

MONMOUTH COUNTY PLANNING BOARD

ENVIRONMENTAL COUNCIL

EDWARD SAMPSON, PP, AICP
Director of Planning



MICHAEL FEDOSH
Council Chairman

ANN WATERS
Planning Staff Advisor

Minutes of a Regular Meeting of the Monmouth County Environmental Council

Thursday, December 3, 2015, 5:00 p.m.

Monmouth County Planning Board Conference Room
Hall of Records Annex, 2nd Floor, One East Main Street
Freehold, New Jersey

1. CALL TO ORDER

Mr. Fedosh called the meeting to order at 5:00 p.m.

2. ROLL CALL – ATTENDANCE

Members present: Fedosh, Huszar, Krauss, Morrissey, Thompson, Vig

Members absent: DiLorenzo, Kostka, Woolley

Staff present: Waters

3. REVIEW OF MINUTES: November 5, 2015

Minutes from the November 1, 2015 meeting were reviewed. Mr. Fedosh moved to approve the minutes, Ms. Morrissey seconded the motion. Mr. Krauss and Mr. Vig abstained. The minutes were approved.

4. REGULAR REPORTS

- Chairman – none
- Planning Board – none
- Staff – Ms. Waters discussed the status of the Master Plan work and upcoming presentations of chapters to the Planning Board.
- Legislation – Mr. Woolley's report is attached.

5. **OLD BUSINESS** – Ms. Morrissey continued a discussion from November regarding the Sustainable Jersey certification process. She reviewed her comments submitted to Sustainable Jersey regarding Wall Township's certification. Mr. Huszar and Mr. Krauss also provided their insights into the process of receiving certification for their respective municipalities. The members discussed the idea of the Council providing comments and suggestions to Sustainable Jersey from the perspective of those who have been the primary person in charge of the certification process at their local level.

6. **NEW BUSINESS** – Ms. Waters provided the members with the 2016-17 meeting schedule for their review and approval. She also reminded the members of their next meeting which will be in February as no January meeting is scheduled due to the reorganization meeting of the Freeholders.

Mr. Vig discussed the idea of having the AmeriCorps Ambassador develop a list of all environmental ordinances adopted by local municipalities. Mr. Fedosh will inquire as to the possibility of this task.

7. REPORTS FROM THE REGIONS

- **North Coast:** Mr. Thompson discussed the ongoing beach replenishment continues as well as the activity involved with the Rumson/Sea Bright and Oceanic bridge repairs.
- **Bayshore:** Mr. Krauss noted the increase in Striped Bass that has occurred around Atlantic Highlands as well as the sighting of a whale approximately 200 yards off Sandy Hook. He also noted a dredge is located off the tip of Sandy Hook removing sand that drifted into the shipping channel, most likely the result of sand migrating northward from the earlier beach replenishment projects.
- **Pine Barren:** Mr. Huszar noted Howell Township's Environmental Commission Chair has resigned.
- **South Coast:** Ms. Morrissey's report is attached.

8. PUBLIC COMMENT

There was no public comment.

9. ADJOURNMENT

The meeting was adjourned at 6:50 p.m.

December 3, 2015

**South Coast Region Report
Wilma Morrissey**

Bradley Beach & Avon: Following the state's rejection of the joint application for a \$2 million federal Flood Hazard, Risk Reduction and Resiliency Grant, Bradley Beach and Avon are seeking other ways to improve Sylvan Lake. They are exploring alternatives and agreed to do some work on the **Sylvan Lake gate** which is used to drain the lake. In the event of a heavy rainstorm, an excessive amount of water can run into the lake and the gate is used to control these water levels to prevent flooding. The gate does not open fully. Scuba divers will be used on Wednesday, December 9, to inspect the gate underwater to determine a plan to make necessary repairs. Phase 2 will address the cave-in on the eastern side of the lake which is another issue.

Sea Girt: Volunteers included members of several Boy Scout and Girl Scout troops, Circle K members from Monmouth University and local residents, who participated in the **dune planting along the boroughs beachfront in Sea Girt on Saturday, November 14.**

Manasquan: The **William Donovan Municipal Marina bulkhead repair project** will begin in December and finish between May and June 2016. The Stormwater Conveyance Project is the largest capital improvement project of the year and will seek to address outdated issues along the marina. Once the \$4 million project is finished, residents can expect to see a new bulkhead, a freshly paved portion of Perrine Boulevard with new curbs, and a new decking on the dock that runs parallel to the bulkhead.

On Saturday, November 14, the Manasquan Beach Improvement Association and President Mary Ryan **dedicated a tree in Squan Plaza to Mayor George Dempsey** to thank him for his eight years of service to Manasquan as mayor.

