

BOARD OF TRUSTEES
CLEAN WATER MANAGEMENT TRUST FUND

MINUTES OF MEETING

TUESDAY, NOVEMBER 12, 2013
9:00 A.M.

ROOM 1210 GREEN SQUARE BUILDING
217 WEST JONES STREET
RALEIGH, NORTH CAROLINA



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A P P E A R A N C E S

CLEAN WATER MANAGEMENT TRUST FUND BOARD OF TRUSTEES:

TROY KICKLER, CHAIRMAN

BRYAN GOSSAGE, EXECUTIVE DIRECTOR

FRANK BRAGG

ROBIN S. HACKNEY

KEVIN MARKHAM

JOHNNY D. MARTIN

WILLIAM TOOLE

CHARLES VINES

FREDERICK BEAUJEU-DUFOUR

ATTORNEY GENERAL'S OFFICE:

MARY L. LUCASSE, SPECIAL DEPUTY ATTORNEY GENERAL

CLEAN WATER MANAGEMENT TRUST FUND STAFF:

BETH MCGEE

CHRISTOPHER FIPPS

NANCY GUTHRIE

LARRY HORTON

TERRI MURRAY

PENNY ADAMS

TOM MASSIE

BERN SCHUMAK

WILL SUMMER

A G E N D A

- 9:00 am A. Call to Order - Chairman Kickler
1) Welcome
2) Roll Call - Penny Adams
3) Compliance with General Statute § 138A-15 -
Chairman Kickler
4) Please put cell phones on vibrate or off -
Chairman Kickler
- 9:10 am B. Public Comments (Three minutes per person) -
Chairman Kickler
- 9:20 am C. Swearing in of Trustees - Chairman Kickler
- 9:30 am D. Welcome - Bryan Gossage, Executive Director
- 9:40 am E. Introduction of Trustees and Staff - Chairman
Kickler
- 10:10 am H. Revisions, Additions and Adoption of the
Agenda - Chairman Kickler (Action Item)
- 10:15 am I. Review and Approval of the Transcripts of the
June 2013 Meeting of the Board of Trustees
(Action Item) - Chairman Kickler
- 10:20 am F. Attorney General's Report - Mary Lucasse
- 10:40 am N. Board of Trustees Structure - Chairman Kickler
- 11:02 am G. Other Administrative Items - Beth McGee and
Penny Adams
- 11:10 am M. Grant Contract Management Process - Christopher
Fipps, Terri Murray and Will Summer
- 11:40 am J. Program Overview - Beth McGee
- 12:00 pm K. Lunch Break (Lunch will be provided for
Trustees)
- 1:00 pm J. Continued Program Overview -- Agency Staff

- 1:40 pm L. Application Submission and Review Process (Recommended Action Items) - Beth McGee, Larry Horton, Bern Schumak, Tom Massie and Nancy Guthrie
- 2:25 pm O. Planning for Current Funding Cycle (Recommended Action Items) - Bryan Gossage, Christopher Fipps and Beth McGee
- 3:05 pm P. Consideration of Prior Policy Decisions Pertinent to All Program Areas (Potential Actions) - CWMTF staff
- 3:35 pm Q. Consideration of Requests on Existing Contracts
- 4:40 pm R. Discussion
- 4:45 pm S. Adjourn

T A B L E O F C O N T E N T S

Proceedings	6
Certificate of Reporter	
<u>EXHIBITS</u>	
Exhibit F-2	Guide to Open Government and Public Records
Exhibit F-3	CWMTF Internal Operating Procedures
Exhibit J-1	Natural Heritage Trust Fund Manual
Exhibit J-1	CWMTF 2012 Annual Report
Exhibit J-1	Conference Report on the Continuation, Capital and Expansion Budget
Exhibit J-2	CWMTF Statutes prior to Session Law 2013-360
Exhibit J-3-B	Natural Heritage Program Handbook
Exhibit L-1	CWMTF's Application Submission and Review Process
Exhibit L-2	Natural Heritage Trust Fund Fall 2013 Applications - Summary
Exhibit O-1-1	CWMTF (as of September 30, 2013)
Exhibit P	Administrative Costs, Overhead and Matching Funds
Exhibit Q-1	CWMTF Request to Revise Project Schedule
Exhibit Q-2	Letter from Resource Institute, 10/12/13
Exhibit Q-3	Email from Charles Shue, 9/13/13
Exhibit Q-4	Letter from NC Wildlife Resources Commission, 10/28/13
Exhibit Q-5	Letter from The Trust for Public Land, 10/28/13

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P R O C E E D I N G S

CHAIRMAN KICKLER: I'd like to call this meeting to order. This is the November 12, 2013, meeting of the Clean Water Management Trust Fund.

Before we get started I wanted to say Bryan and I are new to this. We've talked a couple times about clean water. I meet with staff on Friday for four hours. I did some homework over the weekend. I put some time away from watching college football, if you will, and looked over the material, and so learning more and more about clean water.

And as we go along, I'm sure Bryan and I will learn more. And as our second or third meeting, I'm sure things will run real smoothly.

Before I go further, I'll call on Penny Adams to take the role.

MS. ADAMS: Troy Pickler.

CHAIRMAN PICKLER: Here.

MS. ADAMS: Frederick Beaujeu-Dufour.

MR. BEAUJEU-DUFOUR: Here.

MS. ADAMS: Frank Bragg.

MR. BRAGG: Here.

MS. ADAMS: Greer Cawood.

MS. CAWOOD: (No response.)

MS. ADAMS: Robin Hackney.

1 MS. HACKNEY: Here.

2 MS. ADAMS: Kevin Markham.

3 MR. MARKHAM: Here.

4 MS. ADAMS: Johnny Martin.

5 MR. MARTIN: Present.

6 MS. ADAMS: William Toole.

7 MR. TOOLE: Here.

8 MS. ADAMS: Charles Vines.

9 MR. VINES: Here.

10 CHAIRMAN KICKLER: We definitely have a
11 quorum.

12 Before we proceed further I'm required to
13 read you Statute 138A-15. It mandates that the Chair
14 inquires whether any trustee knows of any conflict of
15 interest or the appearance of a conflict of interest
16 with respect to the matters on the agenda. If you, as
17 a trustee, know of any conflict of interest or even
18 appearance of a conflict of interest, please state so
19 at this time.

20 MR. MARKHAM: Mr. Chairman --

21 CHAIRMAN KICKLER: Yes, sir.

22 MR. MARKHAM: I have the potential
23 appearance of a conflict of interest. The firm I work
24 with has done work for Durham County on a fairly
25 regular basis, and the agenda item dealing with 2010-

1 094, there is indication that the property could be
2 turned over to either the City of Durham or Durham
3 County. I do not believe it constitutes a conflict of
4 interest on my firm's behalf because we're not
5 involved in this project. I wanted to make the Board
6 aware it.

7 CHAIRMAN KICKLER: 2010-094?

8 MR. MARKHAM: Correct.

9 CHAIRMAN KICKLER: Okay.

10 MR. BRAGG: Mr. Chairman --

11 CHAIRMAN KICKLER: Yes.

12 MR. BRAGG: -- I have a conflict,
13 Item Q-3, which is a release of a portion of state-
14 held conservation easements by Catawba Lands
15 Conservancy. I'd like to recuse myself from
16 discussion in those.

17 CHAIRMAN KICKLER: Okay. Thank you.

18 Are there any others?

19 MR. TOOLE: Mr. Chairman, my firm has
20 represented Catawba Lands Conservancy in other
21 matters, but I'm --

22 COURT REPORTER: I'm sorry. I couldn't
23 hear you.

24 MR. TOOLE: My law firm has
25 represented the Catawba Lands Conservancy in other

1 matters but not in this matter.

2 CHAIRMAN KICKLER: Which matter is that?

3 MR. TOOLE: The one that Mr. Bragg
4 was talking about.

5 CHAIRMAN KICKLER: Q-3.

6 CHAIRMAN KICKLER: Are there any others?

7 MR. MARTIN: I didn't see it on the
8 agenda, but I just -- I know that we have a current
9 project -- the firm I'm with has a current project
10 that I'm the project manager of down in Pivers Island.
11 So if there's any discussions that come up about that,
12 I would recuse myself from that. I didn't see it on
13 the agenda, but if something were to come up, I wanted
14 to mention that.

15 CHAIRMAN KICKLER: Okay. Anyone else?

16 (No response.)

17 CHAIRMAN KICKLER: Okay. We'll move on.

18 Just as a reminder, please turn off your cell phones
19 or put them on vibrate. We would appreciate that very
20 much.

21 Now at this time we'll move on to the next
22 item on the agenda, which is public comments. I
23 believe -- I was told that Reed Wilson wanted to say a
24 few words.

25 MR. WILSON: Sure. Where would you like

1 me to be?

2 CHAIRMAN KICKLER: You can use the podium,
3 if you like.

4 MR. WILSON: Thank you. My name is Reed
5 Wilson. I'm the Executive Director of the
6 Conservation Trust for North Carolina here in Raleigh.

7 We do two things to advance land
8 conservation in the state. One is we are a land trust
9 that focuses on protecting land along the Blue Ridge
10 Parkway. And over the years this board has supported
11 a number of acquisitions of land and easements to
12 conserve land along the Blue Ridge Parkway, land that
13 contained lots of water.

14 The other we do is we promote, assist and
15 represent local land trusts. There's 23 of them
16 around the state. Catawba Lands Conservancy has
17 already been mentioned a couple times. And I'm here
18 today on behalf of all the local land trusts around
19 the state just to say a couple things.

20 One is we've always appreciated the serious
21 and substantive approach this board has had to
22 evaluating and approving clean water projects. You
23 all have been a great partner, not only for land
24 trusts but other conservation groups in the state.
25 And we appreciate your longstanding commitment to land

1 conservation as a way to ensure clean water.

2 I mean it's a pretty simple concept. If you
3 don't want polluted water, don't let the pollution in
4 there in the first place. How do you do that? You
5 conserve the land along the streams so that the
6 contaminants don't get into the water. That means
7 safer drinking water for everyone downstream. And
8 this board has always embraced that sort of common
9 sense concept.

10 Local land trusts had used years ago grants
11 from this board to create conservation plans for
12 different streams around the state. And then once
13 they have identified the most important properties to
14 protect, it then came back to this board and wrote
15 applications to actually protect those properties.
16 And it's been a great way that this board has ensured
17 that a lot of money it's spending on conservation
18 reflects the priorities that these land trusts
19 identified in the plans they put together on different
20 segments.

21 The other thing I wanted to mention is CTNC
22 and the local land trusts are part of a bigger
23 coalition in the state that includes some of my
24 friends in the room. The Nature Conservancy, the
25 Conservation Fund, North Carolina Wildlife Federation,

1 and about six other groups spearhead something called
2 the Land for Tomorrow Coalition. And our main purpose
3 is to increase conservation in the state by boosting
4 the funding for the trust funds such as this one.

5 And we've worked closely with the board over
6 the years and with the legislature to try and boost
7 conservation funding for the different trust funds in
8 the state, and we look forward to working with all of
9 you and the legislature to try and increase the
10 funding for the Clean Water Management Trust Fund in
11 the future.

12 So, again, all of us look forward to working
13 with you. This has been a great organization and
14 partner to conservation groups all around the state.
15 And thank you for your time.

16 CHAIRMAN KICKLER: Are there any other
17 public comments?

18 All right. Well, moving on, the next item
19 is swearing in of the Trustees.

20 MS. MURRAY: Good morning. My name is
21 Terri Murray. And if you're going to do the swearing
22 where you put your hand on the Bible, I'm going to
23 need to distribute the Bibles, so is anybody going to,
24 are just do the affirm?

25 (Ms. Murray distributes Bibles.)

1 So what I'm going to do, if you'll just
2 repeat after me and insert your name after "I", and if
3 you choose to swear, say "swear." If you're choosing
4 to affirm, say "affirm."

5 (Whereupon, the Trustees were duly sworn.)

