



**SHERMAN CRAIG**  
Chairman

**TERRY MARTINO**  
Executive Director

Draft Minutes  
Regulatory Programs Committee  
May 12, 2017 Agency Meeting

**MINUTES OF THE REGULATORY PROGRAMS COMMITTEE MEETING  
May 12, 2017**

The Committee meeting convened at approximately 9:00 a.m.

**Regulatory Programs Committee Members Present**

Arthur Lussi, John Ernst, Daniel Wilt, Lynn Mahoney.

**Other Members and Designees Present**

Karyn Richards, Karen Feldman, Bradley Austin, Chad Dawson, Sherman Craig

**Agency Staff Present**

Terry Martino, James Townsend, Richard Weber, Colleen Parker, Sarah Reynolds, Elizabeth Phillips.

**Deputy Director Report**

Richard Weber briefly reviewed the status report and the high profile report. He also discussed the delegation of authority to review and approve minor variance proposals. He discussed the Smith variance and the advice sent out to the Board in a mailing packet regarding the proposal. Mr. Craig responded positively to the approach staff had taken in regards to the Smith variance in the absence of the April meeting. Mr. Lussi responded that he believes in efficiency and supported staff's procedures in handling the Smith variance. Mr. Ernst concurred.

Mr. Lussi asked staff to continue to engage the Board in the decision making process of projects and variances. Mr. Lussi stated that if staff encounter proposals that they are not comfortable recommending to the Board for approval, they should engage the Board more directly so that staff feel they have support from the Board in the final decision making process.

Mr. Ernst agreed with Mr. Lussi and said it is a service to the Board to express any doubt staff might have in approvability of a project. Mr. Weber responded that if a proposal meets the approval criteria of the Agency and meets the objectives of the applicant, staff would then present a recommendation for approval. If the staff recommendation leans toward denial, staff works with the applicant to refine the proposal to allow for approvability if possible. Mr. Lussi would like the Board to be more engaged in the process so that they can support staff's requests for additional information.

Ms. Reynolds stated that after the regulation change in 2008/2009, more variance requests were received. Staff was asked by previous Board Members to provide recommendations because a draft order for approval or denial cannot be prepared for Board review without a specific recommendation from staff. She stated that when the recommendation is for denial, the draft order is always shared with the applicant prior to the Board meeting. In many instances, the applicant decides to pull and revise the application to meet the variance approval criteria prior to the Board meeting. Mr. Weber stated that staff has recommended denial in the past if warranted. Mr. Lussi noted there are projects that never get reviewed by the Board because the applicants withdraw the proposals before they reach the Board.

Mr. Craig also encouraged Board engagement and discussed concerns raised by Local Government Review Board Executive Director Fred Monroe regarding review of projects. In the past Mr. Monroe has stated concern that applicants might be deterred or discouraged from pursuing approval of a proposal based on the permitting process. Gerald Delaney concurred that the Review Board has felt in the past that applicants are scared away by the permitting process. Mr. Delaney stated he hoped that the process of giving applicant's the opportunity to review a draft order prior to it reaching the Board for a decision is not discontinued.

Ms. Feldman stated that it may help to improve the discussion by engaging Agency Chair Craig and Committee Chair Lussi sooner in the process. Mr. Lussi concurred. Mr. Weber stated the request could be accommodated. In response to Mr. Delaney's earlier statement, Mr. Weber said that the process is intended to be fair and providing applicants with draft copies of an order is intended to maintain the integrity of the process.

Mr. Ernst agreed that having the Agency Chair and the Committee Chair involved earlier in the process would help to improve the process.

**Project** (Rick Weber)

**General Permit 2017G-1**

Renewal of general permit issued to regional and municipal utility companies within the Adirondack Park to allow for the replacement of utility poles in wetlands and/or the establishment of temporary structures in wetlands to access utility poles. The original General Permit was developed in 2002.

Mr. Weber noted that the general permit is for replacement of utility poles only; not for installation of new or additional poles. He noted that annual reports are required from the utility companies and all contractors working with the utility companies must be given a copy of the general permit. Ms. Feldman asked if the utility companies have flexibility in placement of a pole. Mr. Weber responded that they do have considerable latitude in placement of a pole; however no additional poles can be installed in the wetland.

Mr. Craig asked about changes in pole height. Mr. Weber responded that in most cases where pole height has been increased, no additional adverse impacts have been encountered, but utility companies are required to check with the Agency prior to undertaking any new proposal.

Mr. Lussi stated that when a copy of a permit is given to a general contractor, no advice is included about invasive species. Mr. Weber responded that in this instance, the utility companies have their own environmental staff which communicates concerns like invasive species to contractors. Ms. Feldman encouraged some form of acknowledgement of such provisions by general contractors.

Mr. Weber noted that the draft resolution and order before the Board is to authorize staff to proceed to public comment. Motion to authorize staff to proceed to public comment was made by Daniel Wilt, seconded by John Ernst. All were in favor.

**Old Business**

None

**New Business**

None

The meeting was adjourned at approximately 10:00 a.m.