

MEADOWLANDS CONSERVATION TRUST  
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OPEN SESSION MEETING MINUTES

DATE: August 26, 2016  
TIME: 10:06 a.m.  
PLACE: NJSEA Environment Center 2<sup>nd</sup> Floor Lecture Room  
Two DeKorte Park, Plaza, Lyndhurst, NJ

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**TRUSTEES PRESENT:**

WILLIAM SHEEHAN, Chairman  
Hackensack Riverkeeper

GREG REMAUD, Vice Chair  
NY/NJ Baykeeper

GABRIELLE N. GALLAGHER, Delegate  
Department of Community Affairs

MAYOR ALBERTO SANTOS, HMMC Delegate  
Mayor of Kearny

CHRISTINE A. SANZ, Chief Executive Officer

**ABSENT:**

RALPH J. MARRA, JR., ESQ. Delegate  
Senior Vice President Legal, NJSEA

**ALSO PRESENT:**

JASON STYPINSKI, Deputy Attorney General

COLLEEN MERCADO, Senior Operations Administrator, NJSEA

1. Welcome - Chairman Sheehan welcomed everyone and noted that there was a quorum unlike the prior meeting.
2. Flag Salute
3. CEO Sanz read the Notice of Meeting required under the Sunshine Law.
4. Roll Call

5. **REVIEW OF MINUTES**

Minutes of the July 21, 2016 open and closed sessions, were moved by Trustee Remaud, seconded by Trustee Gallagher and carried with all in favor.

Minutes of the August 10, 2016 open session were not passed. Mr. Mark Renna, representing Evergreen Environmental questioned whether meeting minutes can be approved by members voting that were not at the meeting. DAG Stypinski responded affirmatively, saying that as long as they had reviewed the minutes and were confident that the minutes reflected what transpired at the meeting. Delegate Mayor Santos, who was not in attendance at the August 10<sup>th</sup> meeting, stated he would be more comfortable not voting as he had not reviewed the minutes. CEO Sanz advised Delegate Mayor Santos that he would be provided with a copy of the August 10<sup>th</sup> meeting transcript for his review prior to the October meeting. Delegate Mayor Santos then questioned whether you could have official minutes if there wasn't a quorum. DAG Stypinski responded that since a meeting did take place, there would need to be some kind of record of it. He added that he believed they just could not take any action, but he would double check.

6. **REPORTS**

- Chairman Sheehan first thanked the trustees and support staff for convening this meeting, noting that this was the second meeting in a month. He thanked everyone for their support and for taking time out of their busy schedules to fulfill their functions as a trustee.

Chairman Sheehan then noted that it was Delegate Gallagher's last meeting with the MCT. He congratulated her on her new position and on behalf of the Trustees and staff, presented her with a small token of appreciation.

- CEO Sanz reported that the year-to-date license plate revenues were \$9,154. She then noted for the record that additional submissions were received from Evergreen Environmental and Kane Mitigation, LLC related to the current agenda item. She added that copies had been forwarded to the Trustees and to both Kane and Evergreen.

7. **PUBLIC PARTICIPATION**

- Mr. Andrew Derickson, representing Kane Mitigation, LLC reiterated that Kane Mitigation has made a request to the MCT Board and to IRT/MIMAC for the second modification to the Kane MBI and felt it important to say it is the second modification. He noted that there have been many discussions over the years on other modifications and he doesn't see how it never implicated public contracting law before. Mr. Derickson stated that he felt the Board should make their decision on what he thinks is a reasonable request so that the regulators can then speak to their appropriate process in federal rules.

- Mr. Mark Renna, representing Evergreen Environmental, began by reiterating that the MCT Board passed two resolutions in 2008 forming the Kane Bank, which specifically limited the use of credits for transportation projects within the Meadowlands District only. He commented that if the Kane service area is expanded to the Hudson River, it would reduce the mitigation available to be used in the Meadowlands District; noting that this is a current concern because impacts are coming and transportation projects are on the drawing board. Mr. Renna went on to discuss the differences between the two Banks – Kane being on public land and subject to public bidding process. He then noted that at the last MCT meeting on August 10<sup>th</sup>, NJ Transit had an RFP out for the Longslip, which was due that following Monday, and then the next day they cancelled that RFP. He commented that he felt there was a direct connection. Mr. Renna concluded his comments by requesting that the Board discuss and debate the Request for Modification in open session.
- Chairman Sheehan thanked Mr. Renna and stated that the Board fully intended to discuss the matter in open session. He added that he felt it was time to set a course for the Kane Bank and the future of the Meadowlands.
- Mr. Joseph Murphy, Attorney with Connell Foley representing Evergreen Environmental asked to make a few points related to the letter submitted the day before by Kane Mitigation dealing with rights to litigation and time periods. He started by saying that it was not Evergreen’s desire to enter into litigation. The first point in the letter was that because Evergreen did not bid it wouldn’t have standing in the event litigation did occur. Mr. Murphy noted that there are cases to the contrary where parties that have not bid have been found to have standing to challenge this issue. The second point had to do with reference to a 45-day period to commence litigation from the award of a public contract. Mr. Murphy stated that this didn’t apply due to the fact that what potentially may be subject to challenge, presumably the expansion of the service area, hasn’t even occurred yet.
- Mr. Derickson responded by providing a brief history of the Kane Mitigation Bank starting in 2008 and noting the incredible amount of time that has passed and the events that have occurred are outrageous when considering whether or not a challenge has been timely made. He stated he completely disagreed with whether or not the events have occurred for which that challenge would have been triggered. He concluded by encouraging the Board to continue to focus on the simplicity of this argument that has really gotten sidetracked.

