

**Minutes**  
**Board of Natural Resources**  
2 Martin Luther King, Jr. Drive, S. E.  
Suite 1252 East Tower  
Atlanta, GA 30334

**February 28, 2007**

**Attending:**

Board Members

Jim Walters, Chairman  
David Allen  
Bill Archer  
Earl Barrs  
Sally Bethea  
Gene Bishop  
Jenny Lynn Bradley  
Warren Budd  
Bill Carruth  
Cader Cox  
Joe Hatfield  
Walter Hudson  
Mabel Jenkins  
Phyllis Johnson  
Bob Rutland  
Loyce Turner  
Jim Tysinger  
Tom Wheeler

Staff Members

Noel Holcomb  
Paul Burkhalter  
Carol Couch  
Susan Shipman  
Jim Ussery  
Heather Abrams  
Jennifer Kaduck  
Doralyn Kirkland  
Jimmy Johnston  
Brad Gane  
Marlin Gottschalk  
J Wade  
Richard Cloues  
Todd Holbrook  
Yolanda Fanning  
Edwill Holcomb  
Emily Hitchcock  
Beth Brown  
Mary Ann Evans  
Hellen Harris

Visitors

Shawn Davis, Joe Tanner & Associates  
Ronny Just, Georgia Power  
Julie Mayfield, Georgia Conservancy  
Jim Scarbrough, Gwinnett County  
Todd Silliman, McKenna Long & Aldridge  
Stacy Esterman, Office of Planning & Budget  
Andres Villegas, Langdale Industries  
Tim Lowrimore, Georgia Forestry Association  
Tyler Newman, Home Builders Association of Georgia  
Gil Rogers, Southern Environmental Law Center  
Scott Hitch, Balch & Bingham

Minutes – Board of Natural Resources

February 28, 2007

Page 2

Stacy Shelton, *The Atlanta Journal-Constitution*

Patricia Barmeyer, King & Spalding

Bettie Sleeth, Home Builders Association of Georgia

Mary Kay Woodworth, Metro Atlanta Landscape & Turf Association

Rick Smith, Metro Atlanta Landscape & Turf Association

Ellen Burton, University of Georgia

Susan Reisch, Georgia Forestry Commission

M. Lane Ferguson, Georgia Golf Course Superintendents

Bobby Flowers, Georgia Green Industry Association

Todd Hunt, University of Georgia

Tony Bass, Georgia Green Industry Association

Mark Thela, Urban Agriculture

Gil Landry, Urban Agriculture

Robert F. Welsh, Georgia Budget Policy Institute

Bryan Tolar, Georgia Agribusiness Council

The February 28, 2007 meeting of the Board of Natural Resources was called to order by Chairman Jim Walters.

Chairman Walters called for a motion to approve the January 24, 2007 minutes.

A motion was made by Mr. Cox, seconded by Mr. Tysinger, and carried unanimously to approve the minutes of the January 24, 2007 Board meeting.

Chairman Walters stated that the public notice relating to the Board's consideration of the proposed amendments to Chapter 391-3-1, Rules for Air Quality Control, indicated that the matter would not be considered until 10:00 a.m. on February 28. Therefore, Chairman Walters announced a revision to the Agenda so that the report of the Environmental Protection Committee would follow the report of the Coastal Committee.

Chairman Walters called on Noel Holcomb, Commissioner of the Department of Natural Resources (DNR), to give the Commissioner's Report.

Commissioner Holcomb called attention to the Monthly Expenditure Report and Division Monthly Reports and commended division directors for their hard work and activities.

Commissioner Holcomb called on Carol Couch, Director, Environmental Protection Division (EPD), to give a staff recognition. Dr. Couch gave special recognition to Yolanda Fanning, her Executive Assistant, and presented Yolanda with a 25-Year Service Award. Dr. Couch stated that the hallmark of Yolanda's service to the state is her care for the individuals whom she serves and her high degree of customer service orientation.

Commissioner Holcomb gave special recognition to his brother, Edwill Holcomb, Operations Analyst in the Parks, Recreation and Historic Sites Division (PRHS), for his service to the state and presented him with a 30-Year Service pin. Commissioner Holcomb stated that Edwill has worked in several state parks for a number of years, and that he has worked in the PRHS central office for the past several years.

