



**Adirondack Park Agency**  
**May MEETING MINUTES**

**Thursday, May 16, 2024**

**Agency Members, Designees, and Executive Staff Present:**

John Ernst, Chairperson

Brad Austin, ESD

Mark Hall, Member

Art Lussi, Member

Ken Lynch, Member

Matt Tebo, Department of State

Dan Wilt, Member

Randy Young, NYS Department of Environmental Conservation

Barbara Rice, Executive Director

Damion Stodola, Counsel

**Absent and Excused**

Benita Law-Diao, Member

Zoë Smith, Member

**Local Government Review Board Present**

Gerald Delaney, Executive Director

**1. CALL TO ORDER and 2. WELCOMING REMARKS**

The meeting was called to order at 9:32 AM. Chairperson Ernst welcomed the public and staff. Chairperson Ernst reported that the Open Space Institute recently celebrated its 50<sup>th</sup> anniversary where it honored founders and long-time staff member.

**3. PUBLIC COMMENT**

Kevin Bean, Supervisor, Town of Johnsbury, read the resolution issued by the Town of Johnsbury in support of Barton Mine after a unanimous vote. The permit for this is under review by the DEC and APA.

**4. APPROVAL OF APRIL 18, 2024 AGENCY MEETING MINUTES**

On motion of Mark Hall, seconded by John Ernst, the April minutes were, with the amendments noted below, unanimously approved with Randy Young abstaining.

- The second sentence regarding General Permit 2024G-1 indicating that John Ernst seconded the motion was removed because that information was already captured in the first sentence.
- The start time for the Regulatory Programs Committee minutes was changed from “1:30 PM” to “9:48 AM.”
- The Regulatory Programs Committee minutes were changed from “(1)P2023-0038 –Horseshoe Pond and Deer River Flow Association (Aaron Ziemann) Aaron Ziemann, Associate Adirondack Park Project Analyst Forest Resources, gave a detailed overview and presentation of the project including review of jurisdiction, conclusions of law, a description and slides of the project location and the existing conditions, site history, proposed project details, visual analysis slides, public comment, review by others, and staff’s recommendation and permit conditions” to  
“(1) P2023-0038 – Application for the use of herbicide ProcellaCOR EC in Horseshoe Pond and Deer River Flow Association (Aaron Ziemann) Aaron Ziemann, Associate Adirondack Park Project Analyst Forest Resources, gave a detailed overview and presentation of the project including review of jurisdiction, conclusions of law, a description and slides of the project location and the existing conditions, site history, proposed project details, visual analysis slides, public comment, review by others, and staff’s recommendation and permit conditions.”

**5. RECUSALS**

None

## **6. MOTION FOR EXECUTIVE SESSION**

General Counsel Damion Stodola indicated an Executive Session would be appropriate to discuss ongoing and pending litigation. On motion of John Ernst, seconded by Mark Hall, the Agency Board unanimously voted to conduct an executive session for purposes of discussing ongoing and pending litigation.

## **7. EXECUTIVE DIRECTOR'S REPORT**

Executive Director Barbara Rice presented the Executive Director Report, highlights of which included:

- Today is bike to workday, which we are re-naming Bike to Board day. Members and staff met up on the Adirondack Rail Trail to bicycle to the agency in time for the meeting.
- Executive Director Rice expressed condolences to the family, friends, and colleagues of Ranger Robbi Mecus, of the New York State Department of Environmental Conservation who passed away last month following a climbing accident in Alaska.
- Welcomed the first of four interns, Emily Pulcini, who will be interning in the GIS division working closely with Molly Jordan. In the next few weeks, we will be adding interns to our legal, science and economic divisions.
- Congratulations to Ariel Lynch on her promotion to Environmental Program Specialist 3. Ariel has been with the agency since 2007 and has most recently been our expert on the issue of cell towers within the Park.
- Our second Adirondack Planning Forum which took place last month at the Hotel Saranac, hosted 220 local government officials, Adirondack Park citizens, consultants and partner agency representatives. Executive Director Rice thanked Gerald Delaney for bringing his community voice to the welcoming address, and now-former Secretary of State Robert Rodriguez for speaking at our reception. Executive Director Rice also acknowledged the incredible effort that went into planning and executing this year's forum particularly by our Local Government Services staff Robyn Burgess and Kate-Lyn Knight.
- Governor Hochul announced big funding wins for Adirondack communities in this year's Smart Growth Grant Program Awards. 36 Adirondack Park projects netted over \$4.3 million in funding to be put toward important projects like affordable housing, climate change mitigation, green energy infrastructure and community recreation.
- We welcomed students from Allendale Columbia School in Rochester and North Country Community College to the Agency last month where they learned about the Park and how the APA protects it. Staff, particularly Dave Plante, Deputy Director of Regulatory Programs, went out of their way to provide presentations

to these groups helping the next generation develop a stronger understanding of and connection to the Adirondack Park and our Mission.