8. **CLOSED SESSION** – commenced at 10:26 am

**Resolution No. 16-07** Resolution authorizing the MCT to conduct a meeting, to which the general public shall not be admitted for the purposes of discussing legal matters, personnel matters and contract negotiations.

The following matter was taken into consideration:

- Request for Modification to the Kane Mitigation Banking

9. **OPEN SESSION** reconvened at 10:39 a.m.

- Chairman Sheehan opened up the floor to any of the Trustees for a free-flowing discussion before going to a motion.

Discussion ensued amongst the Trustees, DAG Stypinski and CEO Sanz. The following summarizes their comments:

- Delegate Gallagher stated that from a DCA perspective looking at the fact that the mitigation would happen inside the Meadowlands but the impacts would happen outside the Meadowlands, certainly looked like a win. She stated that the DCA, as a state agency, has to look at what's best for the citizens of New Jersey as a whole and that had certainly factored into the agency's position in terms of the pros and cons of an expansion. She said the DCA would not have a problem moving forward with granting an expansion for the Longslip project only. She commented that granting the larger application to include all of the additional areas didn't seem like it would be in touch with what the MCT charter is. She felt that from a legal perspective the transportation coming through the Meadowlands certainly satisfies the nexus to the Meadowlands. She added that there is no train that comes solely just in the Meadowlands and stops just in the Meadowlands. Delegate Gallagher said she would be comfortable with a one-off expansion of the Kane Banking Instrument to allow the Longslip project to be contemplated and allow Kane to bid on this project and that the MCT has no stake in whether or not they win or even if the bid comes out.
- Vice Chair Remaud began his comments by saying that the MCT got into the mitigation banking business or leasing to mitigation bankers to preserve the Kane Tract and to do that a portion of the tract (250 acres) was set aside to serve as mitigation for public transportation. He commented that he and Chairman Sheehan were there from the beginning - it made perfect sense - the property gets preserved, public transportation - a great thing. He brought up the issue of expansion and how the discussion first began about including the Longslip project and whether it met the criteria. He commented that he was a little troubled with the process, noting that NJ Transit changed positions after their initial meeting with MCT but never notified the MCT, adding that NJT didn't attend any meetings and didn't contribute. He referred to the terms "district" and "region", and how the term district was used in certain documentation and the term region came up in others. Vice Chair Remaud recalled at that time there was a lot of anticipation of the ARC project and the word region was brought in to make sure projects, like the ARC, that connected to the Meadowlands, that were regional projects - were included. He noted that he was very concerned about the Hudson tunnel and spoke about the one term that hadn't been used before - the notion of a linear connection. Vice Chair Remaud in characterizing Longslip, said the project in and of itself doesn't sit within the District and that it is an ancillary project - with its' trains moving in and out that make it a connection. He concluded by saying he was not quite comfortable with approving

the expansion at this time but would like to revisit it with more information, particularly in light of the Hudson tunnel.

