



LEILANI CRAFTS ULRICH
Chairwoman

TERRY MARTINO
Executive Director

Draft Minutes
State Lands Committee
November 2015 Agency Meeting
November 25, 2015

MINUTES OF THE STATE LANDS COMMITTEE MEETING November 12, 2015

The State Lands Committee convened at approximately 9:15 a.m.

State Land Committee Members Present

Richard Booth, Chair, Sherman Craig, William Thomas, Robert Stegemann, Arthur Lussi.

Other Members and Designees Present

Karen Feldman, Daniel Wilt, Dierdre Scozzafava, Bradley Austin, Lani Ulrich.

Local Government Review Board

Fred Monroe.

Agency Staff Present

Terry Martino, James Townsend, Kathy Regan, Walter Linck.

Approval of the Draft October Committee Minutes

A motion to approve the draft committee minutes was made by Robert Stegemann and was seconded by Sherman Craig. Mr. Lussi noted a correction to the name of the ORDA attendee listed on the last page of the draft minutes. With the stated correction, all were in favor.

Planning Division Report (Kathy Regan)

Kathy Regan reviewed the division report. She noted that the 2016 Local Government Day Conference will be held again at the Crowne Plaza in Lake Placid, New York on April 13 and 14. She stated staff from Local Government Services attended the final public information meeting for the dissolution of the Village of Port Henry to address any questions pertaining to Agency jurisdiction as a result of the action. She also said John Barge represented the Agency at the Demographic Trends of the Adirondacks Workshop held at the Rockefeller Institute at the Government Center in Albany. In addition, she said State Land staff continue to review multiple projects for compliance

with the State Land Master Plan and determine whether the proposals are in existing UMPs. State Land staff are also working with RASS staff to determine if wetland permits are needed for any of the proposed projects. Staff will be doing field work to review multiple work plans for snowmobile trails. State Lands staff will be attending 3 public meetings for the Great South Woods Complex Plan where additional input on the preliminary strategy proposed for enhancing recreation in the Adirondacks is being sought.

Whiteface Mountain Intensive Use Area UMP Amendment - Porcupine Lodge (Walt Linck, APA)

Mr. Linck presented the proposed amendment and stated the purpose is to reintroduce public use to the Porcupine Lodge. The proposal includes the renovation of the existing building often referred to as Porcupine Lodge and the construction of a non-permanent hospitality deck adjacent to the structure. Mr. Linck noted that in this proposal Whiteface staff have committed to undertaking mitigative measures to protect the Bicknell Thrush and its habitat. No new tree cutting is proposed around the lodge. William Thomas asked why the lodge was not addressed in a previous UMP amendment. Mr. Linck stated he had no reason and speculated past plans had a conceptual plan but details were not provided.

Mr. Thomas moved the draft Resolution as prepared by staff be accepted. Mr. Craig seconded. All were in favor.

DSEIS for State Land Master Plan Amendments (Kathy Regan, APA)

Ms. Regan reviewed the proposed changes to the State Land Master Plan (SLMP). These amendments have been developed by staff in consultation with the Department. She noted that several amendments to the SLMP are proposed including: major changes to basic guidelines, minor changes (i.e. updating terms and adding definitions to terms referenced within the guidelines), and ministerial changes (i.e. grammatical corrections, updating statistics and updating the list of current board members).

Mr. Booth asked if the photos that Ms. Regan used in the presentation were in the DSEIS document. She said no, but that they had been used by the Department in an earlier presentation.

Ms. Regan noted that several alternatives are listed within the DSEIS, but staff have not selected a preferred alternative for any of the proposals.

Ms. Regan then reviewed the process for amending the SLMP. The steps involved include: acceptance of the DSEIS and authorization to proceed to public hearings; gathering public comment and summarizing; choosing preferred alternatives and incorporating them into a FSEIS; Agency Board vote on a recommendation to the Governor; and final approval by the Governor.

Chairwoman Ulrich commended staff for the work done and recommended this item be tabled until next month due to numerous recommendations and changes requested from the Board. Ms. Ulrich noted that tabling the item will not change the proposed hearing schedule slated for January 2016.

Mr. Booth asked why this is a supplemental environmental impact statement. Ms. Regan responded it is supplemental to the Final Programmatic Environmental Impact Statement (FPEIS) which contains the guidelines and standards for amending the SLMP. She said the programmatic impact statement (pages 5, 6, and part of 7 of the EIS) lists the 9 criteria which must be followed.