- We joined regional agencies, organizations, and business for the first time at Adirondack Day last week, Keith McKeever, Megan Phillips and Ben Brosseau spent the day connecting with legislators and citizens through the legislative office building in Albany allowing for further opportunities for outreach and sharing of our mission with those that may not have engaged with us directly in the past.
- NYS Supreme Court, Appellate Division, Third Judicial Department made a unanimous four to zero decision in favor of the agency in the Lake George ProcellaCOR case. This decision reflected the thoughtful and thorough work completed by the staff and the Board's fair and science-based decision.
- In an effort to improve transparency staff have started a website revamp. We have started to review how we share information through our website and work through challenges utilizing data and best practices to re-align our structure with the content and make it easier to find the information that landowners, communities and other audience need.

## **8. MOTION TO ADJOURN INTO COMMITTEES**

On motion of John Ernst, seconded by Art Lussi, the Agency Board unanimously voted to adjourn to committees at 9:52 AM

### **State Land Committee**

The committee meeting convened at approximately 9:53 AM.

*State Land Committee Members Present:* Ken Lynch (Chair), Randy Young (DEC) and John Ernst.

*Other Members and Designees Present*

Brad Austin (ESD), Art Lussi, Matt Tebo (DOS), Dan Wilt

*Local Government Review Board Present*

Gerald Delaney, Executive Director

*Agency Staff Present*

Barb Rice, Damion Stodola, Megan Phillips, Kevin Prickett

(1) Planning Division Report (Megan Phillips)

Megan Phillips, Deputy Director for Planning provided an update on recent Planning Division activities to both the state land and park policy and planning committees, highlights of which included:

- The team is very lucky to have Emily Pulcini join the GIS team as an intern.
- Congratulated Local Government Services staff, Robyn Burgess, and Kate-Lyn Knight on another successful Adirondack Planning Forum. Attendees also had an opportunity to meet with the North Country Economic Development Council and the Department of State to talk about opportunities in NY Forward and DRI programs.
- 42 Variance referrals have been processed by the Local Government Services team so far in 2024 from local Agency approved land use programs. Staff process approximately 100 variance referrals a year and typically only reverse 2-4 of those.
- There is a new funding opportunity to implement options for strategies for reducing road salt use. The DEC's Water Quality Improvement Grant and the Non-Agricultural Non-Point Source Planning Grant opportunities are currently open and the deadline for applications is July 31 by 4:00 PM.
- The DEC released an advanced notice on potential rulemaking to solicit feedback on an update to the State's Water Quality Standards. This is the process by which the DEC will consider setting chloride standards for the protection of aquatic life.
- Phase 2 of the Rail Trail is now closed to the public while it is under construction. Phase 3 is currently out to bid with the bid opening scheduled for May 22, construction slated to start in July.

2. Cranberry Lake Campground Unit Management Plan Amendment (Oliver Miller, DEC, and Kevin Prickett, APA)

Oliver Miller, Environmental Protection Specialist 1 at the NYS Department of Environmental Conservation presented the proposed plan for a draft amendment to the Unit Management Plan for the campground at Cranberry Lake to allow for the creation of a playground in space previously occupied by an amphitheater. Staff highlighted the multiple options for surfacing and location that were considered for the project.

Kevin Prickett, Environmental Protection Specialist 2, shared applicable guidelines from the State Land Master Plan for this project, specifically those for intensive use areas and public campgrounds.

On a motion of John Ernst, seconded by Randy Young, the committee unanimously recommended this project be authorized for a joint comment period with DEC.

Old Business

None

New Business

None

Committee Adjourned at 10:27 AM

**Park Policy & Planning Committee**

The committee meeting convened at approximately 10:28 AM.