- Delegate Mayor Santos agreed with reasons given by the Chair and Vice Chair that the MCT should not expand the service to include the WMA5 area. He said that there are upcoming projects that will cause significant disruptions in the Meadowlands Region - noting specifically the train project, the tunnel and the replacement and expansion of the Portal Bridge. He pointed out that the replacement of the Portal bridge whether it happens after the bridge fails one too many times or if it's properly planned out is going to have to happen and it's just how substantial the impacts will be in terms of replacement. Delegate Mayor Santos said that he would be open to a limited request for the Longslip project but wanted to be sure that the transportation component through the District is an exception he would be fully comfortable with and would want to make sure it's a regional project in the Meadowlands.
- Chairman Sheehan's comments began with noting that one of the precepts of the now NJSEA, of which MCT is in, but not of, has been that impacts that take place in the Meadowlands should be mitigated within the Meadowlands, this has never varied. He stated that when Mr. Derickson first came to the Board with the idea of expanding the MBI to include Longslip, he was pretty much in favor because he recognized that the trains that go to Hoboken, many of them pass right through the Meadowlands - on the Main Line and the Bergen Line, so it wasn't hard for him to make the connection between the terminal and the lines through the Meadowlands to the terminal. He added that he began thinking seriously when the concept of expanding the MBI to include the entire WMA5 came up. He stated that the WMA5 is a pretty extensive area compared to the MCT's charge, which is the Hackensack River watershed, from the New Jersey state line down, not above the state line at the source of the river. He said that the statute limits the MCT to what it can protect to within the Meadowlands District and within the watershed of the Hackensack River. He felt that NJ Transit should have been at some of the meetings to at least take notes and answer questions as they came up. He spoke of the last time when the Hoboken yards were flooded out and how the transportation network in New Jersey was thrown into a tailspin and it took a long time to get service back. He said that the Longslip project, as explained by NJ Transit, would allow trains to come in and out of Hoboken even if the rest of the Hoboken yard was under water. He commented that the Board would be remiss if it didn't recognize that the Longslip is a resiliency project - it's not just for the city of Hoboken but for the State of New Jersey. Chairman Sheehan stated that he would be willing to entertain a motion for a one-off expansion of the service area to incorporate the Longslip project, but he would like to see language that would limit the resolution to strictly this one instance.

Delegate Gallagher agreed with Chairman Sheehan and made a motion for a one-off expansion of the service area to incorporate the Longslip project.

Discussion ensued in regards to limiting the number of credits to four or five as part of the resolution.

CEO Sanz took a few moments to review the recent documents and verified the largest number in the submissions was 4.1, which was from 2015. She said that not to exceed four would be safe.

Delegate Gallagher confirmed her original motion with the inclusion of a not-to-exceed four credit stipulation. Delegate Mayor Santos seconded the motion.

Roll call:

Chairman Sheehan: Aye

Vice Chair Remaud: No

Delegate Santos: Aye

Delegate Gallagher: Aye

DAG Stypinski noted the motion failed. Delegate Mayor Santos asked if that was by the By Laws. DAG Stypinski responded that it was by the statute, which requires the majority of the total membership for a motion to pass. He then provided the citation for the Board so as to have it on record.

*N.J.S.A. 13:17-90(B)4 Action may be taken, motions and resolutions adopted by the Board in any meeting thereof by the affirmative vote of the majority of the full membership of the Board.*

DAG Stypinski noted that would be four of seven.

Chairman Sheehan asked DAG Stypinski where the Board goes from here.

DAG Stypinski replied that the motion failed, so the Board could not permit the expansion for the Longslip project. He said that someone could make a different motion.

Chairman Sheehan then asked Vice Chair Remaud if he had an alternative motion he would like to make.

Vice Chair Remaud responded in the negative. He said he would like to revisit this and said there was a lot of pressure to make the decision. He went on to say that he was not overly comfortable with the whole process. He agreed in principal with a lot of what the Board is trying to do but was not comfortable voting to expand at this time.

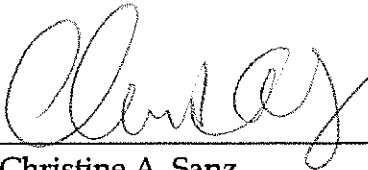
Delegate Mayor Santos asked DAG Stypinski if the Board would be allowed to take up this matter again if full membership of the Board was at the next meeting or if the matter was now closed.

DAG Stypinski responded that he didn't believe there was anything that would prohibit the Board from revisiting in the future and that he would like to look at the issue a little more.

Motion to adjourn was made by Delegate Gallagher, seconded by Delegate Mayor Santos with all in favor.

The meeting concluded at 11:17 a.m.

I certify that this is a true and accurate transcript of the Open Session Minutes of the Meadowlands Conservation Trust Special Board meeting of August 26, 2016.



Christine A. Sanz  
Chief Executive Officer

August 26, 2016

NAME	Roll Call	Res. 16-07	Motion to allow expansion of Kane MBI to include Longslip project with a not-to-exceed four credit stipulation
Chairman Bill Sheehan	P	Y	Y
NJSEA Delegate Ralph Marra	A	A	A
Trustee Greg Remaud	P	Y	N
HMMC Delegate Mayor Alberto Santos	P	Y	Y
NJDCA Delegate Gabrielle Gallagher	P	Y	Y

P = Present      A = Absent      R = Recuse  
Y = Affirmative      N = Negative