



DRAFT MINUTES
Legal Affairs Committee
March 15, 2012
Agency Meeting
CW:SHR:PVC:dal

**Legal Affairs Committee
March 15, 2012**

Committee Members Present: Committee Chairman Cecil Wray, Members Richard Booth, Sherman Craig, and Frank Mezzano. Other Members Present: Agency Chairwoman Leilani Ulrich; Members Arthur Lussi, William Thomas and F. William Valentino, Designees Dierdre Scozzafava (Department of State) and Robert Stegemann (Department of Environmental Conservation). Agency Staff Present: Executive Director Terry Martino, Associate Counsel Sarah Reynolds, Associate Attorney Paul Van Cott, Legal Intern Jennifer McAleese.

The Committee convened at 4:20 p.m.

Counsel's Report

Ms. Reynolds noted the monthly jurisdictional and FOIL statistics included in the mailing. She welcomed questions on the jurisdictional report and deferred questions on the litigation report.

SAPA Report on Existing Regulations

Mr. Van Cott reported on Agency review of 2002 regulations pursuant to SAPA, which requires a review of regulations that are 5 or 10 years of age. Notice of the review along with a description of the regulations and changes were published in the State Register and on the Agency's website. The 45-day public comment period will expire on April 15.

Mr. Van Cott noted that the regulations under review are non-material for the most part, largely codified Agency practice, and brought conformity to the statute. He briefly discussed the following:

"Bed and Breakfast" - Certain small bed and breakfast operations are exempted from Agency permitting requirements. For example, a bed and breakfast with less than five bedrooms and a septic system that meets standards does not require an Agency permit.

"Dock" - Definition added to the regulations for the first time. The definition has since been amended, in 2010.

"Guest Cottage" - Definition added to the regulations for the first time.

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"Marina" - Definition added to the regulations for the first time for this use which requires a permit in certain land use areas.

"Retaining Wall" - Definition added to the regulations for the first time for this structure which is generally subject to the shoreline restrictions with some exemptions for certain types of small retaining walls. The regulation has been very helpful to staff and the public in finding ways for people to address erosion problems in a way that does not require an Agency variance.

Jurisdiction over Waste Disposal Areas - Certain small waste disposal areas are exempted from Agency permitting requirements. This was done to parallel a similar exemption of DEC for residentially generated clean waste such as brush, etc.

Mr. Van Cott advised the Committee that Agency staff will consider the comments submitted within the 45-day comment period as the Agency looks forward to future regulatory changes.

Chairwoman Ulrich referred to the jurisdictional report and commended the reduction in response time from a 24-day average last year to 18 days.

Mr. Van Cott credited Doug Miller and the JIF staff for the improvement. He also recognized Jennifer McAleese for her assistance in the 10-year regulation review.

Adjournment: The Committee adjourned at 4:27 p.m.

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