Mr. Booth said he is aware the focus is on the use of natural materials and bicycling. He stated that in terms of bicycling, there is no discussion of a potential new classification, which is an issue that several board members have raised to him.

Ms. Feldman expressed two thoughts: First that the Agency would fulfill the commitment made in the Essex Chain Lakes Classification Resolution, which was to pass the necessary amendments to the SLMP to address the issues of using non-natural materials for bridge construction and bicycle use in the Essex Chain Lakes and Pine Lake Primitive Areas; second, that the DSEIS should explore the feasibility of a new classification category. She would like to know what the public thinks, particularly on the subject of using non-natural materials in other areas of the Park.

Mr. Craig noted there have been previous discussions on SLMP. He said that the Master Plan states it is expected to be reviewed every 5 years. He stated that the Agency has only undertaken this task once in the past 40 years. He requested future committee agendas include items that might warrant discussion or further review in regards to SLMP amendments. He asked for clarity of the proposed alternative allowing bicycle use on all-season roads in Primitive Areas and the intent of the alternative. He asked if the Primitive Area were to be reclassified as Wilderness, would the use of bicycles be prohibited. Ms. Regan responded affirmatively.

Mr. Thomas noted concern that without a preferred alternative listed, the process may take longer. Ms. Regan responded that the Agency had success with this approach in the 2013 classification. She added that if a preferred alternative is not listed, the public reviews all of the proposed alternatives instead of focusing on staff's preferred alternative.

Mr. Stegemann stated that depending on the selected alternative, amendments might need to be made to the UMP. He expressed concern regarding the time involved and suggested there be more discussion about how to implement the UMP and move forward.

Mr. Craig asked how additional alternatives might be added to the proposed DSEIS; he has some suggested language he would like to see incorporated in the alternatives for the use of non-natural materials.

Mr. Booth responded that staff would come back with a revised DSEIS. Mr. Booth suggested that staff be allowed to look at additional concerns and comments which can be incorporated into a revised DSEIS. He noted that staff have proposed three alternatives for bicycling, but he feels there are five alternatives. He added that the Board did not agree to the use of motor vehicles in Primitive Areas. He said the Board agreed to consider the use of bicycles in Primitive Areas. Mr. Booth encouraged the Board to share their comments and concerns with staff. Ms. Ulrich also urged the Board to provide concerns and comments to the staff as soon as possible.

Mr. Thomas asked if more time could be given to the process of amending the SLMP. Ms. Regan responded that additional time may be needed depending on public comment. She added that due to the holiday season and the Department's desire to commence their field season, the proposed schedule was suggested. The Department is aware the schedule may be adjusted.

Mr. Stegemann stated that going through the process for an additional month will not affect the timetable for the Essex Chain UMP. If necessary, amendments can be made based on the progress of the updates to the SLMP. Ms. Ulrich said she is comfortable moving forward incrementally as long as progress continues.

Mr. Booth then asked for a clarification of "minimum requirements." He stated he feels there are broader issues on the table than one particular place regarding a particular bridge. He added issues such as cost, maintenance, replacement, etc. need to be evaluated. Ms. Regan responded that the "minimum requirements" is an analysis which looks at a variety of factors. The Federal Wilderness Guidelines incorporates this type of analysis (referred to as the Minimum Requirement Decision Analysis or "tool") and use of it has provided solid legal support when an action item has been challenged. Mr. Booth said the term "minimum" is problematic to him and urged staff to go back and look at the term (minimum) and determine how it is applied. Ms. Regan responded that the term minimum can be applied in different layers depending upon the proposed use of the bridge. Mr. Stegemann noted that the UMP will describe the minimum dependent upon a proposal and the analysis will be conducted through the UMP process. Ms. Ulrich stated the choice of words now will affect public comment. Ms. Regan stated that the UMP is a result of the review process; the staff analysis will encompass a range of possibilities to determine the minimum needed.

Mr. Townsend stated that the concept of minimum analysis has been in use in previous Agency and Department documents such as the 2009 Snowmobile Trail Management Guidance and the Invasive Species Best Management Practices, both currently appendices to the APA/DEC MOU.

Ms. Feldman asked if another classification proposal was considered during deliberations between the Agency and Department. Ms. Regan responded the current DSEIS is the result of ongoing consultations with the Department.