6 MS. LUCASSE: Terri, are you going to tell
7 them to come and see you?

8 MS. MURRAY: Yes. At the lunch break, so
9 we don't interrupt the flow, if you will stop by my
10 little desk and sign in front of me so I can get you
11 notarized and be efficient, that would be awesome.

12 CHAIRMAN KICKLER: The next item of
13 business is a few words from my executive director,
14 Bryan Gossage.

15 MR. GOSSAGE: Thank you, Mr. Chairman.
16 Good morning. Welcome everybody to the new Clean
17 Water Management Trust Fund. I just wanted to
18 personally welcome all of you to the DENR building, to
19 this beautiful building that we have.

20 I wanted to recognize our staff that is here
21 today and that they are at your disposal. I wanted to
22 recognize the folks who are in attendance today and
23 thank all of you for coming, as well as Cecilia
24 Holden, who is the secretary's special assistant. And
25 I know that she wanted to make a few remarks this

1 morning as well.

2 MS. HOLDEN: Good morning. Ditto to what
3 Bryan just said. I know that there's been a lot of
4 hurry up and wait kind of attitude over the board
5 meeting, and thankfully Beth and the staff did an
6 awesome job of just moving forward as diligently as
7 they could. And at the last hour I know a lot of you
8 had to rework your schedules to be here, some of you
9 from out of town. So we certainly appreciate all that
10 went into that.

11 I know that today will be very productive.
12 I, as well as the staff, are here to try to make
13 whatever we can easier for you in your transition.
14 Bryan is new. I'm new. We couldn't do it without the
15 people who have been here for a long time and all of
16 their knowledge and expertise that goes with it.

17 So thank you for giving of yourselves for
18 this mission. It's an awesome mission. There's a lot
19 of passion that goes behind it. So we appreciate it.

20 MR. GOSSAGE: And I just wanted echo the
21 Chairman's remarks that -- you know, if we can all be
22 a little bit patient as we work our way through the
23 agenda this morning. This is my fifth day on the job.
24 The Chairman and I spent about three hours over the
25 weekend, Friday and yesterday, and he spent about four

1 hours on his own with staff and some time on his own
2 over the weekend, too, getting up to speed on all of
3 this. But it might be a little rocky at times, but
4 we'll work our way through.

5 One of the things that you will notice is
6 that the agenda is not necessarily in alphabetical
7 order anymore. If it doesn't make sense to you,
8 that's my fault because I changed the order around
9 last week after I started. So definitely do not teach
10 a child or grandchild to learn the alphabet based on
11 the order of the agenda. Thank you.

12 CHAIRMAN KICKLER: Our next item on the
13 agenda is the introduction of Trustees and staff. I
14 think that would be a good idea at this moment for us
15 introduce ourselves to each other as Trustees, and
16 then staff introduce themselves to the Trustees as
17 well.

18 Again, my name is Troy Kickler. I'm the
19 Chairman and the Founding Director of the North
20 Carolina History Project, which obviously mean I am
21 interested in North Carolina history and North
22 Carolina's culture. And I have previously served on
23 the Natural Heritage Trust Fund before my time here.
24 So I guess we'll start this thing.

25 MS. HACKNEY: I'm Robin Hackney. I'm from

1 Wilmington, North Carolina. I originally grew up in
2 Raleigh, however. And I have been in -- have owned my
3 businesses since getting out of college. We now are
4 custom home builders in Wilmington, eastern North
5 Carolina.

6 MR. BRAGG: My name is Frank Bragg. I
7 grew 30 miles north of here in Granville County. I
8 think I still have tobacco gum under my fingernails.
9 After 18 wonderful years of living in a small town,
10 ended up at Wake Forest, and then a couple years in
11 Winston-Salem.

12 I've been in the financial business my whole
13 life. We're a family business, five family members.
14 I'm the senior member of that. And folks say, "Aren't
15 you retired?" When you have a family business you
16 never really retire, but it's great fun.

17 My wife and I are blessed with four
18 children, spouses, who all live on the same farm
19 together north of Charlotte. And we have 15
20 grandchildren who live within ten minutes walking
21 distance from that.

22 MR. BEAUJEU-DUFOUR: I'm Fred Dufour. I'm
23 from Clinton, not originally, but now I live in
24 Clinton, North Carolina, Sampson County. And we farm.
25 I moved with my wife on the family farm, which is a

1 very big tract of land. And my duties there are to
2 manage all the infrastructures, including ditches,
3 farms, and, of course, water quality. And that is why
4 I am very interested in being here. Thank you.

5 MR. VINES: My name is Charles Vines. I
6 live in Mitchell County, which is the western part of
7 the state. I'm a retired veteran of the United States
8 Air Force for 24 years. I've been in public service
9 for over 20 years. I'm completing my 22nd years as
10 mayor of Bakersville, North Carolina. I'm also the
11 county manager in Mitchell County.

12 I have two children. One works for the
13 State Bureau of Investigation, and my daughter is a
14 teacher here in Wake County who lives out Wakefield.

15 MR. TOOLE: My name is Bill Toole. I
16 live in Belmont, North Carolina, where I am finishing
17 my term as City Council Member there. I also have a
18 wife and daughter, who's in college, and I'm quite
19 proud of her. She's doing better than her dad ever
20 did.

21 I practice environmental law in Charlotte.
22 It's a corporate law firm, Robinson, Bradshaw &
23 Hinson, and from time to time have done some work like
24 this, and I'm looking forward to it. Thank you.

25 MR. MARTIN: My name is Johnny Martin. I

1 grew up about an hour east of here in a little town
2 called Princeton on a farm, and I have some tobacco
3 gum under my fingernails as well. But came up to N.C.
4 State and have stayed in the area for the last 20
5 years. I work for a civil engineering firm here in
6 town, which mainly specializes -- or what my career
7 has been in is in coastal issues with both coastal
8 protection as well as from a stormwater perspective.

9 MR. MARKHAM: Kevin Markham. I actually
10 was born out of state, but I'm a transplant. My
11 father was military. We ended up here and I've been
12 here for 30-some years -- actually, 40-some years now.

13 I'm a marine biologist by training. I've
14 worked for an environmental consulting firm. I have
15 been doing well and stream assessments, endangered
16 species work for going on -- actually, more than a
17 quarter century now. I've been on the board -- the
18 previous board for nine years, so hopefully I can
19 bring an historic perspective to that.

20 COURT REPORTER: Mr. Markham, I can't
21 hear you.

22 MR. MARKHAM: Thank you. I'll speak
23 louder.

24 CHAIRMAN KICKLER: So I'll turn time over
25 to the staff to introduce themselves.

1 MR. GOSSAGE: I'll go ahead and start. I'm
2 Bryan Gossage, and just to actually start, as I
3 mentioned, coming here from the Department of
4 Commerce, where I served as Deputy Secretary for most
5 of the last six months, and originally from
6 California, although my family is from North Carolina.
7 My grandfather is from Gatesville up in Gates County.
8 And my wife and I have two daughters and we've lived
9 here in North Carolina for about 14 years.

10 MS. MCGEE: I'm Beth McGee from Winston-
11 Salem, and I've been with the trust fund about 15
12 years. Before that I was with the former Division of
13 Water Quality. And I've got two teenage daughters and
14 four stepsons, who are grown and taller than I am.
15 But I'm just real pleased that you all are here, and
16 just welcome.

17 MS. ADAMS: I'm Penny Adams. I've been
18 with the trust fund just over five years, with the
19 State about 13, all the years within the department.
20 I've enjoyed my position as the Executive Assistant
21 and Acquisition Program Assistant since I've been
22 here. I serve as a point of contact for the Trustees,
23 for logistical reasons, and to communicate -- Bryan,
24 also communicates through me to them. And I have two
25 adult grown married children and one grandson that I'm

1 very, very proud of.

2 MR. MASSIE: I'm Tom Massie. I'm the
3 western field representative. I live in Sylva, North
4 Carolina, which is about 4 1/2 hours west of here.
5 I'm a native of Sylva. I've been -- I've spent my
6 entire career of 30-plus years in public service.
7 I've worked in the public university system, worked in
8 the Council of Government, worked in local government.
9 For the last 17-plus years I've been working for the
10 trust fund in Sylva.

11 Served in a variety of capacities. One of
12 the things that I bring to the trust fund is, number
13 one, knowing how local government works. I've worked
14 20 years as stormwater supervisor in Jackson County.
15 I've also been a county commissioner, so I have that
16 local government experience and that's what I have
17 traditionally brought to the trust fund.

18 MR. SUMMER: I'm Will Summer. I'm the
19 eastern field representative for the trust fund. I've
20 been here since 2008, so anything pretty much Raleigh
21 east, I'm the contact for that. Other
22 responsibilities, I maintain the website and do all
23 our GIS stuff, so if you need to talk about any
24 project in the eastern part of North Carolina or have
25 troubles with the website, please feel free to give me

1 a call.

2 My background is in forest hydrology by
3 training. I've worked for International Paper and the
4 North Carolina Forest Service doing water quality
5 research and buffer effectiveness, and that's kind of
6 the angle of what I bring to the table.

7 Although I don't use it often, I maintain my
8 registration as a registered forester in North
9 Carolina. And so when it comes up, if you want
10 someone to talk about forest management issues, you
11 can also give me a call. That's all. Welcome to the
12 trust fund.

13 MR. SCHUMAK: I'm Bern Schumak. I'm the
14 central field representative. I do everything that
15 Will doesn't do. So if they can't figure it out, just
16 send it to me.

17 I have been with the program about 16 or 17
18 years. I joined within a month or so of time when the
19 program was started.

20 My background is hydrogeology as far as
21 education. I grew up in Michigan on a small farm and
22 have been in North Carolina about 30 years, again,
23 with the trust fund about 16 years, and the balance of
24 that was doing private consulting from an environment
25 standpoint.

1 My wife and -- I have two kids. One is at
2 UNC studying environmental science, and then I have a
3 son that's still in high school. Thanks.

4 MS. GUTHRIE: Good morning. I'm Nancy
5 Guthrie. I'm in the Raleigh office, the acquisition
6 project manager, stewardship coordinator, and was
7 hired into that position as the water quality advisor.
8 I started with the fund about 11 years ago as a field
9 rep, so I've been out and seen the projects from the
10 start.

11 And my background is as a water quality
12 biologist, and I've literally been in hundreds of
13 streams across the state. I'm now really looking
14 forward to the fund bringing in the historical and the
15 cultural resources as well as the natural heritage and
16 looking upland at some of the additional sites that we
17 get to add now. Thank you.

18 MR. HORTON: Good morning. My name is
19 Larry Horton. I'm the infrastructure projects
20 manager, and I've been with the trust fund for about
21 seven years. I've been with the state government for
22 about -- off and on for about 17 years. I worked with
23 private consultants for about 23 years. My background
24 is I'm a professional engineer in civil and sanitary
25 engineering.

1 So I have three grown children, six
2 grandchildren. I was born in Raleigh. I've spent
3 most of time here in Raleigh. I think that covers it.

4 MR. FIPPS: Good morning. I'm
5 Christopher Fipps. I've been with the trust fund for
6 about eight years now. I'm the business officer, work
7 with the budget, the grants management and
8 disbursements process. I grew up in Wilmington.
9 Currently in Person County. And before coming to the
10 trust fund I worked in the land trust community of Tar
11 River Land Conservancy in business and operations
12 management there.

13 MS. MURRAY: Good morning. I'm Terri
14 Murray. I've been with the trust fund for six years
15 and a state employee for 20, and I love what I do
16 here. I work with the infrastructure program. I
17 support Larry and Christopher.

18 MS. LUCASSE: I'm Mary Lucasse. I'm an
19 attorney with the North Carolina Department of
20 Justice. I've been assigned to serve the Clean Water
21 Management Trust Fund since about 2011. I also serve
22 as commission consult to the Coastal Resources
23 Commission and the EMC at the moment, the
24 Environmental Management Commission.

25 I graduated from Maryland Law School. I

1 have practiced law in Maryland, Hawaii, and now North
2 Carolina since 2009. So I'm glad to be here. And I'm
3 a resource for you to use if you have questions about
4 conflicts of interest or anything else that might
5 relate to your work here on the board.

6 CHAIRMAN KICKLER: Is there anyone else?

7 (No response.)

8 CHAIRMAN KICKLER: Well, thank you.

9 Our next item is letter "H", "Revisions,
10 Additions and Adoption of the Agenda." Let me ask the
11 Trustees if there any corrections or if there are any
12 additions that need to be made to this agenda?

13 MR. GOSSAGE: We should have a copy of the
14 revised agenda in your blue folder.

15 CHAIRMAN KICKLER: I'll give you time to
16 look over it.

17 MR. GOSSAGE: Other than the changes that
18 we've already made and discussed, there are no further
19 additions or revisions from staff.

20 MR. VINES: Mr. Chairman, hearing none, I
21 make a motion that we approve the agenda as is -- or
22 adopt the agenda as is.

23 CHAIRMAN KICKLER: Is there a second?

24 MR. BRAGG: Second.

25 CHAIRMAN KICKLER: All those in favor say

1 aye.

2 TRUSTEES: Aye.

3 CHAIRMAN KICKLER: All those opposed say

4 no.

5 (No response.)

6 CHAIRMAN KICKLER: The ayes have it.

7 Moving on to the next item on the adopted
8 agenda, that is the attorney -- letter "F", "Attorney
9 General's Report."

10 MS. LUCASSE: I think --

11 CHAIRMAN KICKLER: I skipped one.

12 MS. LUCASSE: Yes, there's the adoption of
13 the past --

14 CHAIRMAN KICKLER: I need skip some. Thank
15 you.

16 Letter "I", "The Review and Approval of the
17 Transcripts of the June 2013 Meeting." Thank you for
18 alerting me of my oversight.

19 Yes, the transcript was included in the
20 packet that you received. Are there any corrections,
21 any changes that need to be made to the June 2013
22 transcript?

23 MR. TOOLE: Mr. Chairman, I'm not quite
24 sure how to make corrections to a transcript that was
25 of a meeting that I wasn't present at, but I did read

1 it, whatever that's worth.

2 MR. BRAGG: I move they be approved.

3 CHAIRMAN KICKLER: Is there a second?

4 MR. VINES: I second that.

5 CHAIRMAN KICKLER: All those in favor say
6 aye.

7 TRUSTEES: Aye.

8 CHAIRMAN KICKLER: All those opposed say
9 no.

10 (No response.)

11 CHAIRMAN KICKLER: The ayes have it.

12 Now we're moving on to the next item on the
13 agenda, which is the "Attorney General's Report."

14 MS. LUCASSE: I wanted to let you know that
15 right now we don't have any ongoing litigation, and
16 that's a very good thing. There has been litigation
17 that's come out of some of our grants in the past, but
18 right now there's nothing, so I'm more in an advisory
19 role.

20 I prepared a short PowerPoint that Terri's
21 going to help me walk my way through just to give us
22 an oversight on what we're doing in open meetings,
23 public records, conflicts of interest, and our
24 operating procedures. Next.

25 The first thing to remember is that the work

1 that you're doing here today and the service you're
2 providing is something that's done on behalf of all
3 the people in North Carolina. And under the North
4 Carolina General Statutes, it's the public policy of
5 North Carolina that everything we do be conducted
6 openly. That's why we're here today. That's why we
7 have people here that can watch us. That's why we
8 make a transcript, and that's really important. Next.

9 One way that this is served, in addition to
10 just doing it in an open meeting, is that the things
11 that we do create public records. And so the
12 counterpart to the open meeting law is that the
13 documents that we make, the discussions that we have
14 become part of the public record. Next.

15 So any time we have a meeting of a majority,
16 and that's just a simple majority under our bylaws,
17 that includes anybody who has been duly qualified to
18 serve. But under our bylaws in particular, it does
19 not include vacancies. So we were going to proceed,
20 even if we didn't have our three extra appointments,
21 but we're so glad that everybody is here and can join
22 us.

23 So we have an official meeting today. If we
24 were to have a majority of the commissioners meeting
25 at any other time, it would also be considered an open

1 -- a meeting of this board. And for that reason I
2 advise you all not to conduct meetings in the parking
3 lot, over coffee, by email. It's very important that
4 what we do be done in public.

5 So what happens these days is that people
6 often like to have discussions about issues in email
7 because it's so convenient. It can be done so
8 quickly. But I would just advise everybody to keep
9 the meetings in the meeting and not have side meetings
10 by emails, and so that's just a little practice
11 pointer for all of you. Next.

12 We will have notices of our meetings. Under
13 our bylaws we have seven days. We actually file the
14 notice of our meetings with the Secretary of State,
15 and staff helps to do that. There are provisions that
16 we can have special meetings if something comes up on
17 an emergency basis. And I can't even remember --
18 well, actually, last year did we have an instance with
19 an ongoing legislation that we had hoped to have a
20 special meeting, and then we can do that under 48
21 hours notice. But the staff works with us all to make
22 sure that we're in compliance with the requirements
23 for providing notice of doing that.

24 We also have the option, as you see today,
25 of having somebody participate by telephone. I have

1 to tell you it's not the best way to have a
2 conversation. So although we make it available and
3 it's something that we can do under the statute
4 regarding open meetings, it doesn't work very well if
5 we have call-ins from nine separate people because
6 it's hard to discuss. And we're glad that we can
7 offer it, and we welcome -- I don't know if our
8 Trustee is on the phone now. We're grateful when
9 circumstances prevent you from being here they can
10 participate. But we do want to make sure that there's
11 access and that everybody can hear. Next.

12 Another thing that happens in your meetings
13 is you deliberate, you have a little bit of practice
14 right now. If a motion is made, it's seconded, and
15 then there's time for discussion. That discussion is
16 kept on the record and then we vote. Under our bylaws
17 we do keep a record of who voted on what motion. We
18 also have the opportunity to go into closed session,
19 but under our General Statutes there are very, very
20 limited reasons why we do things in closed session
21 without an audience.

22 If you are curious you can go to the statute
23 that I cited there, 143-318.11. They kind of list
24 things down. In the past that's been when we've done
25 staff reviews or the executive director review because

1 this board, as it had been priorly set up by the
2 legislature, had included the hiring of the executive
3 director, so we've gone into closed session for those
4 personnel type issues. That's no longer part of the
5 responsibilities of the board. The executive director
6 is now by legislature handled through the secretary of
7 DENR. So that reason no longer exists for us to go
8 into closed session.

9 As I'm thinking out loud, probably, if we
10 ever have litigation again and you wanted to talk with
11 your attorney or advise your attorney about the
12 litigation, that would be a reason to go into closed
13 session. Other than that, everything we do is open to
14 the people of North Carolina. Next.

15 As I mentioned before public records are,
16 too. And I just would advise you to think about
17 whether you'd like to have an email that's dedicated
18 only to the work of this board, many commissioners do
19 that. And if right now you're getting emails about
20 Clean Water Management Trust Fund projects that come
21 to your business address or your home address, what
22 would happen is that, if there was a public records
23 request from somebody, the staff IT people would
24 probably have to copy that drive and then do a sort to
25 pull stuff out of your other email. And so it's

1 really much cleaner if you have a separate address
2 that's only Clean Water Management Trust Fund. And
3 then if there ever is a public records request, it's
4 already been segregated. We can pull it out and you
5 won't get your personal or business involved in that.
6 Next.

7 Any person, of course, has the right to
8 examine or obtain a copy of public records. We don't
9 get to say, "Hey, who are you? What do you want? Why
10 do you want it?" and then judge it. That is not
11 something that we a public records request. It's just
12 open to the people of North Carolina.

13 Any personal comments you would have about
14 Clean Water Management Trust Fund business in emails
15 would be part of the public record. I tell you this
16 just so you're aware of it. Discussions happen best
17 in these meetings, not in side meetings in email. Be
18 so warned. Next.

19 If we don't agree that something is a public
20 record, of course, we can defend that decision in
21 Superior Court. And if we lose, then there would be a
22 fee that shall be assessed against the agency. So I
23 have to tell you that we weigh this very carefully,
24 and the weighing and the balance usually falls into
25 something being public. And that's perfectly

1 compatible with our understanding that what we're
2 doing here is serving the people of North Carolina,
3 and we thank you all for doing that. Next.

4 Moving just to conflicts of interest, you've
5 already gone through the training. I'm not going to
6 repeat that. But to the extent, as you've seen
7 already in practice, if there is a conflict because of
8 ownership interest with a property, or business
9 interest, if you've ever worked on a project, or even
10 the appearance, we disclose that, and that allows the
11 board to do its work free of conflicts of interest.

12 If you ever have any question about whether
13 or not you have a conflict, I would just ask you to
14 raise it either with the Chairman or with me ahead of
15 time so we can think about this. There have been
16 situation in which it's not clear if there's a
17 conflict. And in those situations I think the best
18 practice is to raise the question and submit to the
19 Ethics Commission. They can provide either a formal
20 or informal opinion, which will be your protection as
21 you move forward, and also your guide. And so there
22 are different levels of identifying conflicts and
23 dealing with problems, and that's something that we
24 can work on together. Next.

25 The only time that this might come up, since

1 this is not a board that has many quasi-judicial
2 responsibilities -- you don't hear final agency
3 decisions and so forth -- but there is a provision
4 under our rules to do rule making. We haven't done it
5 before, but I just bring that up that we might choose
6 to do that in the future, and if we do, we'll have to
7 think about how that might work with our Trustees.

8 Next.

9 Turning next to your bylaws, and that was
10 all provided to you in the packet, the first thing I
11 wanted to mention to you is that these might need to
12 be revised. And I think that's on the agenda and
13 you'll be looking at that later. They've been in
14 effect without revisions since 2000. They include the
15 business about how we provide notice. That's in the
16 bylaws. If you look at Page 3 of the operating
17 procedures, they give us the order of business. They
18 also include different standing committees, which with
19 our new legislature will probably be changing. They
20 could change for practical or reasons of efficiency as
21 well.

22 In addition, the operating procedures
23 incorporate Robert's Rules of Order. I don't know if
24 any of you are familiar with that from your work on
25 other commissions, but if there's some business that

1 hasn't been addressed in the operating procedures,
2 like how to do a motion, how to revise a motion, how
3 to get a quorum, how to identify what to do when you
4 don't have a quorum, Robert's Rules are where we go to
5 get the answer to that, and they're very detailed.
6 And, in fact, I have a copy in my briefcase. I
7 usually put it out here, but I haven't gotten to it
8 yet.

9 So what I do note, too, is that the
10 commission structure for this trust is set up with a
11 chairman appointed by the Governor. There is no
12 provision in our bylaws to make a vice-chair. In the
13 past, if we have had a vice-chairperson, they've been
14 appointment if the chairman couldn't be here. That
15 would be something for you to consider if you want to
16 have that in your bylaws or if that procedure worked
17 fine before. And those kinds of things are just all
18 about how do we run our meetings. Next.

19 I think I've covered those. Next.

20 As you know, for people appointed by the
21 Governor, there is an additional attendance
22 requirement that's included in Executive Order 34.
23 Next.

24 By job here is really just to help you. And
25 so I just advise you to give me a call. I have given

1 some people my cards. I'll get more at the break.
2 Thank you all.

3 CHAIRMAN KICKLER: Okay. Thank you.

4 Are there any questions?

5 MR. TOOLE: Yes. Ms. Lucasse, could you
6 tell us a little bit more about the type of litigation
7 you've seen in the past that we don't have right now?

8 MS. LUCASSE: I have not handled
9 litigation. I've been working with the board since
10 2011. Before my time, Fred Cromley, who's now
11 retired, had been commission counsel.

12 He had carried over an easement enforcement.
13 We do a lot of conservation easements. If the person
14 who has the conservation easement does not maintain
15 all the requirements of the conservation easement, we
16 can sue to get them to enforce, and often do that,
17 along with the steward -- whoever holds the
18 stewardship contract, who has actually been out there
19 and looked at the violations, we can do that together.
20 That's the one that I can think of most often.

21 MR. TOOLE: And the other question, as I
22 was reading the transcript, there are references to
23 meetings that -- committee meetings that occurred
24 previously. And I was wondering, is there a mechanism
25 to develop minutes or to transcribe those committee

1 meetings? Clearly, this meeting is --

2 MS. LUCASSE: There have not been in the
3 past. That's something that is good for this board to
4 think about. That could be included in the bylaws or
5 it could be something that the chairman decides. In
6 the past we have not recorded our committee meetings
7 or kept minutes for them. In fact, our committees
8 have not had their own operating procedures, which is
9 something that we could develop as well.

10 MR. GOSSAGE: That was a conversation that
11 I had with staff last week, so that is an ongoing
12 discussion.

13 MR. TOOLE: And just -- and I'll know
14 we'll jump into it -- but the numbers on a committee
15 is less than five, or we don't know?

16 MS. LUCASSE: We have a different number
17 now, so our structure is changing.

18 MR. GOSSAGE: Not yet. That's coming up --
19 that conversation is coming up on the agenda next,
20 probably.

21 MR. TOOLE: Thank you.

22 CHAIRMAN KICKLER: Are there any other
23 questions for Ms. Lucasse?

24 MS. LUCASSE: I guess I would jump in, too,
25 on the committees, they are appointed by the chair, so

1 that is something we'll talk about more later.

2 Thank you all. I look forward to working
3 with you.

4 CHAIRMAN KICKLER: Okay. That brings us to
5 the next item of business, if there are no other
6 questions, and that is pertaining to the Board of
7 Trustees structure.

8 As you know, the board number has changed
9 from 21 to nine. That's a significant difference.
10 The mission of the board is different so, from my
11 understanding, some of the committees no longer need
12 to exist because they do not fulfil the mission of
13 Clean Water, and then maybe possibly there might be a
14 necessity for new committees or maybe sub-category of
15 committees, of an overall committee to be added.

16 So before I proceed any further with my
17 thoughts -- I've put you on the spot, Beth -- if you
18 could tell the Trustees a little more about past
19 committee structure and maybe some about the Advisory
20 Council as well.

21 MS. MCGEE: If you look in your packet,
22 if you haven't found it, N-1, and that's the list of
23 standing committees that we had as of June 2013. And
24 we had 21 trustees, so it was a little different. But
25 we had three funding committees. And we just have a

1 different mix of projects, so we had some committees
2 that you all will not need. We had an Acquisition
3 Committee, which reviewed the land acquisition
4 applications. We had an Infrastructure/Wastewater
5 Committee, we will -- you all will not be funding
6 wastewater projects anymore. Then we had Stream
7 Restoration/Stormwater/Greenways Committee, and you
8 all will not be funding stormwater anymore. But we
9 will be funding acquisition, restoration and
10 greenways. And each Trustee served on one of those
11 committees, so we had seven in each.

12 Then they also served on one of two other
13 committees. We had an Administrative Committee and a
14 Program Committee, and they served on one of those,
15 the Administrative Committee, the personnel, budget
16 issues and internal affairs. The Personnel and Budget
17 Committees may not -- will probably not be needed.
18 Session Law 2013-360, when they moved the Clean Water
19 Management Trust Fund to staff from the independent
20 agency into DENR, now all of the administrative
21 functions are run by DENR.

22 So it used to be that the board approved the
23 administrative budget, and they approved staffing
24 decisions -- different staffing decisions as they came
25 up through the executive director. So those will all

1 be done by DENR, so I don't think you all are going to
2 need a Personnel Committee or a Budget Committee.

3 The other big committee was the Program
4 Committee, and they looked at grant criteria and then
5 stewardship and our stewardship endowment issues, and
6 I think both of those will be needed because those
7 were still active. They will be -- especially the
8 grant criteria will be a very active committee in the
9 next few months.

10 So I think you'll need the Funding
11 Committee, if you all chose to have committees, and
12 then the grant criteria and stewardship. And I don't
13 know about the internal affairs. Mary, you might have
14 thoughts on that.

15 MS. LUCASSE: I have not seen that used
16 since 2011, since I've been here. And I would just
17 ask the Trustees who have been here longer, have you
18 seen that used, the Internal Affairs Committee?

19 MS. MCGEE: They may have done --
20 spearheaded the bylaws record in 2000.

21 MR. MARKHAM: I think it preceded me.

22 MS. MCGEE: Yeah, it's been a while. I
23 think they were active -- the long-range planning, we
24 had an effort in the early 2000, 2002 maybe in the
25 bylaws. I think they spent time on those.

1 MS. LUCASSE: Now that the commission, the
2 Trustees are such a different number fewer, it might
3 be -- and because we're all starting now, it might be
4 worthwhile to work together as a committee as a whole
5 to make any kinds of long-range planning or bylaw
6 changes. I just offer that as a suggestion.

7 CHAIRMAN KICKLER: Is there any discussion
8 regarding previous committee structure, and if anyone
9 has any ideas about maintaining that committee
10 structure or revising it or changing it?

11 MR. TOOLE: I expect that we, in the
12 bylaws, created the opportunity to create ad hoc
13 committees as need arises, is that clear?

14 MS. LUCASSE: That's correct.

15 MR. TOOLE: So to the extent that we had
16 a need to have a bylaw committee, you could set it up
17 and disband it once we're done. It doesn't sound like
18 there's a real need for an internal affairs. I
19 thought that was investigations of corruption.

20 CHAIRMAN KICKLER: I think we have -- we do
21 have the ability to create a special committee for a
22 temporary amount of time for a specific purpose.

23 MS. LUCASSE: Yes. If you look at Page 4
24 of 5, it actually calls it out, "The Board may
25 establish special committees as may be necessary from

1 time to time."

2 MR. TOOLE: Well, then it strikes me --
3 we've only got nine people, and we're going to be
4 spread thin as it is. And to get a good committee you
5 can argue about how many people you want, but you're
6 probably going to want somewhere between three and
7 five. And the moment you hit five, then it's a public
8 meeting; less than that, it's complicated just to get
9 the thinking done. The less committees that we have
10 standing, I think the better off we'll be.

11 CHAIRMAN KICKLER: Okay.

12 MR. BRAGG: You know, the way it was
13 structured before, the committees met in the presence
14 of other members who were not on the committee. So we
15 were all informed about what was happening. So I'm
16 coming around to say that maybe we should try, as a
17 group, running all the committees and let us all be
18 part of it. Because quite honestly, I wanted to be --
19 you know, I wanted to speak to issues while those
20 committees were meeting anyway. So I think if we try
21 to do it that way, and if we hit a snag, we can form
22 an ad hoc committee to deal with it. Maybe that's
23 worth a try. Kevin, I believe me and you to be in the
24 same canal here.

25 MR. MARKHAM: I think so. In the past most

1 of the Trustees would show up for the other committee
2 meetings, and they were typically held on a Sunday,
3 and the board meeting maybe the whole on Monday, but
4 the committee meetings were back to back through the
5 course of Sunday, so most of the Trustees sat in on
6 all the committee meetings, as Frank said. It was
7 just to go ahead and get -- offer some input along the
8 way.

9 I agree, I think it's going to be -- we're
10 too small in numbers to really have effective
11 committees. I think the only place it may make a
12 difference is on the funding committees, if we choose
13 to do that. Some Trustees would agree to all of the
14 grant applications and all the information, but other
15 would focus in on those that their committee was
16 handling. And it is, and can be a large number of
17 grant applications.

18 But if you haven't had the privilege of
19 seeing a grant cycle in full, not the disk, but the
20 actual volumes and volumes -- they arrive in two to
21 three boxes, if you get paper copies, and that's
22 before we look at Natural Heritage applications. So
23 it can be a tremendous amount of work if the committee
24 -- the funding is only a single vehicle of the whole,
25 so that may be something they may want to consider, is

1 splitting some of that.

2 CHAIRMAN KICKLER: I was wondering whether
3 it might be beneficial at this time to form a special
4 committee, maybe three of the current Trustees to --
5 to explore the committee structure, make
6 recommendations for the next meeting that, in fact, we
7 have, and was wondering if it might be beneficial to
8 have a member -- old Clean Water appointments and new
9 -- I mean, we're all Clean Water appointments, but
10 from the previous board, old Clean Water from the
11 previous board, one from the new -- a new Clean Water
12 appointment, and then maybe one that was on the
13 Natural Heritage Trust Fund since there's been a
14 merger of mission of Clean Water. And then there are
15 some missions that have been removed from Clean Water.
16 Are there any discussions regarding that idea, or
17 maybe you have another idea?

18 MR. TOOLE: I'll move that.

19 CHAIRMAN KICKLER: Okay. We have a motion
20 that a special committee, three members, be
21 established, and it would exist -- it would exist from
22 this meeting until the next meeting, which we will
23 decide at that date the future and the purpose of that
24 committee is to examine the past committee structure,
25 think about ideas for the new committee structure, and

1 even if a committee structure is needed or if we need
2 another committee. Is there a second to that?

3 MR. MARKHAM: I'll second that.

4 MR. GOSSAGE: Did you want to solicit
5 volunteers for that or did you want to choose the
6 appointments --

7 MR. TOOLE: In my motion it's up to the
8 Chairman to make appointments and he can collect them
9 any way he wishes.

10 MR. MARKHAM: And my second understood
11 that.

12 CHAIRMAN KICKLER: The second motion
13 understood that. Okay. All those in favor of the
14 motion say aye.

15 TRUSTEES: Aye.

16 CHAIRMAN KICKLER: All those opposed say
17 no.

18 (No response.)

19 CHAIRMAN KICKLER: The ayes have it.
20 The old Clean Water appointments, that would
21 be Trustee Markham. Are there any volunteers?

22 MR. MARKHAM: Frank and Charles were also
23 old Trustees.

24 CHAIRMAN KICKLER: Okay.

25 MR. VINES: I'll volunteer for that

1 unless you want someone else.

2 CHAIRMAN KICKLER: Okay. Trustee Vines.

3 MS. HACKNEY: I'm new. I don't mind doing
4 it either.

5 CHAIRMAN KICKLER: Okay. Trustee Hackney
6 for the Clean Water Management Trust Fund, that would
7 me or -- Greer, are you on the line?

8 (No response.)

9 CHAIRMAN KICKLER: That would be me. Okay.
10 I appoint myself.

11 MR. TOOLE: Just so I can write this
12 down, the committee members are Chairman Kickler,
13 Hackney and Vines.

14 CHAIRMAN KICKLER: Just to be clear --

15 (Chairman Kickler confers with Ms. Lucasse.)

16 CHAIRMAN KICKLER: Okay. We'll coordinate
17 later. Are there any other questions about item --
18 letter "N"?

19 MS. LUCASSE: Beth, I would just ask if
20 there's anything else you wanted to add about the
21 Advisory Council?

22 MS. MCGEE: The Advisory Council, there
23 is a summary of that in N-2. It's also in the statute
24 -- our statute that was not -- that section was not
25 changed in the Session Law. And this write-up here

1 was from this long-range planning effort in 2003 where
2 the board came up with their expectations for the
3 Advisory Committee -- Advisory Council members, and
4 they are a member from the Department of Commerce,
5 Department of Environment Resources, Agriculture and
6 Wildlife Resources Commission.

7 This group has been, at least from what I
8 can remember, more active in the early days. But it
9 is something that you all may want to think about
10 reviving that group. And as we -- you know, as we
11 move through our process, it may become clearer what
12 you may -- how you may want this group to interact
13 with the Trustees and the board.

14 But, in general, they are supposed to review
15 our grant proposals. They have come to -- it used to
16 be they always came to our meetings and provided input
17 and comments during the meeting, especially in the
18 early days. But they weren't -- you know, they have
19 contacts with the field representatives and provide
20 feedback. But you all can just look at that at your
21 leisure and maybe take it up at a later date.

22 But we are -- it is a little bit different
23 because we are in DENR now, and this used to be an
24 independent agency. So this is our connection to
25 these other agencies that -- commerce, you know, for

1 wastewater projects, stormwater, wildlife resources,
2 for land acquisition that our projects might have --
3 be of interest to them. So it's a bit different, but
4 it's still under the statute. So I would just think
5 about it and talk about it at a later date. It's just
6 really for your information now.

7 MR. TOOLE: Thank you for that
8 explanation because I was trying to grasp who was on
9 that.

10 In the past has that been driven by staff
11 here convening the meeting and asking for the resource
12 agencies to participate, or has it been driven by
13 members of the Advisory Committee?

14 MS. MCGEE: Well, they always get a copy
15 of our agenda in a package, and they're always invited
16 to the meeting. And then they just -- they come and
17 they'll share comments. You know, there was an
18 initial participation. And then I think at one point
19 they would try to get more input, but it just -- it's
20 just really -- I think what you all want that to be,
21 an invitation, you know, to -- you know, as you all
22 are revising or reforming this board, you may want to
23 -- there may ways for them to participate and have an
24 input into some of the direction since it is different
25 now.

1 MR. TOOLE: Do you view it more as a
2 consensus building exercise, or is it an opportunity
3 to get resources from the different agencies that can
4 help guide us in our thinking?

5 MS. MCGEE: I think it was the former, I
6 believe is how it was used.

7 CHAIRMAN KICKLER: Are there any members
8 from the Advisory Council in attendance today that
9 might be able to speak?

10 MR. LARICK: My name is Keith Larick with
11 the North Carolina Department of Agriculture. I'm
12 actually as new to the Department of Agriculture as
13 some of you are to this board.

14 Typically, the department would be
15 represented by Dewitt Hardee, who is director of the
16 Agriculture Development and Farmland Preservation
17 Trust Fund for the Department of Agriculture. So this
18 activity definitely fits more in his wheelhouse than
19 mine. I'm over the Environmental Programs Department.
20 I'm just sitting in for him today. So, typically, he
21 will be at these meetings, and I think he has come to
22 these meetings in the past and is certainly willing to
23 answer questions.

24 MR. TOOLE: Would it be valuable, do you
25 think, to the department to advise the Advisory

1 Committee and be more actively engaged, or do you
2 know? I mean, it's not like you need another meeting,
3 I know.

4 MR. LARICK: Well, I would think that the
5 Department of Agriculture through the Forest Service
6 and the Division of Stormwater Conservation and the
7 ADFD program has quite a few easements out there. And
8 I think it would certainly be -- you know, the
9 Department of Agriculture would certainly be willing
10 to serve on an Advisory Council.

11 MR. TOOLE: I guess the question in my
12 mind is how does the Advisory Council vary from -- an
13 application comes in that would be a farmland
14 preservation project, I would fully expect that you
15 all would be engaged at that point on the project.

16 MR. LARICK: Correct.

17 MR. TOOLE: And so how would the advisory
18 structure be different or more augment the whole
19 process?

20 MS. LUCASSE: I think one of the ways that
21 I've seen it used is we had concerns about easements
22 -- and I'm trying to remember, Beth, if you had
23 participated in that meeting that we had or any --
24 were you there when we met with different
25 representatives from commerce and agriculture and

1 talked about what should an easement look like and
2 what language should we all be using in our easement
3 contracts, and were there some things that we could
4 learn from each other? And we have not completed that
5 exercise, but there was a recognition that each of
6 these different departments of the state had similar
7 interest and needed and wanted to be consistent with
8 each other and to learn from each other.

9 MS. GUTHRIE: And that was started at staff
10 level. Realizing among the different department, as
11 we know each other from our years working, we did feel
12 like there needed to be some common language and
13 common enforcement. I think you all can define this
14 Advisory Committee and have it more formal because in
15 the past it has been more these are contacts in other
16 agencies that we can go to as need arose, but it was
17 not a formal way to gather information from them.

18 MS. MCGEE: I will read what the statute
19 says. It's in 113A-259, "There is established the
20 Clean Water Management Trust Fund Advisory Council.
21 The Council shall advise the Trustees with regard to
22 allocations made from the fund, and other issues as
23 requested by the Trustees," and then it just lists the
24 agencies.

25 CHAIRMAN KICKLER: Is there any other

1 discussion?

2 MR. TOOLE: So would that be part of the
3 charge of the standing -- or the ad hoc committee or
4 committees to figure out how the advisory structure
5 might be --

6 CHAIRMAN KICKLER: Well, we can add that to
7 it, I would imagine. Is that a motion?

8 MR. TOOLE: That's a motion.

9 CHAIRMAN KICKLER: Is there a second?

10 MS. HACKNEY: Second.

11 CHAIRMAN KICKLER: All those in favor say
12 aye.

13 TRUSTEES: Aye.

14 CHAIRMAN KICKLER: All those opposed?

15 (No response.)

16 CHAIRMAN KICKLER: The ayes have it.

17 The Advisory Council reflects -- all
18 reflects the current mission of the Clean Water
19 Management Trust Fund because there may be more
20 departments that need to be added.

21 MR. GOSSAGE: Mr. Chairman, before we go on
22 to the next agenda item, if I could just remind
23 everyone that we have a court reporter here today and
24 she taking the notes -- the transcript, the minutes
25 for the meeting. So if everyone could speak loudly

1 enough that she could hear you, that would make her
2 job and her day easier. Thank you.

3 CHAIRMAN KICKLER: Okay. Moving on we will
4 go to agenda item -- apparently "G" comes after "N" --
5 agenda item G, "Other Administrative Items." I'll
6 turn that time over to Beth and Penny.

7 MS. MCGEE: The first one is G-1, "Roles
8 and Responsibilities of Trustees," and this was
9 another output from this long-range planning process
10 in September 2002. And this -- and this was really
11 for your reading, and you can always act on it later.
12 It was just really meant right now for information.
13 But it just lays out the profile of a successful
14 Trustee and then the roles and responsibilities, the
15 individual and group responsibilities.

16 There are some things in this write-up that
17 will not apply anymore, mainly overseeing staffing
18 decisions and the administrative budget, those for
19 sure do not apply anymore. But I think this is
20 something that, as you all move through the process,
21 you can look at this and circle back to it later.

22 A lot of things in the board packet are
23 really just to provide you with where we were as a
24 starting point, and then you all can make it your own.

25 CHAIRMAN KICKLER: Is there any discussion

1 regarding that?

2 MR. BRAGG: So maybe the committee can
3 have another job to revise this because it does need
4 to be revised.

5 CHAIRMAN KICKLER: Are you making a motion?

6 MR. BRAGG: Probably not.

7 MS. LUCASSE: I would just recommend, too,
8 that I think the committee is being charged with
9 coming up with ideas and recommendations. At the next
10 board meeting the board will make a decision about
11 whether to accept the recommendations or do something
12 slightly different. At that point we'll know what we
13 have to revise, which will include the bylaws, and
14 perhaps these, and so that could be a separate process
15 to revise all our documents. And, in fact, that is
16 one role that, if I have direction from the board, I
17 can do that or staff can do that and bring it back to
18 you with the revisions based on your direction.

19 So I don't think we need to give this to the
20 committee.

21 MR. BRAGG: I withdraw that partial
22 motion I tried to make and maybe just let the staff
23 address that.

24 MS. LUCASSE: Yes.

25 MR. GOSSAGE: We'd be happy to do that.

1 CHAIRMAN KICKLER: So just for the record
2 there's a motion to do what?

3 MR. TOOLE: No, there's no motion. It's
4 withdrawn.

5 CHAIRMAN KICKLER: It's withdrawn. Okay.

6 MR. TOOLE: You've got less to do now.

7 MS. LUCASSE: And I'm just saying that
8 that's support that the staff and attorney can
9 provide. As long as we have direction on what you
10 want it to look like, we can make the documents with
11 that and bring it back to you for review and approval.

12 CHAIRMAN KICKLER: Any other questions?

13 (No response.)

14 CHAIRMAN KICKLER: We'll move on to "Trustee
15 Expenses."

16 MS. ADAMS: Again, my name is Penny
17 Adams, and I'll be your contact for the administrative
18 part of the trust fund. Contact me with any kind of
19 logistical questions, and I will be communicating with
20 you throughout your term of service, what Bryan wants
21 to communicate.

22 Or, specifically, tomorrow you will receive
23 an email from me, and attached to it will be a travel
24 reimbursement form. This is different from what our
25 former Trustees will remember, but it will be a travel

1 reimbursement form.

2 Included in your little blue packet on your
3 desk you had -- it's a sheet that had like
4 instructions, and also you had a sheet for the direct
5 deposit form. When you get my email tomorrow, it's
6 going to spell out the kinds of things that you need
7 to make sure that you included on that form.

8 At the top left on the form it asks for your
9 Social Security number, and I will only need that one
10 time. After that I will only be using the last four
11 digits. I just wanted you to know that ahead of time
12 because that has caused people concern in the past,
13 but I do need your whole social the very first time
14 you fill that form out.

15 For Trustees, on the day of the meeting you
16 receive a \$15 reimbursement. I will have that already
17 filled out on the form. I will also have your mileage
18 already filled out on the form, and how I get your
19 mileage is from your home address to here and back.
20 If you have any discrepancy with that, feel free to
21 just mark it out and put what your mileage should
22 actually be and we can work from that number.

23 You will receive .25 a mile for the day of
24 travel. If you are out of town and have to come in
25 the day before, you will receive reimbursement for

1 that also, as long as we know that you were
2 travelling.

3 How reimbursement for meals go, if you -- if
4 there are no meals provided during a day of the
5 meeting, like today, you will receive a lump sum of
6 \$37.30 for your meals for today. Today will be
7 different because we are providing lunch. So it will
8 be the \$37.30 minus the meal amount, and that will
9 already be included also on your reimbursement form.

10 And I know this sounds really confusing, but
11 I'm going to attach a sample completed form to your
12 email that you'll receive. I do need you to -- when
13 you leave the parking lot today, you will be given a
14 receipt for your parking. It will need to be attached
15 to the form.

16 Once you complete the blank spots of the
17 form -- hopefully I will have them highlighted so it
18 will make it clear -- I need you to sign it and return
19 the original to me along with your parking receipt,
20 and then it will be processed.

21 In the meantime, if you'll fill out the
22 direct deposit form that will also be attached to that
23 email, that -- when you get reimbursed, it will go
24 directly into the account that you've indicated on the
25 reimbursement form.

1 The blue folder that is on your desk, if you
2 all will leave them there at the end of the meeting,
3 that will be good. Every time we meet I'll have
4 things that will be in that blue folder, either from
5 me or from some other person that needs an updated
6 version for the meeting. So those could be just left
7 and we will collect those.

8 And hotel, if you stay overnight and you've
9 requested a room from me in advance, I can just put it
10 on our agency purchasing card and you don't have to
11 pay for it. If you get a hotel room on your own, just
12 include that receipt with the reimbursement form and
13 you will be reimbursed for that.

14 Christopher, can you think of anything I may
15 have left out?

16 MR. FIPPS: Just on that hotel, if they
17 do find themselves in a position of having to reserve
18 your own hotel, you would be reimbursed up to the
19 state rate, which is \$65 and change, I believe.

20 MS. ADAMS: Yes, it's not much.

21 MR. FIPPS: So you would submit your
22 receipt, but it would be up the state's allowed per
23 diem rate for the hotel room.

24 MS. ADAMS: Right.

25 MR. FIPPS: And booking through Penny

1 ensures that state rate for the hotel room.

2 MS. ADAMS: Yes. Does anybody have any
3 questions? Once you get the email tomorrow you may
4 have questions. Feel free to contact me and I will
5 try to make it just as clear as possible with
6 highlighted areas. After the first time it will be
7 just a breeze, so thank you.

8 CHAIRMAN KICKLER: Okay. Thank you, Penny.
9 Well, if there are no other questions, we'll
10 move on to the next item, which is letter "M", "Grant
11 Contract Management Process," and speaking to us today
12 will be Christopher Fipps, Terri Murray and Will
13 Summer.

14 MR. FIPPS: Thank you, Mr. Chairman.

15 Again, I'm Christopher Fipps, business
16 officer with the trust fund. We just wanted to give
17 you a bit of an overview about how the grant contracts
18 are managed. Once you all make the awards there is a
19 process then that staff goes through to actually
20 manage those through contracts with the recipients of
21 those awards.

22 Once an award is made by the Trustees staff
23 works with the grantees to contract the award with an
24 accurate scope of work and budget that the board
25 approved, and that is really to ensure that the

1 project is implemented as intended by the Trustees
2 throughout the life of the grant.

3 Once the contracts are then signed by the
4 grantees and the board chair, they are sent to the
5 department's purchasing office and encumbered in the
6 state's purchasing system. Then, as stated, Clean
7 Water staff will implement a thorough grant management
8 and monitoring process during the life of the award,
9 again to ensure that the taxpayers' dollars are spent
10 in accordance with the intent of both the Clean Water
11 legislation and the board action. And it helps the
12 grant recipient stay in compliance with the state
13 grant requirements and their contract and communicate
14 with the grant recipients a lot during the process so
15 that they understand how to effectively administer
16 their contract.

17 At the outset we provide training and
18 reference tools to the grantees with their contract
19 and also reference them online where we've drafted
20 documents that help walk them through the
21 administration of the grant process, how to seek
22 disbursement of the grant funds, and how to deal with
23 changes along the way if they have changes they would
24 like to pose.

25 For new grantees what we try to do -- we

1 typically have a lot of grant recipients that are
2 repeat customers, so to speak, over time, the land
3 trusts that they get, grants over a period of time.
4 If we have a new grant recipient that has not had a
5 grant before, we try to have a kick-off conference
6 call with them so that staff can actually speak with
7 them, go through the contract again, the expectations
8 and the general process, just so they get started off
9 on a good note.

10 Progress reports are then due to staff every
11 three months so that everyone is aware of what's going
12 on and the progress that's being made and can answer
13 questions and concerns throughout the project.

14 Then of big interest to the grant recipient,
15 obviously, is the reimbursements process. The funds
16 are disbursed through reimbursements, so only as work
17 has been done and they have incurred the costs, then
18 grant funds can be released. Staff has internal check
19 lists that are delineated by staff responsibility from
20 an administrative and invoice review side. Terri
21 working on infrastructure projects and Penny helping
22 out with acquisition program projects, and then some
23 review by the project managers and the more technical
24 side with Larry on infrastructure and Nancy on the
25 acquisition program.

1 And it really acts as an internal control
2 that everything is being looked at the same way each
3 time, and that everything is being looked at that
4 needs to be looked. And that information is provided
5 at the outset with the grant recipients and they
6 really understand what staff will be reviewing when
7 they send in their reimbursement requests.

8 Basically, we need all substantiating
9 invoices for the total project cost, Clean Water and
10 matched funded portions so that Clean Water knows it's
11 paying its fair share of the total project cost as
12 originally committed to, and that they are leveraging
13 their full matching funds.

14 The eligibility of expenses is reviewed and
15 compared to make sure it lines up with the budgeted
16 line items and that occurred after the award date when
17 the Trustees made the award. Any sales tax that the
18 grant recipient is exempt from paying or would be
19 receiving back as a refund is not eligible as cost and
20 not reimbursed. And progress reports are reviewed to
21 make sure that the progress of the project makes sense
22 with the level of spending that they're currently at.

23 And toward the end of the project retainage
24 is withheld, and that will be discussed a little bit
25 later, until the final report is submitted and the

1 project is complete.

2 And I want to give Terri an opportunity here
3 to jump in and just kind of briefly go over how she
4 actually works in-depth with the grant recipients on
5 some of the invoice review process.

6 MS. MURRAY: What I do is -- primarily,
7 I'm the first contact that the grantees have, so I'm
8 making sure that they get their forms that they need
9 to do the progress reports and to request
10 reimbursements. Then once they've got that done, then
11 they start sending in requests. And I actually will
12 take the request and review every document that they
13 send in, like Christopher said, is it within the time
14 period of the grant, is it for this grant, is it to
15 the grantee, the basic things.

16 I work either with whoever the grantee is or
17 whoever they tell me to work with. Their engineer a
18 lot of times will be my first contact. I also help
19 them with the pre-disbursement documents, which
20 sometimes can be a little tricky for them, especially
21 if they're new.

22 Then I also make sure that their sending in
23 backup for what we're going to be paying them, and I
24 also review the match. A progress report has to be
25 included or no funds are disbursed, so I'm working

1 constantly back and forth with the grantees on that.

2 And then in between that I'm following up
3 with grantees on progress reports. So if they're not
4 sending in a request for reimbursement, then we're
5 expecting a progress report quarterly, and we've got a
6 tracking device in place. About every three months we
7 follow back up and we'll contact them primarily by
8 email or by phone and let them know that, "Hey, what's
9 up? Give us a call. Send us our progress report and
10 let us know what's going on."

11 Then I also follow up with end dates, with
12 the expirations of their grants. I wanted to make
13 sure that they don't expire and the project's not
14 done. That's not what we want to happen. So we're
15 constantly in contact with the grantee from start to
16 finish. And I'm usually the first person that they
17 will deal with and probably the most until they get
18 into specifics of what the scope of work is, and then
19 I turn it over to Larry. So that's primarily what I
20 do.

21 MR. FIPPS: Thanks, Terri. And, again,
22 Terri is working on the infrastructure side of things,
23 contracts, and, again, that's mirrored basically -- a
24 similar operation with Penny and then Nancy on the
25 acquisition program.

1 In addition, as requests for changes come in
2 from the grant recipients that they are looking to
3 request a change to their budget or their scope of
4 work, the level of matching funds that they have in
5 the project, we do have a process to handle those --
6 review of such requests and their was a decision
7 matrix that was drawn up by the previous board that
8 we'll go over a little bit later as a way to sort of
9 evaluate and handle the level of decision making on
10 those requests, either at the staff or board level
11 depending on the type of request and the size of the
12 request.

13 And, again, during the life of the grant, as
14 grantees have questions or concerns that arise, staff
15 helps to resolve those questions. We have conference
16 calls as needed. If the folks need to get back out
17 into the field to have follow-up site visits, the
18 field reps would be the first out in the field to meet
19 with the grant recipient. And then also any Raleigh
20 staff, like Larry or Nancy, if they need to also go
21 out, too, they can certainly do that as well to really
22 help answer questions and bring resolution to any
23 problems that arise on the projects.

24 And now one of our field reps, Will, is
25 going to talk a little bit about site -- pre-closeout

1 site visits that the field reps have been performing
2 on infrastructure projects.

3 MR. SUMMER: Thank you, Christopher.

4 For projects that have a construction
5 component, we generally keep in touch with the grantee
6 via email, phone call. Sometimes we stop by when
7 we're in the neighborhood. Or on the larger projects
8 your engineers, contractors and the client will have a
9 monthly meeting to see about the progress, and we'll
10 sit in on those to see how things are going and
11 generally keep in touch with the project.

12 And as the project nears completion we'll
13 schedule a site visit, closeout visit. These happen
14 all throughout the year. It's a rolling schedule.
15 And since the final payment is held up on our getting
16 these visits completed, we usually try to schedule
17 them pretty quickly when they come up.

18 Historically we perform these on stormwater,
19 restoration and wastewater type projects. Many of
20 these projects had been funded prior to the recent
21 legislation and are active. Going forward we'll
22 probably only have these on restoration projects or
23 innovative stormwater type projects.

24 So what we do is we meet on-site with the
25 applicant and someone able to answer any technical

1 questions, that might be usually the engineer, and we
2 walk through the project. We want to know how it's
3 functioning, if it's expected to meet the water
4 quality goals that were projected, what problems, if
5 any, were encountered that we can avoid in the future.

6 And it's also an opportunity for us to check
7 in with the applicant and get some feedback on our
8 process and let them -- have them let us know where
9 along the point we could do better in the future and
10 we can hear them better and modify our actions going
11 forward.

12 We complete a brief form, take photos of the
13 problem. But most importantly we're there to compare
14 the finished project as it sits on the ground with
15 your expectations as the board. As the folks who
16 visit the site initially and represent the project to
17 the board, I think it's important that we get back out
18 there close to when the project's done, and this is
19 one of the final steps of many that we take to ensure
20 the integrity of the work that's done on your behalf
21 on the ground. That will wrap it up. Any questions?

22 MR. TOOLE: Out of curiosity, as the
23 infrastructure projects -- how quickly do you expect
24 all those infrastructure projects that we no longer
25 fund to -- what's entailed with those? When are they

1 going to end?

2 MR. SUMMER: Maybe Larry may be better to
3 answer that question. He's definitely got some
4 winding down now, some contracts that go well into
5 '14.

6 MR. HORTON: I'm going to have a hard time
7 giving you much specifics on that.

8 MR. TOOLE: Just roughly.

9 MR. HORTON: Well, we're talking in terms of
10 years and not in terms of months. So just as kind of
11 an idea of where we are, we have 37 open contracts on
12 wastewater projects now. And the stormwater and
13 stream restoration projects, there's 41 of those. And
14 then there's eight -- those are construction projects.
15 And then there's eight study projects, but those are
16 studies. But that's a total of 86.

17 The studies will probably close out pretty
18 fast. But in terms of how long it will take the
19 wastewater projects to wind down and the stormwaters,
20 I'm thinking two years or so, something in that
21 ballpark.

22 And, again, it's hard to -- it's hard to get
23 an absolute handle on them. I can tell you what the
24 contract expirations are, but --

25 MR. TOOLE: It always changes.

1 MR. HORTON: Right. Exactly. These are
2 dynamic projects and they often have time extensions
3 and so forth, but that would be my guess.

4 MR. TOOLE: Thank you. That's what I
5 expected to hear.

6 MR. MARTIN: I'll add to that just because
7 I've been through the process two or three times and,
8 you know, I've mentioned the Pivers Island project.
9 We started that project and it's on Pivers Island,
10 which is Duke, and we waited a year just to get data
11 from NOAA just to get through that process. So we
12 were thinking that this was going to be a short
13 process but we were on hold for pretty much a year
14 before we ever really got started.

15 And so then we had the same kind of thing
16 with Duke. Well, not as long, but anyway I'll speak
17 to these things, but these things do tend to go on and
18 on.

19 MR. HORTON: Some of them go very
20 efficiently and just move right on through, and others
21 there are all kind of slip ups, at the beginning of
22 the project and then during the term of the project.
23 There's all kinds of unexpected things that happen.
24 Some of them are more of an adventure than others.

25 CHAIRMAN KICKLER: Is there a trend to the

1 efficiency of some projects and non-efficiency of
2 others that are primary factors?

3 MR. HORTON: It would be hard to make a
4 hard and fast rule. It does depend somewhat on how
5 engaged the grantees are and how much expertise they
6 have. And some of the things that complicate projects
7 are the more players there are. For example, if you
8 have a regionalization project, sometimes
9 disagreements will come into play or there's
10 negotiations that take place that cause things to
11 break down. But to make -- I don't know that I could
12 give you a hard and fast rule of any particular thing.

13 MS. MCGEE: We have looked at project
14 length before, and it seemed like the wastewaters, in
15 general -- in general, took longer; stormwaters took a
16 little less; restorations and acquisitions -- but it
17 really does speak to what Larry is talking about. I
18 mean, the wastewaters and stormwaters often have more
19 players, more funding sources, partners, more
20 permitting on their restoration that can get hung up
21 on permitting as well.

22 A lot of wastewater projects have easements,
23 sewer line easements, and they can get hung up on
24 those. So, I mean, they do take a little longer just
25 by the nature of what they are and who's

1 participating.