Stockton Lake and Glimmer Glass Harbor will be examined as part of a large post-Superstorm Sandy study being conducted by the federal government. It is spearheaded by the US Army Corps of Engineers which will take a comprehensive look into New Jersey's back bays,

The borough is working with the state to develop a beach protection plan regarding **temporary sand walls** along the beachfront in the off season. Officials say that seasonal dunes are not the only option in discussion,

Brielle: Hoffman's Marina will host a **10-day Fishing Offshore Invitational Tournament** from July 21 to July 31.

Neptune: The Neptune Township's Environmental Commission, Food & Water Watch, Clean Ocean Action, and Bayshore Regional Watershed Council are teaming up to bring together an event about **oil & gas fracking wastes on Wednesday, January 20, 2016 at 7 p.m.** This event will take place at 25 Neptune Blvd., Neptune, New Jersey on the 2nd floor in the Township of Neptune Committee Room.

Revised 1/5/16

December 3, 2015

**Legislative Report
Matt Woolley**

A1726 - Amends "Flood Hazard Area Control Act" to require DEP to take certain actions concerning delineations of flood hazard areas and floodplains.

This amended bill amends the "Flood Hazard Area Control Act" to direct the DEP to take certain actions concerning delineations of flood hazard areas and floodplains. The bill directs the DEP to update its delineations of flood hazard areas as frequently as may be necessary to incorporate federal floodplain delineations as required by the bill, within the limits of funds appropriated or otherwise made available to the DEP. In addition, this bill directs the DEP to update its delineations of flood hazard areas at least once every 15 years. The preparation of these updates must be based upon flood risk.

Further, upon FEMA's adoption of new floodplain delineations, the bill directs the DEP to incorporate that federal floodplain delineation as the department's minimum flood hazard area delineation for that watercourse, provided that the DEP determines that the federal floodplain delineation is sufficient to carry and discharge the flood flow of the watercourse and is at least as protective of the public safety, health, and general welfare as the department's delineation.

Lastly, the bill provides that a person must apply for a permit, or any other type of approval or authorization, issued by the DEP pursuant to the "Flood Hazard Area Control Act," for a site based upon a floodplain delineation at least as protective as approved by FEMA for the NFIP, provided that (1) the federal floodplain delineation is more recent than the DEP's delineation for the same watercourse, and (2) the DEP determines that the federal floodplain delineation is sufficient to carry and discharge the flood flow of the watercourse and is at least as protective of the public safety, health, and general welfare as the department's delineation.

The bill takes effect immediately.

The Assembly Environment and Solid Waste Committee amendments:

- Require the DEP to update its delineations of flood hazard areas as frequently as may be necessary to incorporate federal floodplain delineations as required by the bill, within the limits of funds appropriated or otherwise made available to the DEP
- Require the DEP to update its delineations of flood hazard areas at least once every 15 years and to prioritize the preparation of these updates based upon flood risk
- Require that the DEP determine a federal floodplain delineation is sufficient to carry and discharge the flood flow of the watercourse and is at least as protective of the public safety, health, and general welfare as the department's delineation when incorporating a federal floodplain delineation into a DEP flood hazard area delineation for a specific watercourse
- Change the references to federal floodway delineations to instead refer to federal floodplain delineations.

A3125 - Prohibits knowingly selling or planting certain invasive plant species.

This amended bill prohibits the sale, planting, propagation or distribution of certain invasive plants in the State, except for scientific or educational purposes. The invasive plants covered by the bill are:

- Canadian Thistle (*Cirsium arvense*),
- Eurasian Watermilfoil (*Myriophyllum spicatum*),
- Garlic Mustard (*Alliaria petiolata*),
- Japanese Honeysuckle (*Lonicera japonica*),
- Japanese Knotweed (*Polygonum caspidatum*),
- Japanese Stiltgrass (*Microstegium vimineum*),
- Mile-a-minute (*Polygonum perfoliatum*),
- Purple Loosestrife (*Lythrum salicaria*), and

- Water Chestnut (*Trapa natans*).

The provisions of the bill apply to the above-mentioned plants, and any cutting, flower, seed, root, other plant part, or cultivar therefrom. However, the bill specifies that the sale, offer for sale, planting, propagation, or distribution of an invasive plant that is inadvertently included in a container together with another plant will not constitute a violation under the bill. The bill prohibits the Department of Agriculture from adding any plant to the list of plants in the definition of “invasive plant” in the bill.

The bill provides that a violation of the prohibition can subject the violator to a civil penalty of up to \$100 for a first offense, up to \$200 for a second offense, and up to \$500 for a third or subsequent offense.

Finally, the bill authorizes the Department of Agriculture to seek injunctive relief to prohibit or prevent a violation of the bill.

This bill takes effect on the 365th day after the date of enactment.

A3507 - Amends law concerning county and municipal stream cleaning activities.

