

**SUSSEX COUNTY SOIL CONSERVATION DISTRICT**

Board of Supervisors Meeting

October 26, 2011

7:30 PM SCSCD Office – Conference Room

186 Halsey Road, Suite 2, Newton, NJ

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**NEXT MEETING:** December 7, 2011–2:00 PM – SCSCD Office (Conference Room)

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**SUPERVISORS PRESENT:** Barbara Rosko, Fred Hough, Winifred Straub, James Kilduff and Walter Ricker.

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**SUPERVISORS ABSENT:** None.

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**OTHERS PRESENT:** Clifford R. Lundin-District Manager, Dan Mull- USDA NRCS-District Conservationist, Andrew Mulvihill, Paul Jorgensen, Jack O’Krepky, P.E., Thomas Ferry, CPA, RMA.

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Chairman Rosko called the meeting to order at 7:32 p.m. declaring that adequate notice had been provided in accordance with the NJ Open Public Meetings Act. The members joined in a salute to the flag.

**MINUTES:**

On motion by Mr. Hough, seconded by Mrs. Straub and properly carried, the minutes of the regular meeting of September 21, 2011 were approved, subject to the correction of a minor typographical error.

**OPEN TO THE PUBLIC**

Chairman Rosko acknowledged the presence of three guests in the audience representing Mountain Creek. She diverged from the Agenda to open the meeting to the public to hear from the representatives of Mountain Creek.

Andrew Mulvihill, a principal of the company indicated that he was requesting the District’s assistance in a matter involving Mountain Creek and the Tennessee Gas Pipeline Company relative to the damages incurred by the Mountain Creek Ski Area and Waterpark as a result of a storm event on August 15, 2011 and from Hurricane/Tropical Storm Irene on August 28, 2011. The pipeline easement crosses the Mountain Creek properties. He indicated that during the storm events, the pipeline project experienced several blowouts which increased runoff to the Mountain Creek properties and caused serious damages and business disruptions. The damages were so extensive as to prevent full operation of the ski area this coming winter.

Mr. Paul Jorgensen provided the Supervisors with a handout outlining the damages. The handout also included maps showing the direction of water flow and the impacted areas of the Mountain Creek properties. He also distributed a number of pictures of the actual

damages. He stated that the pipeline company had removed, without authorization, a 24 inch culvert near the top of Granite Peak. This exacerbated the drainage issues. Mr. Jorgensen also outlined rainfall data over the past years and stated that rain storms of similar magnitude had not resulted in similar damages. They attributed the difference in 2011 to the ongoing installation of the gas pipeline.

Jack O'Krepky, a licensed professional engineer retained by Mountain Creek, indicated that it was his professional opinion that the pipeline company had failed to fully implement their certified soil erosion and sediment control plan. He also stated it was his opinion that the damages to Mountain Creek emanated from the pipeline installation.

Mr. Lundin briefed the Board on the District's inspections of both the pipeline installation and ski area properties. He verified the photos, the damages and the blowouts. He indicated that the District (Mr. Eckert) and DEP had visited the site between the two storm events. Subsequent to the Hurricane Irene, Mr. Lundin and Mr. Eckert toured the Mountain Creek sites with Ray Banta of Mountain Creek. In a subsequent separate visit, Mr. Lundin and John Showler, P.E. of the SSCC toured multiple locations on the pipeline installation and visited damaged sections of the ski area. Mr. Lundin indicated that at the time of his visit, both the pipeline company and Mountain Creek were actively coordinating efforts to repair the damages. Mr. Lundin expressed concern that there is no approved SESC plan for the ongoing remediation work at Mountain Creek. The Board expressed concern relative to the oncoming winter and the lateness of seeding for both sites.

After exchanges of questions, Mrs. Rosko closed the meeting to the public at 8:30 p.m.

### **REPORT ON AUDIT**

Chairman Rosko acknowledged the presence of the District's Auditor, Thomas Ferry, CPA, RMA. Mr. Ferry presented a summary of his Audit of the District's financial records for the period of July 1, 2010 through June 30, 2011. There were no inadequacies or inconsistencies identified. There were no recommendations for improvement. The District operated within its budget and has maintained adequate reserves for emergency expenditures. After questions and discussion, Mr. Ricker moved, seconded by Mrs. Straub to accept the FY2011 Audit report. Roll call vote as follows: Mr. Ricker- yes, Mr. Hough- yes, Mr. Kilduff- yes, Mrs. Straub- yes and Mrs. Rosko- yes.

At this point the Board returned to the regular agenda.

**CORRESPONDENCE:**

On motion by Mr. Hough, seconded by Mrs. Straub and properly carried, the attached correspondence list was reviewed and approved for the files. Special attention was given to the highlighted items.