Ms. Ulrich asked what would be the problem with another classification alternative. Ms. Regan responded that it could slow down the process but was not sure there is a problem with such an alternative. Mr. Booth suggested that what is being proposed is not a Primitive Area. In his perspective a new classification alternative should be incorporated into the DSEIS to demonstrate that all reasonable alternatives are required to be considered.

Mr. Stegemann suggested that one way to proceed is to do the alternative for biking now, then amend the SLMP and then repair the UMP for Essex if necessary. He added that moving the UMP for Essex in a timely manner is very important.

Mr. Craig moved to table acceptance of the DSEIS to allow staff more time to review other alternatives to be proposed by members over the next few days. Mr. Thomas seconded the motion. All were in favor.

Essex Chain Lakes Complex UMP (Kathy Regan, APA)

Ms. Regan reviewed the proposed management actions for the Essex Chain Lakes Complex UMP. She noted the public comment received and stated that one additional comment letter came in after the deadline. She summarized the comments received and staff response to those comments.

Ms. Regan noted that the draft UMP had been slightly modified since the Agency mailing and the most current version has been posted to the Agency's website. She stated that Agency staff believe the revised proposed UMP is in conformance with the SLMP.

Mr. Booth referred to page 3 of the revised draft resolution and noted that the date of September 2015 is not accurate. Mr. Booth also stated that a specific date (month, day and year) that reflects the latest version needs to be added to the document.

Ms. Ulrich noted that the vista at Outer Gooley is not proposed to be maintained but hopes at some point conversations about vista maintenance can take place in the future.

Mr. Craig noted that one issue members are dealing with as individuals is the volume of changes made over a limited time. He stated it is important to realize that as this plan was developed, concerns were brought up and changes were made accordingly. Some of those changes were again revised to meet certain expectations. He said the two clear issues in terms of bridge use and bicycle use have been worded in such a way in this current draft UMP to be compliant with the SLMP. Mr. Craig stated he believes

there will be adequate time to make the necessary changes to the SLMP and expressed satisfaction with the progress staff have made.

Mr. Lussi asked for clarification about the use of the Polaris Bridge. He stated he did not understand why DEC does not have to comply with the Wild, Scenic and Recreational Rivers Act in the same way as a private landowner. Ms. Regan responded that the DEC does have to comply with the Rivers Act and also with its own river regulations. The interpretation by the Department of its river regulations allows continued use of the Polaris Bridge (over a scenic river) as a snowmobile trail in Wild Forest. Agency staff believe the use of a snowmobile bridge over a scenic river is compliant with the SLMP. She added that it is the Agency's responsibility to interpret the SLMP. It is the Department's responsibility to interpret the River Regulations on Public Lands.

Mr. Booth responded that DEC's interpretation of historical grandfathering is unfounded in terms of historical facts. He added that this conclusion presents grave threats to the Forest Preserve beyond these two Primitive areas and to the SLMP. He stated that he has encouraged the Department to amend their river regulations to allow the proposed management actions to happen rather than using a grandfathering argument. He believes the grandfathering argument is completely unfounded in fact and will lead to greater ramifications to both the Forest Preserve and the Master Plan.

Ms. Ulrich asked for examples of the threats to the Master Plan and the Forest Preserve Mr. Booth discussed. He said the Polaris Bridge was never opened to the public but rather permitted by the Agency as a bridge for logging purposes. He asked what if the same rationale was applied to another Primitive or Wilderness area to accommodate snowmobile use in a river area that may pre-date the Master Plan.

Mr. Townsend clarified that preexisting uses do not apply to the SLMP; they apply only to the Rivers Act and the DEC's River Regulations. He added that Agency staff and lawyers do not believe this action today creates the idea that the Master Plan is trumped or preempted by preexisting uses. Mr. Booth agreed in this instance because it is tied to DEC's river regulations. Mr. Booth explained that this same interpretation could be used to justify snowmobiling in other areas in the future and that is of great concern to him. He suggested the Agency review the 1992 bridge permit, which states there was no public access across the river when the bridge was permitted. He said DEC has taken historical record and essentially pulled a sleight of hand. Mr. Booth said he does not believe it is grounded in historical reality and believes it is a SLMP issue as well as a river regulation issue.

Mr. Stegemann said he disagrees with Mr. Booth's concerns and noted that future UMP's will address issues individually and will evaluate and define where snowmobile use is permitted. He added that he appreciated Mr. Booth's concerns but does not feel they are warranted.

