Craig also noted the diverse backgrounds of commissioners who have different points of view, but at the same time function very well as a group.

Mr. Wray expressed appreciation for the content and dialogue of the meeting, and described the briefs prepared by the Agency hearing staff as high-class, professional work products. He also conveyed his congratulations to Chairwoman Ulrich.

Mr. Booth added his congratulations to Chairwoman Ulrich. He concurred with other comments regarding the staff and noted the summaries, in particular, are extraordinarily helpful. He then referred to the most impactful moment for him in the last two days had nothing to do with this project or the Agency, but reading about a tragic accident near Plattsburgh that claimed the lives of four young people.

Mr. Valentino welcomed Mr. Craig and Ms. Drabicki. He also thanked the staff. He commented on the ACR project, the largest project in the Agency's history, and the extraordinary adjudicatory hearing process. He also approved of the microphone straps, as well as the periodic breaks throughout the day which allowed him to refocus and absorb more information.

Ms. McCormick added her thanks to staff. She noted the documents made it easier to understand the issues and allow members to look at the exhibits again with a better foundation and understanding of their relationship to the project. Ms. McCormick also offered congratulations to the Chairwoman on

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convening a successful meeting. She also welcomed Ms. Drabicki and Mr. Craig.

Ms. Scozzafava congratulated Chairwoman Ulrich and thanked the staff for their assistance and for providing flexibility and ensuring the Board has all of the information it needs for deliberation and decision. She also wished everyone a happy Thanksgiving.

Mr. Thomas agreed that the microphone straps were a great improvement. He complimented Chairwoman Ulrich for effectively guiding the Agency Board through the first two days of the ACR deliberations, and also noted he was proud to be part of the first historic meeting with the Chairwoman of the APA. He also commended the project hearing staff and the executive team staff for their exceptional work. He concurred with the process for the ACR project, and noted in particular the process for questions and answers. Finally, he agreed that the Board works very well together.

Counsel welcomed Mr. Craig and Ms. Drabicki.

Ms. Martino thanked Chairwoman Ulrich, and expressed staff's appreciation of the news of her appointment as Chairwoman as well as Mr. Craig's appointment to the Board. In particular, staff recognize that the appointments come with a big task. Ms. Martino also thanked everybody who has been involved with the ACR project, including the project hearing staff for all of the work that they have done, and more recently the work of the executive team staff. The November meeting has brought over 100 questions which will involve full engagement with the executive team in securing the answers within the record. The team will also focus on the draft order prior to the December meeting. Ms. Martino added her best wishes for a happy Thanksgiving.

Chairwoman Ulrich welcomed Ms. Drabicki and Mr. Craig to the Board. She also thanked her fellow members for staying on the Board and facing the gargantuan challenge of the ACR project. She expressed appreciation to both the staff and the parties involved in the project, noting they are a part of Adirondack history. The Chairwoman also called attention to Betsy Lowe's announcement of her retirement from DEC. On behalf of the Agency, she thanked Ms. Lowe for her years of service as a member of the Agency Board.

Referring to the Thanksgiving holiday, she noted her thoughts turned to all who faced devastating flooding last spring and fall and expressed her appreciation to the emergency personnel and volunteers of the Park who helped to prevent loss of life.

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At the same time, she acknowledged the recent tragedy in Peru which resulted in the loss of four young people on our roads. Finally, she added her thanks to the staff and her colleagues as they prepare for the next Agency meeting. She wished all a safe and blessed holiday.

4. Adjournment

The Agency unanimously adjourned at 2:58 p.m.

LCU:dal

Attachments:

Project 2005-100 Preserve Associates, LLC
(Adirondack Club and Resort Project)
Agency Board Questions (Attachment 1)
Powerpoint Presentations (Attachment 2)

Leilani Crafts Ulrich, Chairwoman