2 MR. HORTON: Probably, generally, the less
3 moving parts there are to the project the more
4 efficiently they go, the less stakeholders and the
5 less folks that are involved with it, the faster they
6 go.

7 MR. VINES: If I may add to that, in the
8 past a lot of times, especially in the western part of
9 the state, when wintertime rolls around sometimes you
10 might have an easy winter, sometimes you might have a
11 bad winter and you could lose as much as 90 days in a
12 bad winter in some areas up there, so that could delay
13 the project.

14 In the past we've seen, you know, upwards of
15 five or six projects come before us for an extension
16 for different type situations, but most of them are
17 because it's related to, as we said, the easements of
18 right-of-way. A lot of times the weather is involved,
19 especially on the wastewater side. Some of the others
20 can flow little better wintertime or summertime, but
21 your wastewater projects usually were the ones that
22 can get delayed the easiest especially in the
23 mountainous areas. And I think today we're probably
24 looking at some extensions that -- we haven't met
25 since June, and we usually see some extensions every

1 month, depending on the situation. So there's going
2 to be a larger amount today to look at than we have in
3 the past.

4 MR. BRAGG: I just wanted to add that I
5 think it's obvious that we have an excellent
6 professional staff and we rely on them 100 percent for
7 information. As Trustees, we kind of come in and
8 they've been working 24/7 to get these projects
9 together. So we are literally dependent upon them,
10 and we're very grateful for your work.

11 And from my perspective, having been on here
12 a couple years, we had some stewards of the money for
13 the systems that are in place. Chris and Terri did a
14 great job. Follow-ups are done very thoroughly. The
15 way we've had cases -- I know we had one back in the
16 spring of a large amount of money that we collected
17 back on a project that was not done, so I think -- I
18 think it's been very good throughout.

19 I just wanted to acknowledge what a good
20 staff we have.

21 MR. TOOLE: What's the speed with which a
22 reimbursement -- so if I'm a grantee. I make an
23 application. Am I 90 days? 120 days? How long do I
24 have to carry it?

25 MR. FIPP: Our goal is to work on a 30-

1 day turnaround. We really try to. And it's really
2 dependent on which -- that's why we try to give them
3 as much help at the outset so they really understand
4 they need to provide their invoices for the total
5 project cost and have their paperwork in order,
6 because it really is -- you know, when it comes into
7 us, some of the delay is if Terri needs to get back to
8 them if they're missing some data, if they're missing
9 some invoices, if it's unclear what the invoice
10 actually was for and how it related to the project, if
11 they didn't have a progress report included.

12 So that's why we try to do a lot of that at
13 the beginning of a project, providing them that
14 information and the guidance. And then along the way
15 Terri working with them really well so that we can
16 sort of keep it at that 30 day, because they don't all
17 get processed in that time period. But a lot of that
18 is just dependent on the communication back and forth
19 to get the documents.

20 And if things are in order, we really try to
21 target keeping them paid in a good 30-day turnaround.

22 MR. TOOLE: Thank you.

23 MR. VINES: Mr. Chairman, if I may
24 comment on that, too. I've been a recipient of Clean
25 Water Management Trust Fund grants twice, and I think

1 a big factor there is, that if the grantee does his
2 work -- does his homework and he submits his request
3 for reimbursement, they've always -- in most cases
4 depending on where we (indiscernible), they've met
5 that 30-day criteria. But it think it's important --

6 CHAIRMAN KICKLER: Can you speak up,
7 please?

8 MR. VINES: I'm sorry. As I was saying,
9 being a recipient of Clean Water Management Trust Fund
10 grants in the past, the grantee can pretty well
11 dictate the period of time it's going to take for a
12 reimbursement if all their necessary paperwork is
13 there, the quarterly reports that come in and the
14 reports that come with your -- having your invoices
15 and having your cancelled checks and all that come
16 forward, it expedites that very easily because you've
17 covered everything that you need to cover for them to
18 be able to make those reimbursements, and I think that
19 would happen.

20 MR. MARKHAM: Mr. Chairman, I'd also like
21 to make a comment.

22 Christopher, perhaps you could speak to
23 this, but I think it's also important that one of the
24 functions that you all provide is confirming that the
25 match that's set up in the contract has actually been

1 applied properly. I think at the last meeting we had
2 an issue where a discrepancy had been noted. So speed
3 is important, but it's also to ensure that the Trust
4 Fund is actually providing contractually what we're
5 committing to on a grant based on the correct match
6 being applied.

7 MR. FIPPS: That's right. And we -- and
8 we are going to speak to that a little bit further
9 later. We can just go into that now.

10 The Trustees, as far as the Clean Water --
11 prior Clean Water grant applications, the matching
12 funds had been considered a part of that application
13 process. So the grant recipients are actually getting
14 scored and getting credit for bringing in matching
15 funds and leveraging "X" amount of matching funds to the
16 project.

17 So it's been very important to the Trust
18 Fund to watch over that and make sure that they are
19 incurring all of that total project cost so that the
20 Trust Fund can really see that those promised funds
21 are truly leveraged to the project.

22 And also, if a project budget comes under
23 budget that Clean Water ought to be sharing in that
24 savings. And the way to do that is to see that the
25 project cost as it's being incurred and making sure

1 that they're living up to that end of the bargain.
2 And, again, cost savings -- which we'll also see a
3 little bit later -- are being realized for the Trust
4 Fund, too, if there's cost savings.

5 And I did want to just -- I'll just jump
6 back in real quick back to the review before we leave
7 this agenda item. We talked a little bit about
8 infrastructure projects and site visits, but just so
9 it's not left out, in 210-2, the acquisition program
10 sort of has a review process as well where the
11 property and easement appraised values are reviewed
12 and approved by the state property office.

13 The conservation easements are reviewed by
14 Clean Water staff to make sure they're following the
15 Clean Water template for the conservation easement.
16 Then all closing documents, surveys, settlement
17 statements, title polices are reviewed by contracted
18 legal services. And then following the closing, post-
19 closing documents are received and inventoried as a
20 state-held easement with the state property office.

21 Once those acquisition projects are closed
22 from a grant perspective and there's a state-held
23 easement, it moves into the stewardship program where
24 the easement will then be monitored in perpetuity for
25 making sure that the conditions of the easement are

1 being met.

2 Clean Water contracts with the local land
3 trust that originally brought those projects to the
4 Trust Fund, contracts with them to actually be the
5 monitors and go out and monitor the easement for
6 compliance. And we'll go over that in greater detail
7 as well.

8 We were going to hold a thorough discussion
9 of the stewardship program to the next board meeting
10 when the Trust Fund actually takes up acquisition
11 projects and speak really specifically to the
12 stewardship program at that point because it
13 specifically relates to the acquisition projects.

14 And then on all the projects, again, before
15 wrapping up, we see a final report, any final
16 invoicing to make sure, again, that the scope of work
17 was fully implemented as intended and as approved by
18 the Board of Trustees before any final payment is
19 made.

20 The grant recipients, also the state has a
21 requirement that they fill out -- for non-governmental
22 organizations fill out online reporting types of their
23 fiscal years, which may be slightly off state's fiscal
24 year on all of their state grant funding that they
25 received. And they are receiving state grant funds

1 not just from Clean Water, but other state agencies as
2 well, and they have an online system where they have
3 to submit financial information on that online system.

4 The part we play is just helping make sure
5 that the data that Clean Water has paid is accurate on
6 that website so that the grant recipients know they
7 are reporting the correct information. And we -- just
8 as a customer service, we just help provide them
9 reminders of the deadlines, when the reporting is due
10 so that they don't fall behind. If they fall behind
11 on that date, those deadlines they're reporting, it
12 actually impacts them actually being able to receive
13 state funds. So we just like to try to keep them
14 aware of those deadlines.

15 So, again, this process is just set out to
16 try to be transparent, clearly communicated to the
17 grantees, and try to make sure we have projects that
18 are implemented and the end result is what was
19 intended when the award was made by the Trustees.

20 And we can answer any more questions, too.

21 CHAIRMAN KICKLER: If there's no other
22 discussion or no more questions, we'll move on to the
23 next item, which is letter "J", "Program Overview." A
24 lot of changes have occurred and Beth will explain
25 what those changes are.

1 MS. MCGEE: I'm just going to provide
2 sort of a where, when and why of the programs and then
3 talk about the changes that were enacted in the
4 Session Law in 2013. And then after that presentation
5 we'll have some staff from other agencies to give you
6 an overview of their resources, which we are, as a
7 program, trying to protect and restore.

8 So there's a lot of material in your packet
9 just for background information, and J-1 was Clean
10 Water's last annual report for -- there's a 2012
11 annual report, December 1. And that is -- has a
12 summary of awards we made in 2012, program
13 administration and some background material.

14 The next thing in your packet is the Natural
15 Heritage Trust Fund, fiscal year 2012-13 and the
16 close-out report. Lisa Riegel did do a really nice
17 color copy, if you wanted to see that. We didn't make
18 color copies just to save money. But she did a great
19 job on her report and it really gives some good
20 history of the Natural Heritage Trust Fund and
21 information on the Trustees, the revenue sources, and
22 the grant awards. So that's a really good report.

23 The next item is the -- was the money report
24 from -- that passed in the General Assembly, and it
25 has our appropriations for this fiscal year and next

1 fiscal year for your information.

2 And then under J-2 -- there are two
3 different things in J-2 that are separated by a green
4 sheet of paper. A lot of changes were made to our
5 statute in the Session Law 2013-360, so those changes
6 have not been incorporated into our statute on the web
7 yet. And so we have provided our -- the statute as it
8 stood before the Session Law, and then after the green
9 sheet of paper is the ratified Session Law. You just
10 have to -- as you look at it, you just have to flip
11 back and forth.

12 There were some parts in our statutes that
13 were not changed. They were not all changed in the
14 Session Law. I will probably have to provide the --
15 and once those get updated on the web, we'll make sure
16 that we have a copy for you all.

17 But in general, the program is a state-wide
18 program. We provide grant assistance to conservation
19 non-profits, local governments, and state agencies.
20 The conservation non-profits, we have a lot of land
21 trusts that Reed mentioned. We also have groups like
22 the Coastal Federation that is not a land trust, but
23 it is a conservation non-profit, local governments,
24 city, county, stormwater conservation, and then state
25 agencies as well.

1 We also have projects with RC&D, and there
2 are few more smaller non-profits as well that are
3 conservation non-profits.

4 And, in general, the purpose is -- and they
5 have expanded -- but the purposes are the protection
6 and restoration of surface waters, including drinking
7 water supplies -- surface drinking water supplies.
8 And the surface drinking water supplies was added a
9 couple years ago.

10 The protection of significant ecological
11 Natural Heritage and historic sites, that's a new one,
12 the provision of buffers around military bases to
13 protect them from encroachment. Even though we have
14 funded military protection projects in the past, this
15 was a new thing added in the Session Law to make that
16 more explicit, and the establishment of riparian
17 greenways. And those purposes are carried out through
18 -- the main types of projects are land acquisition,
19 restoration, be it stream restoration or wetland
20 restoration, but not for compensatory mitigation.

21 Greenways, planning projects in the past few
22 years the board has not funded as many planning
23 projects because of the shortage of funds, and have
24 focused more on construction projects.

25 And then there is innovative projects. And

1 we don't do -- we won't be doing traditional
2 stormwater anymore, but a few years ago we had called
3 for a proposal and funded quite a few innovative
4 stormwater projects, and some of those are still
5 actually going on. So there is the opportunity to
6 fund innovative projects.

7 The board makes all the awards for the
8 projects. And the funds that we receive from the
9 appropriation are put into a special revenue fund
10 that's separate and apart. And any interest that is
11 earned by that fund is pulled back into the pot, and
12 we use those special earnings to fund projects. The
13 money is non-reverting, so it's carried for this every
14 year, which is really a benefit just to keep -- to
15 keep those monies going towards new projects.