Commissioner Holcomb stated that the Georgia Agribusiness Council had provided handouts of the 2007 Directory of State Legislators with telephone numbers and office locations and thanked Bryan Tolar for delivering the directories.

Commissioner Holcomb called on Emily Hitchcock, Executive Counsel, to address General Obligation Bonds.

Ms. Hitchcock stated that the 2006-2007 General Appropriations Act included approximately \$15.250 million in bond sales for DNR activities and projects. She further stated that the Georgia State Financing and Investment Commission plans a

March/April bond sale, which includes approximately \$2 million in DNR funds for renovations at the historic Hardman Farm, located in Helen GA. She added that the Law Department had provided to the Board a memorandum from the Attorney General related to the Board's obligations and considerations for General Obligation Bonds, a draft resolution, and a request letter to be signed by the Chairman if the Board adopts the resolution.

A motion was made by Mr. Barrs, seconded by Dr. Allen, and carried unanimously that the Board adopt the Resolution to request the Georgia State Financing and Investment Commission to issue State of Georgia General Obligation Bonds in the aggregate principal amount of \$2 million for the purpose of financing Department of Natural Resources projects and facilities. (Resolution attached hereto and made a part hereof)

Commissioner Holcomb called on Todd Holbrook, Assistant Director, Wildlife Resources Division (WRD), to give an update on Weekend for Wildlife and WRD activities.

Mr. Holbrook stated that Weekend for Wildlife raised \$850,000 in revenues, which is a record; and that for the last five years the annual increase had averaged 18.8%. He further stated that at this rate of increase, revenues for next year should reach \$1 million.

Mr. Holbrook updated the Board on legislation of interest to WRD.

Chairman Walters called on Bill Carruth, Chairman of the Land Acquisition Committee.

Mr. Carruth stated that the Land Acquisition Committee had one item for consideration.

A motion was made by Mr. Carruth, seconded by Mr. Cox, and carried unanimously that the Board adopt the Resolution to ratify the September 8, 2006 First Amendment of Amended and Restated Department of Army Corps of Engineers Lease extending the term of the Lake Lanier Islands lease by nine years to terminate on September 8, 2056, and ratify the September 8, 2006 Second Amendment of Sublease Agreement between the Department of Natural Resources and the Lake Lanier Islands Development Authority extending the term of the sublease by nine years to terminate on September 8, 2056; and authorize the Commissioner of the Georgia Department of Natural Resources to seek State Properties Commission ratification of the same. (Resolution attached hereto and made a part hereof)

Chairman Walters called on Bob Rutland, Chairman of Coastal Committee.

Mr. Rutland stated that the Coastal Committee had an action item for consideration on the proposed amendments to Coastal Marshlands Protection Rule, Chapter 391-2-3. He asked if there were comments or questions regarding the item.

Ms. Bethea stated that she appreciated the courage and conviction of the Coastal Committee for pushing forward some improvement to the Coastal Marshlands Protection rules, which she felt was important to the marsh and future generations. She further stated that she felt that the rules still contain loopholes, and action should be delayed to wait on the Court of Appeals decision and pending Legislation. She added that she would be voting against the motion.

A motion was made by Mr. Rutland, seconded by Dr. Allen and carried with one opposing vote from Ms. Bethea that the Board adopt the Resolution regarding the proposed amendments to Coastal Marshlands Protection Rule, Chapter 391-2-3. (Resolution attached hereto and made a part hereof)

Mr. Rutland called on Susan Shipman, Director, Coastal Resources Division (CRD), who expressed appreciation to the Board, the Coastal Committee, Mrs. Johnson, CRD staff, Dr Couch and her EPD associates, and Ms. Hitchcock for their hard work through the rule making process on the Coastal Marshlands Protection Rule.

Ms. Shipman formally introduced Brad Gane, Assistant Director for Ecological Services, to the new Board members. She further stated that Mr. Gane works closely with the Coastal Marshlands Protection Act permitting process.

Mr. Wheeler informed the Board that the Coastal Committee had directed CRD staff to explore the possibility of a variance procedure to the Coastal Marshland Protection Rule for hardship cases as quickly as possible. He further requested that staff furnish the information to the Board as early as possible before the next meeting so that Board members would have an opportunity to look at it. He stated that an amendment to the rule for hardship cases is an important issue and would mitigate the “taking” aspects of increasing the buffer from 25’ to 50’.

