



Adirondack Park Agency

LEILANI CRAFTS ULRICH
Chairwoman

TERRY MARTINO
Executive Director

DRAFT MINUTES
Legal Affairs Committee
June 9, 2016
Agency Meeting
KF:JTT:mp

Legal Affairs Committee June 9, 2016

The Legal Affairs Committee convened at 11:15 am.

Legal Affairs Committee Members Present:

Karen Feldman, Chair, Arthur Lussi, Sherman Craig, Richard Booth and Bradley Austin (DED)

Other Members and Designees Present:

Leilani Ulrich, Chairwoman, William Thomas, Dan Wilt, Karyn Richards (DEC) and Dierdre Scozzafava (DOS)

Local Government Review Board:

Frederick Monroe, Executive Director

Agency Staff Present:

Kathy Regan, James Townsend, Paul Van Cott, Mary Palmer.

Approval of May 2016 Draft Minutes

By motion of Mr. Lussi, seconded by Mr. Craig, the May minutes were unanimously approved.

Counsel Report

Mr. Townsend noted the Jurisdictional Inquiry Office statistics for May.

Proposed Revisions to Agency SEQR Regulations

Ms. Feldman noted the presentation was for informational purposes only, adding that the Board will not be making a decision on the proposed revisions.

Mr. Van Cott noted the goals of the proposed changes to SEQR which are eliminating duplication of DEC's rules, update and clarify Type I and II action lists, and adding APA specific SEQR rules.

Mr. Van Cott stated that the agency's existing SEQR rules partially duplicate DEC's and makes property owners have to refer to two sets of rules for the same process. He also noted the need to clarify APA Type I and II actions in relationship to DEC's list. Mr. Van Cott added that SEQR is one law and property owners have to go through two processes and making these revisions will make the application process easier for them.

Mr. Van Cott stated that the next steps will be having a public comment period and meeting with stakeholders to discuss the revisions. He added that staff would consult with DEC about stakeholder input and make any additional revisions to the draft rule, and then staff would recommend the draft rule to the Agency for rulemaking.

Mr. Lussi asked for examples of why the agency should make these changes adding that it would make it easier to support the proposed rule revisions. Ms. Feldman agreed noting that the agency needs to see what is important to keep and what to let go. She added that it is also important to have consistency with DEC's Type I and II actions.

Mr. Booth agreed, adding that if you compare the proposed regulation to the existing regulation a large part of it disappears. He noted that the cover memo stated that the agency was proposing to adopt a minimalist approach to SEQR regulations, noting that using a minimalist approach sweeps SEQR under the table.

Mr. Booth stated that he did not see a problem that the agency was solving by the proposed changes. He added that it was not correct to say the Type I list for the whole state that is in DEC's regulations does not include the adoption of any regulations as does include the adoption of local land use plans.

Mr. Booth said that DEC's Type I and Type II list range from the center of Manhattan to the most remote part of the Adirondacks and to compare our Type I list to theirs does not make sense.

Mr. Lussi stated that it is the same issue that people run into when they go to local planning boards and they get approval there but not from the agency. Mr. Van Cott said SEQR is the same law and the state legislature told the DEC to define the process. He added that it is the same process but in two places and people should not have to go back and forth, which duplication is the larger issue.

Ms. Feldman stated that the agency needs to see where we are the same or where we differ from DEC's regulation, adding that if we differ is it important for the agency to maintain those differences.

Mr. Van Cott noted that if staff engage in further discussion with the stakeholders to see their concerns and at the same time address the today's comments. He added that is not formal rulemaking at this time, it is finding common ground on what the agency's SEQR rules should do.

Mr. Craig stated that he supports continued talks with stakeholders and trying to understand where it can be simplified without losing the regulation that the agency wants to have. He added that he would like to see specific examples where the agency's rules are confusing and also have staff talk to members so they can ask questions and be able to understand them more.

Mr. Van Cott said that staff want to proceed the right way making sure that the agency is complying with SEQR.

Ms. Feldman stated that it is the consensus of the Legal Affairs Committee that staff should engage further with stakeholders and get back to the Board with answers about the comparison of the procedures between APA and DEC regulations.

Mr. Booth agreed provided there is not an understanding that the Agency Members accepted an interim draft. He added that staff should consider certain types of wetlands projects and add them to the Type I list.

Mr. Monroe stated that the Local Government Review Board is very supportive of the proposed changes and making it easier for people.

Old Business

None

New Business

None

Karen Feldman, Committee Chair, adjourned the meeting at 12:05 pm.