

-DRAFT MINUTES-

THESE DRAFT MINUTES HAVE BEEN PREPARED BY STAFF AS A RECORD OF WHAT OCCURRED AT THE MEETING. AT THE NEXT MEETING, COUNCIL MEMBERS WILL REVIEW THESE MINUTES AND MIGHT MAKE CORRECTIONS BEFORE APPROVING THEM. READERS SHOULD RELY ON THE APPROVED VERSION FOR A COMPLETELY ACCURATE RECORD.

Minutes of the meeting of the January 23, 2019 meeting of the Council on Environmental Quality, held in the Russell Room on the third floor of 79 Elm Street in Hartford.

MEMBERS PRESENT: Susan Merrow (Chair), Alicea Charamut, Lee Dunbar, Karyl Lee Hall, Alison Hilding, Kip Kolesinskas, Matt Reiser, Charles Vidich

ALSO IN ATTENDANCE: Peter Hearn (Executive Director), Margaret Miner (Rivers Alliance), Eric Hammerling (Connecticut Forest and Parks Association), Matt Pafford (OPM), Lance Hansen (DEEP)

At 9:35 AM, Chair Merrow convened the meeting, noting a quorum. She said she would like to add an item to the agenda. Hall had asked that there be a discussion of protocol and timing for a member to resign once the member's appointment term has expired. Chair Merrow said this item would be added prior to the Citizen Comment period. Reiser made a motion to approve the modified agenda. This was seconded by Hall and approved unanimously.

Chair Merrow asked if there were any modifications to the minutes of the December 19, 2018 meeting. Kolesinskas said that in the December minutes he is incorrectly listed as having been absent at the November meeting. Dunbar made a motion to approve the minutes as modified. This was seconded by Charamut and approved unanimously.

### **Chair's Report**

Chair Merrow said she had attended the Connecticut League of Conservation Voters' Environmental Summit on January 17. Charamut and Hearn also attended. Eric Hammerling was one of the speakers. She said Governor Lamont spoke at the start of the Summit and said he will be looking at issues through an environmental lens. He spoke about importance of energy policy and that he had a goal of a carbon neutral Connecticut and he linked transportation policy to that goal. He stressed the importance to the cities of improved transportation and he discussed regionalization of some services.

Chair Merrow said that the new Commissioner of the Department of Energy and Environmental Protection (DEEP), Katie Dykes, spoke next. Commissioner Dykes said that, despite being known for her work in energy, her personal commitment to environmental protection was deeply rooted in her upbringing. She said it is a false choice to propose energy or environment, just as it is a false choice to maintain that we can have a healthy economy or a healthy environment. Both are achievable. She raised the issue of the State Water Plan as a priority. She said she would be looking for affordable, sustainable and practical solutions. Charamut said that it was one of the best attended Summits in her memory and there were many new faces in attendance.

Chair Merrow reported that she had sent letters to both departing DEEP Commissioner Klee incoming Commissioner Dykes. She had thanked Commissioner Klee for his leadership and accomplishments. She said she welcomed Commissioner Dykes and offered an invitation to meet with the Council at a future date convenient to her.

## **Discussion of Timing of Resignations**

Hall said that her appointment term has expired and though she stayed on to assist during the trying budgetary crisis, it is past her time to leave. She asked to whom the resignation should be submitted. Council members agreed that a letter to the appointing authority is how it has been handled in the past. Hall said she would resign this month. The person who appointed her is no longer serving in the legislature, so she will send it to his successor. Discussion followed on how replacements are selected and the appointment status of a successor to Janet Brooks, who resigned in December.

## **Citizen Comment Period**

Chair Merrow introduced Margaret Miner of the Rivers Alliance. Ms. Miner had come to the Council to discuss a gap in wetland protection. She discovered the issue as a consequence of a complaint about a forestry operation that cut trees along a river bank under the as-of-right exemption for forestry in the State's Inland Wetlands Law. She described in detail the case which brought the issue to the fore. She pointed out that the action did not require a forestry plan under either The Inland Wetlands Law or the Forest Practices Act. She contended that some of the wording in the Forest Practices Act is ambiguous. Compounding the lack of clarity is the lack of state-wide uniformity, due to some towns having pre-existing, grandfathered, ordinances.

Kolesinskas said that, even in a case like the one described, it is up to a wetlands commission to determine if a proposal is entitled to a legitimate as-of-right claim. In making that determination the commission should see plans, and a site visit is appropriate. He said that an as-of-right claim does not imply unrestricted forestry activity. For example, the location and construction of haul roads can be negotiated. He said that a wetlands commission can challenge a claim of personal use of the wood products. He added that in towns where there are pre-existing wetlands ordinances, the ordinances cannot be less restrictive than the State's Inland Wetlands Law.

Dunbar said it is the clear intent of the law to leave forestry alone. He said forest practices can include many activities, including stand improvement and habitat management.

Hearn brought up an event about which he was recently informed. The allegation is that a landowner used the as-of-right exemption for forestry to clear a forest that contained wetlands, as preparation for an application to the Connecticut Siting Council for construction of a solar array. He said that the Forestry Practices Act does not require prior approval by a State agency with jurisdiction over a planned future use prior to clearing the land.

Eric Hammerling spoke from the audience to say that experts have yet to agree on a definition of what constitutes "clear cutting". This is a concern, especially regarding land that is to be developed. The Forest Practices Act has two components. The part that mandates credentials and training for forest practitioners is quite specific. The part that deals with actual forest practices has some aspects that could be more clear. He said that it would be of value to have DEEP personnel participating in this discussion.