Ms. Ulrich stated this has been a complicated discussion for years and the Governor's intent of the purchase of the land was clear. The protection of the SLMP is her primary concern. She stated she valued Counsel's determination that this is not an issue to the SLMP but also is concerned when a Member is worried about precedent impacting the Master Plan.

Mr. Craig expressed concern for the Tube area and the associated wetlands that staff have noted as important wetlands. Ms. Regan responded that RASS staff assured her that the wetlands are better protected by using a bridge in the area as opposed to a culvert. She noted that there are wetlands along much of the lake shore. She added that the bridge will need a wetlands permit.

Karen Feldman stated she read in one of the public comment letters that biking should only be occurring on roads used by lessees and asked if this will be a requirement. Ms. Regan responded the use is proposed for a slightly larger area which connects a road used by lessees to a road in the Blue Mountain Wild Forest.

Ms. Ulrich asked if she could assume that after the SLMP amendments are completed, that the red lined language in the November 1 version would be the ultimate intent of the Department. Ms. Regan responded the November 10 version is more specific about SLMP conformance than the earlier November 1 version. She added that depending on how the management actions are written, an amendment to the UMP may be necessary for certain actions in the future.

Mr. Thomas asked about the Towns of Newcomb and Indian Lake having access to the unit for the removal of gravel. Ms. Regan responded that the gravel can only be used within the unit to repair wash outs etc. Once the pit is exhausted it will be rehabilitated and the area reclassified.

Mr. Booth urged the committee to delay the vote on the UMP. He said that he feels the current proposal does not comply with the SLMP. He believes the grandfather issue is a problem and the redundancy issue is a problem. He also stated the Department says that it will allow parking in the Tube only for persons with disabilities which seems consistent with the 2013 classification decision. However, he stated, what is proposed today is a 4 car general public parking lot, and a 2 car parking lot for disabled persons. He asked if the Department is trying to comply with the 2013 classification decision, then why is there still a 6 car parking lot proposed.

Ms. Regan stated that the proposal is for a 6 car parking lot and that is compliant in the Wild Forest area of the Complex. She noted a correction has been proposed in the DSEIS Blue Mountain Lake Wild Forest area descriptions to clarify the purpose of this parking area. She added that there was confusion in terms in the 2013 classification package and staff now understands the difference in terms. The proposed SLMP amendment to the area description will address this change from disabled persons

parking to universal parking. Ms. Regan also noted that the current proposal specifies the size of the parking lot.

Mr. Booth then read from page 67 of the UMP distributed earlier in the day. Ms. Regan read the description and noted the passage Mr. Booth refers to has not been updated. The passage under the implementation schedule will need to be corrected.

Mr. Booth stated that he did not receive maps with the November 2 document. Ms. Regan responded that the maps were on the CD. The mailing packet contained only the printed copy of the red lined version.

Mr. Booth referred to the map showing the proposed biking area. Ms. Regan stated that the map that Mr. Booth is referring to has not changed from the earlier version. Currently, under the Stewardship Plan for the area, the use is allowed until the lessee agreement expires in September 2018. Ms. Regan responded the map will have to change if the proposed SLMP amendment is not approved to allow the use to continue. Mr. Booth then asked how the use could continue now if the roads are not open to the public. Ms. Regan responded that currently the roads are open to a section of the public which are the lessees. Mr. Booth disagreed and said the lessees are not considered the public. He said the SLMP very clearly describes roads open to the public and these roads are open to only a section of the public. He added that he feels there are a number of details within the draft plan that were not adequately addressed.

Ms. Ulrich stated that there was a request that Agency and Department staff bring the important issues from public comment into the document and asked that these differences that Mr. Booth has pointed out be corrected over night before the full Board reconvenes.

Mr. Booth stated that in the two documents that currently exist there are minor wording changes, however, what the public does not know is that these minor changes alter the original proposal of the plan. He said that he does not feel the implications of these changes are fully understood and therefore is in favor of delaying the action of this item.

Mr. Stegemann responded that the changes were made for the very reason Mr. Booth stated. Mr. Booth responded that he believes the changes have come about too quickly and believes that the vote should be delayed until after the proposed amendment of the SLMP.

Ms. Feldman stated that it has been her understanding that the Department and Agency staff have consistently said the proposal is compliant with the Master Plan. Mr. Booth responded that allowing the use of bicycles and trail maintenance in Primitive Areas is not consistent with the Master Plan.