**TREASURER'S REPORT:**

- a) Monthly Report: On motion of Mr. Hough, seconded by Mr. Kilduff and properly carried, the Treasurer's Report was approved, subject to audit, by Roll Call vote as follows: Mr. Hough- yes, Mr. Ricker- yes, Mrs. Straub- yes, Mr. Kilduff- yes and Mrs. Rosko- yes. The Treasurer's Report included the following: Income Statement for the One Month Period ending October 31, 2011, Cash Disbursements-Check Register from September 21, 2011 to October 26, 2011, Cash Receipts Journal from September 21, 2011 to October 26, 2011, Cash Account Balance Report as of October 26, 2011, Consulting Engineer-Cash Disbursements Journal from July 1, 2011 to October 26, 2011, General Ledger Trial Balance as of October 26, 2011 and Balance Sheet dated October 31, 2011.
- b) Agway Investment: Mr. Lundin reported that the Board had received a final distribution in the Agway bankruptcy proceeding. The Board has received a total return of 76.7% of its investment. Since the bankruptcy proceeding is now closed, the Board must address the loss on its books. Mr. Lundin presented a resolution which he prepared, and which was approved by Mr. Ferry, declaring the remaining balance to be an unrecoverable loss. Mrs. Straub moved, seconded by Mr. Kilduff to adopt the resolution. The resolution was adopted by the following roll call vote: Mrs. Straub- yes, Mr. Kilduff- yes, Mr. Hough- yes, Mr. Ricker- yes and Mrs. Rosko- yes.
- c) Health Insurance Premiums for calendar year 2012. Mr. Lundin indicated that the Board had just received notice from the State relative to the health insurance premiums for 2012. The average premium is increased by 10%, although the percentage varies by type of coverage. Mr. Lundin indicated that the District's adopted budget for 2012 had anticipated a 15% increase and therefore the increases will be within our budget projections.

**Chapter 251:**

Monthly Report: On motion of Mrs. Straub, seconded by Mr. Hough and properly carried, the attached 251 Project Card Summary Sheet dated October 26, 2011, the Project Status Report dated October 26, 2011 and the Performance Bonds Report dated October 26, 2011 were approved.

District Quarterly Report. On motion of Mrs. Straub, seconded by Mr. Kilduff and properly carried, the Board approved the District 251 Quarterly Report for the period ending September 30, 2011.

Exempt Municipality Quarterly Reports. On motion of Mr. Kilduff, seconded by Mrs. Straub and properly carried, the Board approved the 251 Quarterly Reports for Andover Township and Green Township for the period ending September 30, 2011.

Problem sites: The Board also discussed the following SESC problem sites:

- 1) Eagles Nest. SP-125, SP-125B, SP-125C. Mr. Lundin indicated that the three plans had now all been recertified. The Stop Work Order remains in effect. He recently met at the site with Allen Campbell, engineer for the applicant and Kevin Viersma and identified approximately 12 areas of the site to be remediated. Once that work is satisfactorily performed, the District will vacate its Stop Work Order.
- 2) Eagles Nest- Maurizi- SP-125D. The Stop Work Order remains in effect. The applicant has changed engineers and has now retained Keller and Kirkpatrick to prepare a SESC plan to stabilize the site.
- 3) Jobeless site- Hopatcong. The District is still awaiting action by the NJDA-SSCC.
- 4) Whispering Woods- VR-748, VR-748A, VR-748B. Mr. Lundin reported no progress relative to the outstanding issues with the site. He recently toured the site with John Showler, P.E. of the SSCC.
- 5) Ogdensburg Stream Cleaning. Mr. Lundin reported that we are awaiting the conclusion of negotiations between the Township and DEP. A SESC Plan will be submitted at that time.

Tennessee Gas Pipeline/Mountain Creek. The Board discussed the various issues raised earlier during the public portion of the meeting. On motion of Mr. Kilduff seconded by Mrs. Straub and properly carried Mr. Lundin was authorized to communicate with Tennessee Gas to: a) request a report on the remediation efforts undertaken after the August 15 and August 28 rainfall events; b) to suggest that they leave their boundary SESC controls in place over the winter of 2011-2012 and c) to indicate that the District would not be inclined to issue a final ROC on the project until the spring, when it can be determined whether or not their recent permanent stabilization efforts were successful.

Green Township Ordinance: Mr. Lundin reported that he had prepared comments on the proposed amendment to the Green Township SESC ordinance and provided the same to the SSCC.

**Agriculture-NRCS:**

- a) NRCS report. Mr. Mull provided the attached report dated October 2011 to the Board. The Board approved the report on motion of Mr. Ricker, seconded by Mr. Hough and properly carried. The motion included the approval of a Farmland Preservation Plan for a property in Stillwater. Mr. Mull reported that NRCS is still accepting FY 2012 applications under the EQIP Forestry, EQIP CAP, WHIP and AMA programs. There are currently 20 EQIP applications, 6 AMA applications and 2 WHIP applications under review for Sussex County. Mr. Mull also announced the availability of EQIP funding under a national initiative for Organic Farming, Seasonal High Tunnels and Energy.
- b) Cooperators. There were no new cooperator applications this month.