Chair Merrow summarized the points that were at the heart of Ms. Miner's objections: as-of-right forestry practices are too easily abused, "commercial" forestry is not defined in statute, and variance among the town ordinances governing wetlands creates a lack of certainty about what is allowed.

Kolesinskas restated that the determination of what is allowed "as-of-right" is made by the wetlands commissions, and that activities like stump removal and stream crossings can be negotiated. He said that strong potential for erosion can take the project out of the exemption, as would changing the physical characteristics of the wetland. He said the remedy to the problems described is better education of wetland commissioners. Mr. Hammerling added that the towns that have their own ordinances must have those ordinances approved by DEEP.

Chair Mellow posed the question to the group "what is the remedy?" Ms. Miner said that re-opening the wetlands law is out of the question, but more clarity is needed in the forestry statutes. Kolesinskas said this is an appropriate discussion question for next year's CACIWC meeting. Vidich said consideration should be given to the role that stream belt zoning could play in preventing similar problems in the future. A State model zoning ordinance would be a useful tool. He said that this is something that the Office of Policy and Management might take the lead on.

Kolesinskas said he has heard of cases, besides the one that Hearn described, in which landowners cleared the land to make it more attractive to solar developers. At this Point Hall had to leave to attend another appointment.

### **Staff Report**

#### a. Move to new office space

Hearn reported that the Council now has new offices on the same floor as the old offices. He said the move took about two and a half days. He said a salutary consequence of the move is that there is now a permanent space for an intern.

#### b. Prospective interns

Hearn said that all the applicants for the spring internship were highly qualified. He said that because two of them have availability on different days, he is considering bringing on two interns and is weighing whether that would create more work in supervision than it would reduce in time spent on research tasks.

### **Citizen Complaints and Inquiries**

#### a. Eversource's clearing of vegetation

Hearn said he had not progressed on this issue as far as he had hoped. He said that there is no doubt that the tree clearing is required. It is associated with both the replacement of transmission towers and with widening the right-of-way along its transmission corridors. He said the Siting Council has jurisdiction only over the tower replacements. He said he has been framing questions to ask the Siting Council regarding the extent of their jurisdiction. Does it include the roads that are being built to facilitate tower construction, the pads that are being built under the towers, or the content of the notices that are sent to the landowners? He said he hopes to have answers to these questions before the next meeting.

Ms. Miner said that the town of Washington has requested a meeting with Eversource to discuss the clearing that is being conducted. Mr. Hammerling said the Steep Rock Association has been in conversations with Eversource about the clearing. He said those discussions might provide a case study to emulate. At this time Hilding arrived.

## **Review of State Agency Actions**

### a. Proposed Comments on UConn Science Quad

Hearn referenced the draft comments that had been sent prior to the meeting. He noted that the Environmental Impact Evaluation (EIE) for the new science complex at the University of Connecticut's Storrs campus had been thorough. It was weak in addressing technologies to reduce CO2 emissions. Consequently, that was the theme of the comments. Other items were suggested for inclusion in the comments. Hilding had many questions about runoff from the building and its associated parking. She asked that Hearn be sure that runoff to Eagleville Brook is controlled. Dunbar suggested the re-use of runoff water could be included in the plan. He also said to be sure copper is not being used as a roofing material, due to its toxic effect on stream life. Hearn said we would review the EIE with respect to those recommendations prior to submitting them.

### b. Forestry Practice

Hearn said that the Environmental Monitor published a Scoping Notice regarding a planned "prescribed burn" in Pachaug State Park. He reported that after the deadline for requesting a public hearing had passed, a group of citizens requested a meeting with DEEP to discuss the plan. He was contacted by DEEP regarding whether such a meeting need be noticed in the Environmental Monitor. He said there is no requirement for posting in the Environmental Monitor, but that it must conform to the notice requirements of the Freedom of Information Act. He said the meeting has been scheduled for February 11, 2019.

### c. PURA and MDC Updates

Charamut informed the Council that the proposal, which had been before the Public Utilities Regulatory Authority (PURA), for the San Jose Water Company to acquire the Connecticut Water Company has been withdrawn.

She used a chart to update the Council on the proposal by the Metropolitan District Commission to modify its long term control plan and postpone compliance with DEEP's abatement orders from 2029 to 2050.

## **Workload Management and Status of Environmental Analyst Position**

Hearn said that the responses to the final supplemental question were received on Tuesday. There are twenty-two applicants who have answered all the supplemental questions. These answers will be reviewed to determine eligibility for interviews, which will extend over the next few weeks.

## **Other Business**

### Legislative Initiatives to Watch

Hearn reviewed the proposals for legislation that were made at the Environmental Summit on January 17. He said there was much focus on protecting programs from funding "sweeps" and to restore sweeps that had already occurred. These included the Community Investment Act, Passport to Parks, Clean Energy Fund, and the Conservation Load Management Plan. He said other topics included expansion of the bottle bill to include other containers and imposition of a higher redemption fee, reducing plastic waste, carbon pricing, a State-wide ban fracking waste, fixing net metering and allowing municipalities to

choose to impose a real estate conveyance fee to support open space and open space stewardship.

Charamut announced that there are sixteen bills proposed to alter the Passport to Parks. A brief discussion followed.

After discussion, Chair Merrow asked for an adjournment motion, which Dunbar made and Vidich seconded and all approved. The meeting adjourned at 12:11 PM.