

Draft



Regulatory Programs Committee
May 9, 2013 Agency
Meeting; REW:mlr

**Regulatory Programs Committee
May 9, 2013**

Committee Members present: Committee Chairperson, Frank Mezzano, Member Richard Booth, Designee Dede Scozzafava (Department of State) and Member William Valentino. Other Members present: Agency Chairwoman, Leilani Crafts Ulrich, Member Cecil Wray, Designee Robert Stegemann (Department of Environmental Conservation), Designee Patrick Hooker, NYS Department of Economic Development, Members William Thomas and Sherman Craig. Agency Staff present: Executive Director: Terry Martino and Counsel Jim Townsend

Local Government Review Board Member Present: Mr. Fred Monroe

Member Art Lussi was not present for Agency meeting. Chairwoman Lani Ulrich will be voting in the Regulatory Committee meeting in Mr. Lussi's absence.

The Committee convened at 2:30 pm.

1. Approval of April Draft Regulatory Programs Committee Minutes

On motion of Mr. Booth and, seconded by Chairwoman Ulrich; Agency unanimously adopted the Draft Regulatory Committee Minutes of the April 2013 Agency meeting.

2. Deputy Director (Regulatory Programs) Report (R. Weber)

Mr. Weber reviewed the Status and High Profile reports for Regulatory Programs. He briefly discussed applications received and permits issued. Mr. Weber highlighted new preapplications received in April.

Mr. Weber discussed preapplication file A2013-65, Loon Gulf, a subdivision of 2806± acres into residential lots. He noted this preapplication is in the very early stages and the applicants are asking for guidance at this time. No application has been received at the Agency for this preapplication.

Mr. Craig asked Mr. Weber the status of guidance document, "Development in the Adirondack Park" (DAP). Mr. Craig commented he thought the document would be helpful to staff when reviewing a large

subdivision. Mr. Weber answered that the materials required for a large scale subdivision application and review process is very thorough and leads to good design by requesting detailed resource information regarding the subdivision design.

Counsel Townsend stated that DAP does exist and is currently used by staff to use for review of this proposal if the preapplication becomes an active application.

3. Cell Towers Applications Update Information (C. Parker)

Ms. Parker noted that she would not be discussing any one particular Telecommunications project but would provide the Board with a general overview of the types and numbers of telecommunication projects recently received at the Agency.

Ms. Parker acknowledged staff has participated in various meetings with telecommunication companies. She noted the companies are being proactive by coming to the Agency early in their planning process. Staff encourages telecommunication companies, providers and contractors to take advantage of the preapplication process allowing staff to provide guidance using in-house tools; and at times, meeting with the contractors in the field and helping companies to identify potential viewsheds and resource constraints for possible tower locations.

She noted that there have been 15 telecommunication preapplications this year for new towers; many more than in years past.

Ms. Parker used a slide show presentation to compare 2011, 2012 and 2013 telecommunications projects received at the Agency. She noted some are preapplications, general permits, applications for new towers, and some were non-material amendments.

She stated some of the preapplications received are for new towers in areas where little or no cellular coverage exists. Ms. Parker also noted that some of the preapplications will not result in formal applications due to more than one preapplication for the same area. Ms. Parker briefly described how the preapplication discussion aids in the permit application process between staff and telecommunication companies.

Mr. Booth asked Ms. Parker of the 15 new preapplications received this year, how many were from different telecommunication companies.

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She answered 7 preapplications were received from 1 company and 8 being divided between two other cellular companies.

Question was asked if the 15 preapplications received would be affected by the new 6409 federal legislation or if that may cause some of the preapplications to be non-jurisdictional. Ms. Parker answered that the 15 preapplications are for new towers over 40 ft. in height and jurisdictional as new projects, and the 6409 legislature applies to expansions or upgrades to existing towers.

Ms. Parker briefly explained that some cellular upgrades (antenna replacements-additional antennas) may be authorized through the general permit process, a non-material amendment or a compliance letter.

Mr. Booth encouraged staff to be proactive with cellular companies; asking to encourage co-location where possible. The amount of preapplications that the Agency is receiving is a good indication of what is to be in the future.

Mr. Booth asked if staff is considering revising the substantial visibility criteria currently in the "Towers Policy."

Ms. Parker replied that staff discusses the towers policy often, but she is unaware of any plan to bring a new policy to the Board to reconsider.

Ms. Parker summarized the total telecommunications towers activity for the past three years and she noted that cellular companies are providing information to the Agency earlier as part of a preapplication file allowing staff the opportunity to discuss co-location with cellular providers. Staff expects a larger number of general permit and amendment requests for new antennas or antenna swaps on existing towers as part of the cellular companies undertaking large systematic efforts to upgrade service from 2G and 3G to 4G.

Ms. Parker noted that thanks to technology, what can result in an upgrade for the telecommunication provider may only require a minor antenna swap on an existing tower.

Ms. Parker acknowledged staff Virginia Yamrick, Tracy Darrah, Leigh Walrath, and Ariel Lynch for reviewing the telecommunication projects received at the Agency.

Chairman Ulrich asked if Mr. Booth's suggestion is reasonable for staff regarding co-location with cellular companies.

A brief discussion ensued regarding the Agency's practices regarding co-location from two providers for the same location.

Counsel Townsend commented cellular companies would prefer not to discuss with other cellular companies their plans to locate a new tower in the same area. Cellular companies are very competitive and prefer not to discuss their plans with other cellular companies.

Question was asked if there could be a joint application process to include cellular companies to team together or discuss a possibility of co-location.

Answer was given that there is an anti-trust concern between cellular companies that staff is aware of and respects.

Mr. Weber commented that staff has suggested co-location between two companies by allowing a taller tower to accommodate both cellular companies; however, the reality is that cellular companies are competitors and have their own technology that they do not want to share with other cellular companies.

Mr. Walrath stated staff has reviewed projects where there has been sufficient space on a tower and staff has asked an independent tower company that is building a tower for a company to include a visual analysis of a competitor's panel array for a possible co-location. So in situations where there could possibly be a co-location, staff is proactive.

4. Old Business: No

5. New Business: No

Adjournment: The Regulatory Committee meeting adjourned at 3:30 pm.

Note: The power point presentations referred to herein are on file at the Agency. Copies are also available for inspection on request and can be viewed at http://nysapa.granicus.com/ViewPublisher.php?view_id=2 of this meeting: