

WESTCHESTER COUNTY BOARD OF LEGISLATORS

COMMITTEE ON ENVIRONMENT & ENERGY

MINUTES: December 1, 2008

MEMBERS (E&E): Chair: Abinanti; Legislators: Harckham, Kaplowitz, Myers, Nonna, Rogowsky

IN ATTENDANCE: STAFF: C. Crane; GUESTS: S. Gerry, B. Randolph (CEO); County Att'y. C. Indelicato, C. Arcuri, K. Ramos (Law); Comm'r. R. Butler (WCDPW); Comm'r. T. Lauro (WCDEF); Comm'r. J. Stout (WCDPRC); J. Delaney, A. Vietro (Budget); R. Mayer (F&J); M. Wallach (CCE); J. Bailey (WP CitizeNet Reporter); Hon. Vito Pinto

The meeting was called to order at 3:40 pm.

Item(s) Discussed: **Dams Consent Order and Remedial Study; LIS BNR Project**

Chair Abinanti commenced meeting discussion of a proposed consent order with NYSDEC regarding two county-owned dams at Pocantico Lakes and Twin Lakes. Commissioner Stout described the proposed legislation to authorize approval to enter into a consent order with NYSDEC and a bond act to fund a remedial study for the two dams.

Mr. Stout noted that the earthen dams have concrete spillways, and certain woody growth (trees greater than 4 in. diameter) have caused violations, resulting in a proposed NYSDEC consent order. The roots in the trees may cause structural instability in the dams, and the NYSDEC regulations and dam permits proscribe tree growth on the dams. The committee members reviewed photographs of the dams provided by Comm'r. Stout and Mr. Crane. Mr. Stout said that NYSDEC is presently revising its dams regulations, and the NYSDEC rule revisions may require the county to enlarge the dam spillways.

Upon inquiry by Leg. Kaplowitz, Ms. Indelicato stated that the scope of the remedial study is to provide recommendations, which might include repair of the dam, modifying the dam, or breaching the dams. The study cost (\$300,000) does not

correlate to the potential remedial or capital costs that will later be incurred (i.e., not a 10% correlation, etc.). Leg. Kaplowitz inquired whether monies from the NYS Environmental Protection Fund might be available for the projects, and Commissioner Stout said he would review this possibility. Leg. Rogowsky inquired whether Stearns & Wheeler (S&W) would be precluded from bidding on the construction because of a potential conflict and why S&W was being retained for construction management services. Comm'r. Butler said that S&W, as consulting engineer, would not be performing the construction but would be performing construction management. Ms. Indelicato said that NYSDEC recommended S&W because they are one of the firms regularly used by NYSDEC for dam-related work.

Chair Abinanti said he would like the dam study to include consideration of hydroelectric power generation at the dams. Upon review, the members observed that the revised bond act includes language showing that "potential power generation capabilities" of the dams shall be considered. The bond act includes an identification (RGIP8-B) which shows reference to this capital project (1920 project form). The members and attendees then reviewed other provisions of the consent order. Upon the motion of Leg. Rogowsky, seconded by Leg. Kaplowitz, the Committee approved the dams legislation (all in favor).

Ms. Indelicato provided to committee members for review a couple legal opinions concerning questions raised on the BNR consent order legislation. Mr. Maisano was unable to attend because of a previously scheduled doctor's appointment.

Upon the motion of Leg. Rogowsky, seconded by Leg. Harckham, the Committee approved the committee meeting minutes of April 28 and May 19, 2008 (all in favor). Upon the motion of Leg. Harckham, seconded by Leg. Abinanti, the Committee approved the meeting minutes of May 12, 2008 (all In favor).

Upon the motion of Leg. Rogowsky, seconded by Leg. Abinanti, the committee voted to adjourn the meeting (all in favor). The meeting adjourned at approximately 4:25 pm.

[audio recording of the meeting is on file]