**SSCC Report:** Mr. Minch was not in attendance. In his absence Mr. Lundin reported on the following items:

- a) NJ Transparency Legislation. No change since last month's report.
- b) Proposed stormwater statutes. Mr. Lundin reported on two bills S2601 and A3724 pending in the legislature that would effectively prohibit a developer from discharging any stormwater onto any neighboring property. The SSCC is monitoring these bills very closely.
- c) Proposed legislative amendment to the SESC Standards. Mr. Lundin reported that as a result of testimony before the NJ Red Tape Commission by a disgruntled SESC manufacturer, that legislation had been drafted to amend the standards to provide for new technologies.
- d) Monthly Quota of Inspections: Mr. Lundin reported that the Governor's office has recently imposed on the SSCC, a monthly target of 5,000 SESC inspections. The SSCC, in turn, has imposed target numbers on the Districts. The Sussex District will be expected to perform 225 SESC inspections per month. A spreadsheet of the target numbers and actual results is attached to the minutes.

- e) SSCC Policy regarding the release of plans under OPRA. Mr. Lundin indicated that at its September meeting, the SSCC had adopted a policy wherein all SESC plans would be accessible to the public under OPRA. Some engineers had previously tried to prevent disclosure asserting that they were protected by copyright and other intellectual property laws. The SSCC policy indicates that all filed plans are public records and are accessible to the public unless such disclosure would raise security or emergency issues.
- f) NJPDES Enforcement. Mr. Lundin indicated that several districts had requested NJDEP to issue guidance as to SESC applicants who fail to obtain the required NJDEP General Permit. The DEP issued guidance based upon the procedure utilized by the Sussex District.

**Education:**

- a) Rutgers Soil and Site Evaluation Course- Mr. Lundin reported that Mr. Eckert had successfully completed the Soil and Site Evaluation Course for Septic Disposal Systems held at Rutgers University from October 3 through 5, 2011.
- b) NJACD Annual Conservation Poster Contest. The members of the Board selected the winners of the 2011 Conservation Poster Contest. A total of 188 entries were received. A list of the winners is attached.

**Meetings:**

- a) NJACD- Annual Meeting- October 6, 2011- Clinton, NJ. Mrs. Straub, Mrs. Rosko, Mr. Kilduff, Mr. Ricker and Mr. Lundin attended the NJACD Annual Meeting held in Clinton, NJ. Mrs. Rosko received an award at the conference for the completion of 15 years of service on the SCSCD. Similarly Cathy Williams received her 10 year service award.
- b) District Liaison Meeting. Mr. Lundin reported that he attended the Managers Liaison meeting held on September 22, 2011 in Trenton.
- c) ANJEC Environmental Congress. Mr. Lundin reported that he had attended the ANJEC Environmental Congress on October 15, 2011 at Brookdale Community College. The primary speaker was NJDEP Commissioner Robert Martin.
- d) NACD Annual Meeting January 29- February 1, 2012- Las Vegas, Nevada. Mr. Lundin briefed the Board on this upcoming meeting.

**Clean Waters Initiative:** Mr. Lundin distributed a copy of the Agenda for the next meeting of the Common Waters group which will be held in Sussex County on November 17, 2011. All supervisors are welcome to attend. He also reported that he had submitted a voucher to Pinchot for the District's activities through October 20, 2011.

**RC&D Funding:** Mrs. Rosko reported on the activities of the North Jersey RC&D Council.

**Other Old Business:** None

**NEW BUSINESS:**

- a) Replacement of Mrs. Zvalaren. No action to date.
- b) November/December meeting. The November/December meeting will be held as scheduled at 2:00 p.m. on December 7 at the District offices.
- a) Managers Anticipated Extended Sick Leave: Mr. Lundin reported that he is scheduled for hip replacement surgery on December 13, 2011 and that he expects to be absent for approximately 3-4 weeks. Arrangements will be made for signature of documents.

**PUBLIC SESSION:**

Chairman Rosko opened the meeting to the public at 9:40 p.m. Having no one come forward, the meeting was closed to the public at 9:41 p.m.

**EXECUTIVE SESSION:**

On motion of Mrs. Straub seconded by Mr. Kilduff and properly carried, the Board went into executive session at 9:41 p.m. for the discussion of personnel items.

The Board returned from executive session at 9:50 p.m.

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**ADJOURN:**

The Meeting was adjourned at 9:50 p.m. on motion of Mr. Hough, seconded by Mr. Kilduff and properly carried.

Respectfully submitted for Walter C. Ricker, Secretary

By Clifford R. Lundin