Ms. Ulrich stated that the Board knew this was a unique proposal and charged Agency and Department staff with the task of finding a legal way to move forward with the draft

plan. She noted that she was glad the changes were made to ensure the proposals conform with the current SLMP.

Mr. Monroe stated that local governments would prefer amendments to the SLMP and any necessary changes to the river regulations be made before approval of the draft plan. He added that this purchase has affected local economies and because the proposal is so critical to their livelihood, local governments support the plan as written, as long as there is a clear commitment to amend the SLMP.

Ms. Ulrich stated that the Department staff have made the necessary changes to ensure the draft plan is compliant with the current SLMP.

Mr. Thomas moved the item for approval to the full Agency stating he was doing so as long as the draft plan is compliant with the current SLMP. The motion was seconded by Mr. Stegemann. Mr. Booth noted that on pages 28 and 66 in the draft plan the term "Administrative road" is used and is not currently in the SLMP and requested the term be changed to "State truck trail." It was noted that the changes would be made by Department and Agency staff overnight and would come back before the full Agency when they reconvene on Friday.

Mr. Craig, Mr. Thomas, and Mr. Stegemann approved the motion. Mr. Booth and Mr. Lussi opposed.

Remsen/Lake Placid Travel Corridor UMP Amendment (Rob Davies, DEC Walter Linck, APA)

Mr. Davies reviewed the preferred alternative for this UMP amendment. He said that the corridor will remain classified as a travel corridor. He reviewed public response to the proposed alternatives.

Mr. Davies discussed transition plans and funding as well as maintenance, operations, use, and occupancy agreements. He reviewed historic and cultural resources requirements and discussed communication between the Department and OPRHP.

Mr. Davies reviewed the alternatives and noted the Department recognized the desire to have both the rail and the trail, however, due to extensive wetlands and surface conditions, that is not feasible.

Mr. Austin asked what the timeline for conversion would be. Mr. Davies responded funding, contracts, etc. need to happen so conversion probably won't be sooner than November of next year. Ms. Ulrich asked if there is a possibility that date could be extended. Mr. Davies responded that November 2016 is the end date of the train use, however, that could be revisited.

Mr. Townsend reminded the Board that this corridor will remain under the jurisdiction of DOT.

Mr. Craig asked what decision is expected now and in the future for this draft proposal, and what are the criteria required for that decision making. Mr. Townsend responded that the decision today is to send the draft plan out to public comment for SLMP compliance. There are a few guidance principles in the Travel Corridor guidelines in the SLMP, which is why he noted earlier that this unit remains under DOT jurisdiction to maintain the travel corridor classification.

Mr. Booth noted the Agency might become involved when reviewing connections to the corridor via private land or UMPs. Mr. Townsend concurred and noted that future UMP amendments may be necessary, depending upon proposed uses on adjacent State lands.

Ms. Feldman noted that in the 1996 UMP for this unit the alternative chosen was to use all rails in this unit resulting in a parallel trail. Mr. Davies responded that since that time the corridor was not being used to its full potential, and as a result both trail and rail advocates pressured for a better alternative.

Ms. Ulrich asked if staff were comfortable with the proposal in terms of SLMP compliance. Mr. Linck responded that the proposed plan is compliant with the Master Plan.

Ms. Ulrich asked why the decision was made to stop the rails from Tupper Lake to Saranac Lake. Mr. Davies responded that ending the rail in Tupper still provides a unique rail experience. The corridor from Tupper to Saranac Lake and Lake Placid is not that remote or scenic, making this section a better trail.

Ms. Ulrich noted that she had participated in the creation of the TOBIE Trail in Old Forge and appreciates the value of having a trail close to a population center for persons in wheel chairs, young children, etc. but also feels it is a complicated issue particularly when you look at Cape Cod's experience. Nevertheless, she said regardless of her personal preference, it is her duty to support an achievable alternative.

Mr. Booth noted that nothing that is proposed would prohibit rails being replaced in that area in the future should situations change. Mr. Linck concurred.

Mr. Lussi stated that the chosen alternative will not affect any Olympic bid because to put a high speed train in would require replacing the rails regardless.

Mr. Lussi moved the item to the full Agency for approval to proceed to public comment. Mr. Craig seconded the motion and all were in favor.

Old Business

None

New Business

None

The meeting was adjourned at approximately at 12:30p.m.