*Park Policy & Planning Committee Members Present:* John Ernst (stepping in for Chair, Benita Law-Diao), Mark Hall and Brad Austin (ESD)

*Other Members and Designees Present*

Art Lussi, Ken Lynch, Matt Tebo (DOS), Dan Wilt, Randy Young

*Local Government Review Board Present*

Gerald Delaney, Executive Director

*Agency Staff Present*

Barb Rice, Damion Stodola, Megan Phillips, Kevin Prickett

1. Housing in the Adirondacks

Beth Gilles, Executive Director of Lake Champlain-Lake George Regional Planning Board and Crystal Loffler from the NYS Office of Homes and Community Renewal provided presentations of their work to assess housing needs within the region and grant programs available to provide funding in support of mitigating the existing housing shortages.

Old Business

None

New Business

None

Committee Adjourned at 11:34 AM

## **Executive Session/Lunch**

Because no action was taken, no minutes of the executive session were required or taken.

## **Regulatory Programs Committee**

The committee meeting convened at approximately 1:05 PM.

### **Regulatory Programs Committee Members Present:**

Dan Wilt (Chair), Art Lussi, Ken Lynch, Matt Tebo (DOS)

### **Other Members and Designees Present:**

Brad Austin (ESD), John Ernst, Mark Hall, Randy Young

### **Local Government Review Board**

Gerald Delaney, Executive Director

### **Agency Staff Present:**

Sarah Reynolds, Barb Rice, Damion Stodola, David Plante, Aaron Ziemann, John Burth

### **(1) Regulatory Programs Division Report (David Plante)**

David Plante, Deputy Director of Regulatory Programs and Enforcement provided an update on recent Regulatory Programs activities, highlights of which included:

- As of April 30, 2024, 148 applications have been received which is an increase as compared to this time in 2023 by 44 applications.
- 73 permits have been issued which is less than the 82 issued in 2023 during the same time frame.
- 23 Major Projects have been deemed complete and submitted to the Environmental Notice Bulletin for public comment, which is on par with the 27 completion projects at this time in 2023.
- Lastly, 3 emergency permits/emergency recovery authorizations have been issued thus far in 2024.
- The application form for Commercial Solar Generation Facilities has been updated to include a checkbox for the landowner to allow us to track invasive species on their property and report infestations to iMapInvasives, requirements for additional information related to decommissioning, operations & maintenance plans, battery storage components (if applicable) and requirements for additional

threatened/endangered species and historic resources consultations, as well as a reference to the updated solar project section of the Development in the Adirondack Park (DAP) guidance document. The newly completed form has been uploaded to the Agency website for ease of access by the public.

(2) P2021-0276 – Michael Hopmeier, NIPA Appeal

Dan Wilt, as Chair of the Regulatory Programs Committee, called to order an appeal, pursuant to APA Regulation 572.22, asking the Committee to recommend to the full Board that it reject an action taken by Deputy Director of Regulatory Programs, David Plante, seeking additional information to review the permit application.

Chair Wilt identified the representatives, the time limits for their arguments, and indicated that he would then allow the full Board to ask questions of the representatives.

Matthew Norfolk, of Norfolk Beier PLLC represented the applicant and appellant in this matter, Michael Hopmeier of Unconventional Concepts, Inc. Sarah Reynolds, Associate Counsel for the APA, represented David Plante and his determination in issuing the Fifth Notice of Incompletely Permit Application.

Following the presentations, Chair Wilt opened the floor for questions.

Dan Wilt clarified that the appeal is separate from and did not require a decision on the applicant's permit as it was still not complete. The Agency will make a decision on the permit only after all preliminary steps have been completed. The only matter before the Committee today is the appeal of the Deputy Director's fifth notice of incomplete permit application.

Brad Austin, Randy Young, and Ken Lynch respectively asked questions concerning staff expertise and the agency's ability to hire outside experts; clarifications of the size of the charge used in the testing; and the number of shots proposed to be made in the application. Both Sarah Reynolds and Matthew Norfolk provided answers.

After a final call for questions and hearing none, on motion of Ken Lynch, seconded by Art Lussi, the Regulatory Programs Committee voted unanimously to recommend that the Board deny the appeal.

(3) P20220218 – USL Marina, LLC Permit for expansion of existing marina through installation of a new dock system on Fish Creek Pond.

John Burth, Environmental Program Specialist 3 provided a detailed overview and presentation of the permit application by USL Marina, LLC for expansion of the existing marina through installation of a new dock system on Fish Creek Pond. The presentation included a review of the jurisdiction, conclusions of law, a description of slides of the project location, existing condition, site history, proposed project details,



visual analysis slides, public comment, review by others, and staff recommendations and permit conditions.