This bill amends the provisions of the current stream cleaning law that allow a county or municipality, or a designated agency thereof, to undertake certain stream cleaning projects that include sediment removal.

The current stream cleaning law restricts a county or municipal stream cleaning project that includes sediment removal to stream beds of 15 feet or less in average width. Under this bill, the average width of a stream bed that will be allowed to be part of any such project will be increased to 30 feet.

This bill also revises the provision in the law that limits the availability of the procedure set forth in the law to a county or municipal stream cleaning project that includes sediment removal to a stream corridor to be cleaned, cleared, or desnagged of less than 500 feet in length. Under the bill, in the case of a project undertaken by a municipality, the procedure set forth in the law will be applicable (1) if the stream corridor to be cleaned, cleared, or desnagged is located wholly within the jurisdictional boundaries of that municipality, or (2) in the case of a project undertaken by a county, the procedure will be applicable if the stream corridor to be cleaned, cleared, or desnagged is either located wholly within the jurisdictional boundaries of one municipality, or less than 500 feet in length if located within more than one municipality.

Finally, the bill provides that nothing in the bill should be construed to prohibit the DEP from requiring a county or municipality, or designated agency thereof, to obtain a permit pursuant to the “Flood Hazard Area Control Act” for a proposed stream cleaning, clearing, or desnagging project involving any activity that does not adhere to the conditions and requirements set forth in N.J.S.A. 58:16A-67.

The bill takes effect immediately.

The Senate amendments:

- Delete the requirement in N.J.S.A. 58:16A-67 that a local government unit engaged in a stream cleaning project that involves removal of sediment provide a statement from an engineer stating that the stream the local government unit is seeking to clean floods, and that the flooding results or can result in property damage
- Provide that nothing in the bill should be construed to prohibit the DEP from requiring a county or municipality, or designated agency thereof, to obtain a permit pursuant to the “Flood Hazard Area Control Act” for a proposed stream cleaning, clearing, or desnagging project involving any activity that does not adhere to the conditions and requirements set forth in N.J.S.A. 58:16A-67.

SCR125 / ACR189 Determines that proposed DEP rules and regulations repealing rules and regulations concerning State participation in greenhouse gas cap and trade programs are inconsistent with legislative intent.

This concurrent resolution declares that the Legislature has determined that the rules and regulations proposed in the New Jersey Register on July 7, 2014 by the DEP repealing the regulatory scheme concerning the Regional Greenhouse Gas Initiative (RGGI) are not consistent with the intent of the Legislature as expressed through the enactment of P.L. 2007, c. 240 (N.J.S.A. 26:2C-45 et seq.). The repeal of the rules, as proposed by the DEP on July 7th, will contradict the legislative intent of N.J.S.A. 26:2C-47, specifically.

N.J.S.A. 26:2C-47 required the DEP to promulgate rules and regulations to govern the State's participation in a greenhouse gas cap and trade program. This section of law authorized, but did not require, the DEP to exercise its authority in cooperation and coordination with other states or countries that are participating in regional, national or international carbon dioxide emissions trading programs.

The concurrent resolution lays out the following argument: The statutory duty to promulgate rules and regulations was not contingent upon the State's participation in a regional, national or international program such as RGGI. Accordingly, N.J.S.A. 26:2C-47 did not explicitly or implicitly authorize the DEP to repeal these rules and regulations upon the State's withdrawal from RGGI. Contrary to the position taken in the summary of the July 7th rule proposal, the DEP remains obliged to establish rules and regulations pursuant to the legislative intent of N.J.S.A. 26:2C-47.

The Commissioner of Environmental Protection will have 30 days following transmittal of this concurrent resolution to amend or withdraw the proposed rules and regulations or the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the rules and regulations in whole or in part, or prohibit the proposed rules and regulations, in whole or in part, from taking effect.

AR220 - Opposes seismic blasting in Atlantic Ocean near Barnegat Bay.

This amended resolution opposes seismic blasting in the Atlantic Ocean near Barnegat Bay, New Jersey. The resolution further urges the National Marine Fisheries Service to cancel any future plans relating to the performance of seismic testing in the Atlantic Ocean near Barnegat Bay, New Jersey.

The Assembly Environment and Solid Waste Committee amendments (1) express the House's opposition to seismic blasting in the Atlantic Ocean near Barnegat Bay, New Jersey, and (2) update the text of the resolution

Current Law: The National Marine Fisheries Service (NMFS) within the National Oceanic and Atmospheric Administration received authorization for marine mammal "takes" during an oceanic seismic study which was conducted in the Atlantic Ocean about 15 miles from Barnegat Bay during the summer of 2015. The NMFS's authorization allows over 25 marine mammal species, six of which are endangered, to be subjected to noise created from seismic airguns and three other acoustic blast technologies.