Ms. Shipman stated that CRD staff would be holding public scoping meetings in March to present concepts to the public. She further stated that CRD would be setting a goal for sending the draft to the Board two weeks in advance of the April meeting. She apologized for the lateness of getting the buffer information to the Board for this meeting and added that when CRD relies on outside volunteer, technical assistance from the university system regarding information and studies, getting the information to the Board takes longer.

Ms. Bradley stated that she would look forward to seeing the wording on the draft variance procedure.

Ms. Shipman stated that she would be relying heavily on Ms. Hitchcock and Mr. Gane for the wording.

Ms. Shipman updated the Board on legislation of interest to CRD.

Ms. Shipman stated that with the adoption of the resolution that came forward from the Environmental Protection Committee, the Board set in motion a work plan for a comprehensive examination of nonpoint source pollution throughout the state. She further stated the Board had passed the resolution tasking the Governor's Environmental Advisory Council to examine the issue of existing statutes, regulations, and programs relating to nonpoint source pollution. She added that Dr. Couch and her team have the Governor's assignment well underway, and that CRD had participated in the February Advisory Council meeting. She further added that the process would take a look at riparian buffers, impervious cover and stormwater controls across the state.

Ms. Shipman stated that as part of the same resolution, the Board had requested the Legislature to establish a joint nonpoint source pollution control study committee to receive and consider any recommendations of the Board of Natural Resources for legislation relating for the improvement of nonpoint source pollution control. She further stated that a Senate resolution is being considered in the Senate Natural Resources Committee that would create this joint study committee. She added that this comprehensive effort is underway.

Mr. Carruth asked for clarity regarding the creation and implementation of the buffer variance for hardship cases and a definition of the term "hardship," as stated in the amendments to the Coastal Marshlands Protection Rule.

Ms. Shipman stated that the term "hardship" had been used by participants in the rule's public process, and that, if she understood correctly from discussions among Board members, the term would mean extraordinary or exceptional situations because of the shallowness or configuration of the project site to avoid what some might consider to be a regulatory "taking." She further stated that the variance request would probably be part of a permit application that would require a statement of exception or exemption to the 50-foot buffer and how the variance would apply. She envisions that CRD staff would evaluate the request, make an on-site visit, and present a findings report and recommendation to the CMPC regarding the applicant's hardship case. She added that the Commissioner and CMPC would review the request; and depending on the findings, grant or refuse the variance.

Discussion ensued.

Ms. Shipman stated that with the benefit of public input, CRD staff would work on a draft to bring back to the Board in April, and that the final wording of the variance would be up to the Board.

Discussion ensued.

Mrs. Johnson stated that members of the CMPC are appointed by the Board and that they work every hard. She further stated that each year, one committee member rotates off, and that she would encourage Board members to be thinking ahead regarding the next appointee to the committee because of the importance of the position. She added that she would like to request that CRD forward a sample packet of the entire CMPC hearing and permitting process to Board members who would like a copy.

Ms. Shipman stated that the CMPC meets every 6 – 7 weeks and this is definitely not a rubber stamp committee, that each project is viewed with public interest priority, and that the most frequently asked question by the committee related to whether the project would minimize the impact to the marsh. She added that members of the Board are invited to visit a CMPC meeting to see how the meetings are conducted.

Mr. Walters called on Tom Wheeler, Chairman of the Environmental Protection Committee.

Mr. Wheeler stated that the first item for consideration was approval of the 2007 Spending Plan for the Solid Waste Trust Fund.

A motion was made by Mr. Wheeler, seconded by Mrs. Johnson, and carried unanimously that the Board adopt the Resolution to approve the FY 2007 Spending Plan for the Solid Waste Trust Fund. (Resolution attached hereto and made a part hereof)

Discussion ensued.

Mr. Wheeler stated that the second item was for the Scrap Tire Pile Cleanup Reimbursement Guidelines for Local Governments.