On motion of Art Lussi, seconded by Matt Tebo, the committee unanimously recommended the approval of the applications with conditions to the Full Agency Board.

- (4) P2024-0040 – Permit for application of herbicide ProcellaCOR EC within four treatment zones in East and West Caroga Lakes, to control Eurasian watermilfoil. Aaron Ziemann, Associate Adirondack Park Project Analyst – Forest Resources, gave a detailed overview and presentation of the application for the use of the herbicide ProcellaCOR EC within four treatment zones in East and West Caroga Lakes to control Eurasian watermilfoil, including review of jurisdiction, conclusions of law, a description and slides of the project location and existing conditions, site history, proposed project details, visual analysis slides, public comment, review by others, and staff's recommendations and permit conditions.

On motion of Art Lussi, and seconded by Ken Lynch, the committee unanimously voted to recommend the approval of the application to the Full Agency Board.

Old Business

None

New Business

None

## **The Board returned to Full Agency at 3:19 PM**

### **9. Committee Reports**

#### a) State Land Committee

The State Land Committee reported that they heard a presentation from DEC and APA staff recommending that a project at the Cranberry Lake DEC Campground which would require an amendment to the UMP for the construction of a playground. On the motion of Ken Lynch, and seconded by John Ernst, the committee unanimously voted to move this project forward to a period of public comment.

#### b) Park Policy and Planning

The Park Policy and Planning Committee reported that they received a presentation from the Lake Champlain-Lake George Regional Planning Board and the New York State Office of Homes and Community Renewal highlighting their work to assess housing needs within the region as well as grant opportunities that exist within the state for municipalities to help fund housing creation and rehabilitation of existing homes.

#### c) Regulatory Programs Committee

Chair Wilt reported that the Regulatory Programs Committee recommended the following actions to the full Board.

P2021-0276 – NIPA appeal. On the motion of Dan Wilt, and seconded Matt Tebo, the Board unanimously denied the applicant's appeal from Deputy Director David Plant's Fifth Notice of Incomplete Permit Application.

P2022-0218 – On the motion of Dan Wilt, and seconded by Art Lussi, the Board voted unanimously to approve this permit application from USL Marina for an expansion of the existing marina and new dock system with the noted conditions.

P2024-0040 – On the motion of Dan Wilt, seconded by John Ernst, the Board voted unanimously to approve this permit for application of the herbicide ProcellaCOR EC to locations in East and West Caroga Lakes with the noted conditions.

#### d) Local Government Review Board Report

Gerald Delaney APA staff that found the before and after ProcellaCOR video of Lake Luzerne that showed the efficacy of the herbicide on Eurasian watermilfoil.

### **10. Interim Reports**

The Administration, Economic Affairs, Enforcement, Legal Affairs, Local Government Services, Park Ecology and Public Awareness committees did not meet this month.

**11. Member Comment**

None

**12. Old Business**

None

**13. New Business**

None

**14. Public Comment**

Chris Navitsky, Lake George Water Keeper, presented a statement to the Board in opposition of the use of ProcellaCOR EC for use in Lake George citing recent findings of the Minnesota Department of Agriculture which defined a degraded version of the active ingredient as a PFAS or “forever chemical.”

Claudia Braymer, Protect the Adirondacks!, expressed confusion regarding the jurisdictional threshold of a wetlands review as noted in the presentation for the expansion of the USL Marina on Fish Creek Pond. She also expressed her desire for an adjudicatory hearing on the use of ProcellaCOR.

James Monty spoke in support of the project in Lewis, NY being proposed by Michael Hopmeier/Unconventional Concepts, Inc. and criticized the APA for denying the permit. Damion Stodola, General Counsel, clarified for the commentator that the appeal that was heard today was not a determination of the merits of the permit, which remained incomplete. It was an appeal of a fifth Notice of Incomplete Permit Application (NIPA). The project itself has not been and cannot be decided upon until a complete application is received.

Shaun Gilliland, Supervisor of the Town of Willsboro and Essex County Board of Supervisors Chair also spoke in support of the project being proposed by Michael Hopmeier/Unconventional Concepts, Inc. and its importance for the safety of members of the armed forces.

Helena Rice spoke in objection to the use of ProcellaCOR on Lake George, specifically the area known as Sheep’s Meadow Bay.

[Link to video and audio recordings of the full Agency presentation to be added.]

Chairperson Ernst said that the next meeting will be June 20-21, 2024.

The meeting was adjourned without objection at approximately 4:08 pm.

John Ernst

John Ernst, Chairperson