A motion was made by Mr. Wheeler, seconded by Mr. Cox, and carried unanimously that the Board adopt the Resolution to approve the proposed Scrap Tire Pile Cleanup Reimbursement Guidelines for Local Governments. (Resolution attached hereto and made a part hereof)

Mr. Wheeler stated that at the December meeting, the Board made a commitment to a delegation from the North Georgia mountain area concerning planned public reservoir sites to find a way that would ensure water quality in ways other than a 150' buffer. He further stated that he would like to ask that an Environmental Protection Committee meeting take place before the March 27 meeting, so that a draft could be presented to the Committee and put out for public comment. He called on Dr. Couch, Director, Environmental Protection Division (EPD), to give an update on the process.

Dr. Couch stated that a Technical Workgroup had been convened to amend current set back and buffer requirements, which would allow flexibility and protect water quality. She further stated that with additional EPD input, the Technical Team has been meeting with a second group, the Implementation Team, a diversified group of elected county commissioners and local government representatives who had come before the Board in December. She added that these two groups had worked on a set of alterations that can be crafted into a draft rule. She further stated that essentially the draft rule allows for a varying buffer from 50' to 100' with a complementary set of practices necessary to implement the rule.

Dr. Couch stated that the draft includes elements and approaches similar to the Coastal Marshlands Protection rule, such as, stormwater management, re-vegetation of buffers where vegetation does not exist, and a variety of improvements that would allow for a 50' buffer with elements that would complement the upland runoff in steep areas of North Georgia. She further stated that she believes that the proposed rule is responsive to the issues that were heard by the Board in December. She added that there is a need for flexibility from the Board in the timing of the briefing and public comment period in order to bring the rule to the Board for action at the April meeting. She further added that it would be necessary to have an Environmental Protection Committee meeting before the March Board meeting to review the results of the rule from the Technical and Implementation workgroup.

Mr. Wheeler stated that the reason for a Committee meeting before the March meeting would allow time for public comment before the April meeting. He further stated that any Board member would be welcome to call in or attend the meeting to hear the briefing from the staff and comments from anyone who would like to address the Committee. He added that a time had not been set up for the meeting, but notice of the time would be sent to the Committee and Board members as soon as possible. He further added that he would like for Board members to receive a copy of the briefing before the March meeting.

Dr. Couch stated that she would send the briefing to Committee and Board members and stated that she would like to remind the Committee that the briefing is not an action item. She further stated that the purpose of the Committee meeting was to brief the Board before the proposed amendments go out for public comment.

Discussion ensued.

Ms. Bethea asked Dr. Couch how she would envision helping local governments, which have minimal staffing expertise and minimal financing, to be equipped, trained and capable of implementing and enforcing the variations of the proposed rule.

Dr. Couch stated that part of the discussion with the Implementation workgroup and commissioners involved the limited tax base and staffing resources of affected

counties, which would need to be supplemented with additional resources. She further stated that there are options in which counties could work together to hire and share resources. She added that without proper local, managerial and technical implementation and enforcement the rules would be ineffective.

Mr. Wheeler stated that the next item for consideration from the Environmental Protection Committee was the proposed amendments to the Clean Air Interstate Rule (CAIR), and he commended Dr. Couch, Heather Abrams and EPD staff for their work on the proposed rule.

A motion was made by Mr. Wheeler, seconded by Mr. Carruth, and carried with one abstention by Mr. Archer that the Board adopt the Resolution regarding the proposed amendments to Chapter 391-3-1, Rules for Air Quality Control, pertaining to the Clean Air Interstate Rule. (Resolution attached hereto and made a part hereof)

Dr. Couch updated the Board on legislation of interest to EPD and the progress of EPD's permitting process.

Chairman Walters stated that the last item of business was an action item on the Ethics Policy, dated October 25, 2006, that had been presented to the Board in an earlier meeting.

A motion was made by Mr. Rutland, seconded by Mr. Carruth, and carried unanimously that the Board adopt the Ethics Policy for the Board of Natural Resources as presented. (Ethics Policy attached and made a part hereof)

Chairman Walters called attention to a draft on Parliamentary Procedures for the Board of Natural Resources. He stated that he would like to appoint a committee of three: Mr. Wheeler, Mr. Hudson and Mrs. Johnson, to review the draft with Executive Counsel Emily Hitchcock and develop simple procedures for conducting the Board meetings.

There being no further business, the meeting was adjourned.

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J. A. Walters, Chairman

ATTEST:

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Cader B. Cox, III, Secretary