16 The Trustees develop grant criteria that
17 actually parallel the statutes. We've gone back a few
18 times in the past and looked at the criteria to make
19 sure that it is reflective of the statutes. And those
20 criteria are used -- we use them to evaluate the
21 projects and to score them and you all use that score
22 in making the awards. That's how we've functioned in
23 the past. That is the current criteria. We'll be
24 talking -- Nancy will talk more about those.

25 By and large they are reflective of the

1 original criteria. We have had modifications through
2 the years. But I think the majority of it is really
3 is -- I think they did -- I wasn't here the first year
4 when they developed the criteria, but I will say I
5 think they did a really good job capturing what the
6 statute -- the intent of the statute.

7 And as we've talked about -- we just talk
8 about staff carries out your all's decisions through
9 the management of these grant contract awards. And
10 the staff -- all of our staff -- there's ten of us.
11 And Larry alluded to, and Will as well, that we have
12 -- we come to the board with the management of about
13 178 existing contracts, and it's almost \$43 million in
14 encumbered contracts, and these are past awards, the
15 stewardship contracts that Christopher mentioned. And
16 they're the land acquisition, stream restoration,
17 stormwater, wastewater, donated easements, mini grants
18 and stewardship.

19 So on the agenda today, and on most agendas,
20 you may have issues coming before you for awards that
21 were made by the previous board, and we have some of
22 those today.

23 So the major changes in Session Law 2013-
24 360, nine trustees -- it's a new board -- nine
25 trustees instead of 21, and you all talked about how

1 that may impact your thoughts on committees.

2 The Natural Heritage Trust Fund was closed,
3 and that fund balance was transferred to Clean Water.
4 It also added the purposes that I've talked about for
5 the protection of Natural Heritage and historic
6 properties. And, like I said, it makes explicit the
7 acquisition of -- land acquisitions to protect
8 military bases from encroachment.

9 We won't be having additional stormwater or
10 wastewater anymore. I think we -- all the
11 applications that we got in 2013 for wastewater and
12 stormwater we wrote them and told them we could not
13 fund them anymore and referred them to the
14 infrastructure -- the water infrastructure authority
15 that can make loans and I think some grants to those
16 types of projects.

17 The statute did say that the Natural
18 Heritage Trust Fund balance must go toward land
19 acquisition for Natural Heritage or historic
20 properties or to satisfy the debt service from the
21 former Natural Heritage Trust Fund. That's an
22 optional part on the debt service, and that's
23 something that you all will talk about later on in the
24 agenda.

25 One big change is last year our funds were

1 non-recurring, and they were changed to recurring this
2 year, and that was a big plus to have those recurring.

3 There's also a provision for --

4 MR. TOOLE: I'm sorry. Explain what that
5 means.

6 MS. MCGEE: Non-referring means that if
7 you -- monies provided for a fiscal year, and it's not
8 automatic that you would get funding the next year.
9 So by having that recurring, it appears in the base
10 budget each year, and that's -- having it non-
11 recurring we just weren't sure if we would exist or
12 not. So it was a big -- it was a big thing to have it
13 recurring.

14 MR. TOOLE: Be recurring, that's only for
15 two budget years or is that -- it can always be
16 changed, right?

17 MS. MCGEE: Yes, it can always be
18 changed. Right now it's -- it was recurring for these
19 two years.

20 MR. TOOLE: Okay. Thank you.

21 MS. MCGEE: The Natural Heritage
22 inventory, there was a provision in the Session Law
23 that authorizes the expenditure of up to \$750,000 to
24 fund Natural Heritage inventory efforts through the
25 Natural Heritage program, and Linda Pearsall from the

1 Natural Heritage program will speak with you all later
2 on in the agenda about those funds. That's an action
3 item.

4 It also specifies a transfer of funds to
5 DENR to fund this pilot cleanup of Jordan Lake, and
6 that transfers, just off the top of our appropriation,
7 \$1.35 million in this fiscal year, and \$300,000 next
8 fiscal year. And I don't think there's any
9 discussion, you know, decision by the board. It's
10 just a transfer.

11 And then what we talked about before
12 administratively, the board now is administered by
13 DENR, but you all have authority to develop criteria
14 and make the funding decisions. And then staff is
15 actually housed within DENR now within a new office of
16 Land and Water Stewardship, and Cecilia Holden, who is
17 the -- who is above that new office.

18 We are employees of DENR. We're still
19 exempt from the State Personnel Act, which was not
20 changed. We've always been like that. And then
21 another change is the secretary of DENR provides the
22 executive director to the board, and we're happy to
23 have Bryan.

24 And so we talked about the Board is no
25 longer involved in approval of administrative budget

1 or personnel, and we do have an administrative cap of
2 \$1.25 million.

3 That's really the summary of the statute
4 changes. Do you all have any questions?

5 CHAIRMAN KICKLER: Are there any questions?

6 The next few items -- agenda items, I think
7 they overlap. And if there aren't any pressing
8 questions, then we can move on to the next item since
9 we're making such good time. Let's move on.

10 We will continue with "J" -- it's not quite
11 noon yet -- so we'll keep making good progress here.
12 I saw Linda earlier and Jeff, and Ramona is here as
13 well.

14 MS. MCGEE: Ramona is here. I don't see
15 Jeff. I had told him 1:00, so we can circle back to
16 his when he gets here. That's fine, if that works for
17 you.

18 CHAIRMAN KICKLER: Okay. Well, we will
19 proceed with the presentation of Linda then.

20 MS. PEARSALL: My name is Linda Pearsall.
21 And thank you all for agreeing to participate on the
22 Clean Water Management Trust Fund Board. It's an
23 excellent organization, and I think you will enjoy
24 your service.

25 I'm here today to explain more about the

1 item that Beth mentioned about the Natural Heritage
2 program. The Natural Heritage program is part of the
3 Office of Land and Water Stewardship. It was founded
4 in 1976 in the Department of Environment and Natural
5 Resources.

6 And its mission is to identify the most
7 important natural areas in the state and work with
8 landowners and conservation agencies, conservation
9 organizations to bring those areas into conservation
10 status as recognized in the state's constitution about
11 the value of natural areas for the people of North
12 Carolina.

13 I have with me today Misty Buchanan. Misty
14 is the head of the Natural Heritage Program Inventory
15 Section. And what -- the way we accomplish our goals
16 is we actually do systematic inventories of the
17 natural areas of North Carolina using air photos,
18 expert opinion. We talk to foresters, wildlife
19 biologists, local naturalists, identify the most
20 important places, do on-the-ground inventory to get
21 the best documentation possible of the important
22 areas.

23 We focus on rare species occurrences and
24 high quality natural area occurrences, compile this
25 information into a fairly complex database that is

1 supported in part by GIS. I do want to point out that
2 where we work on private land, we contact landowners
3 prior to our visit, and so all the work is done with
4 landowner permission.

5 The information that we collect is compiled,
6 as I mentioned, into this database and then it is used
7 to support work, not just by the Natural Heritage
8 program in its outreach to landowners, but the
9 information, as we started compiling it, others found
10 out about it and it's developed into an incredibly
11 important resource for the citizens of North Carolina,
12 particularly the developing community, which uses the
13 information as part of its compliance work under
14 several of DENR's permitting processes, and also in
15 avoiding sensitive areas and avoiding potential
16 conflict with endangered species occurrences.

17 The information is also used by the
18 military. The Department of Defense, as it's
19 developed its plans and strategies for dealing with
20 encroachment, has used this information and worked
21 closely with conservation entities, particularly with
22 Fort Bragg and Camp Lejeune. And Fort Bragg, for
23 example, the conservation work with Natural Heritage
24 information, local and state-wide conservation groups
25 were able to establish recovery from the red-cockaded

1 woodpecker population by combining work on base and
2 off base, that's been greatly reduced through
3 restrictions on military training activities on base.

4 And it feels pretty good when the general of
5 Fort Bragg says that red-cockaded woodpeckers aren't
6 his enemy and conservation has been his friend because
7 it solved one of the major problems they had at Fort
8 Bragg for training activities.

9 The information is used a lot by local
10 governments, and we partner closely with them when
11 we're doing county-by-county natural area inventories.
12 The information will be of particular use to the Clean
13 Water Board as you start looking at land acquisition
14 projects.

15 The Heritage Board relied excessively on the
16 information from the Heritage program in terms of how
17 sites were rated. It was part of their legislative
18 mandate to look at the ecological value of the sites,
19 and that may continue into your all's considerations
20 as well.

21 There's more information about the Natural
22 Heritage program provided in a brochure that is in the
23 materials that we distributed to you, and I am very
24 willing to answer any questions, to meet with you, and
25 to give you more information. And hope that when it

1 comes time for reviewing funding, you'll give us
2 favorable consideration.

3 Have you got questions for me now?

4 MR. TOOLE: Yes. How complete do you
5 believe the inventory to be, and does it vary across
6 the state?

7 MS. PEARSALL: It does vary across the
8 state. We have 95 counties where we have actually
9 published reports, a few reports that are being
10 developed this winter. The challenge is that some of
11 the early reports are -- our very first report was
12 published in 1986. You can probably appreciate how
13 many changes have happened in some of the counties.

14 We've also had different levels of resources
15 to apply to different counties, and so some of the
16 early counties that were done in the late eighties,
17 early nineties, we had very limited dollars, and so we
18 did very superficial reviews of those counties.

19 So dealing with the change in time, the
20 change in status for endangered species, the change in
21 conservation priorities as some areas are either
22 destroyed or brought into conservation, I would say
23 that we'll have work to keep us busy into the long-
24 term future. There's just a lot left to do.

25 But one analysis that was done in the

1 coastal plains of North Carolina where they looked at
2 Natural Heritage data, they found that of the sites
3 that were identified in our database, if the site had
4 not been converted to other uses, the Heritage
5 information was 98 percent accurate. So the
6 information we have is very good as long as we're able
7 to keep it up to date.

8 MR. TOOLE: And what's the best
9 management practice for up to date, ten years?

10 MS. PEARSALL: Depending on development
11 rates, we have only had the ability to revisit
12 specific inventories on a 15-year cycle. I think we
13 would like to be able to get to where we're at least
14 reviewing with air photos on two to three years in
15 some counties, and longer in other counties where
16 there's less development going on.

17 MR. TOOLE: Thank you.

18 MS. PEARSALL: Other comments or questions?
19 Beth?

20 MS. MCGEE: I was just going to say we
21 use -- we rely heavily on Natural Heritage staff and
22 from water resources as we get the new Heritage focus
23 as well.

24 Our criteria has points for rare product
25 species, Natural Heritage sites, so we use their data

1 and rely on your data to find those resources close to
2 those projects and to figure out how many points to
3 award. We do work with them a lot.

4 MR. BRAGG: I think it's safe to say that
5 the Natural Heritage program has really been the birth
6 place of the land trust movement -- and, Bill, you can
7 speak to this better than I -- and as resolved, the
8 land trust first, initially, wanted to do Heritage
9 sites almost exclusively. So it's an important part
10 of what we do now. And blending them in with us I
11 think is good as long as we remember that they're the
12 people who brought us to the table, you might say, is
13 land conservation in the state.

14 MR. MARKHAM: Mr. Chairman, I'd like to
15 speak just from the consulting side. We do a lot of
16 work for federal and state agencies, but we use
17 Natural Heritage data extensively, and it does save
18 the taxpayers, at the state and federal level,
19 extensive amounts of money for legal compliance and
20 endangered species compliance having the information
21 already there. It doesn't have to be recollected
22 continuously on every project.

23 So certainly the advances they've made in
24 GIS recently have been very helpful, but we've always
25 enjoyed working with the Natural Heritage folks, and

1 we look forward to working with you on this board.

2 Thank you.

3 MS. PEARSALL: Thank you very much.

4 MS. BARTOS: Good morning everyone. Thank
5 you very much for the opportunity to appear before you
6 today. My name is Ramona Bartos. I'm the
7 administrator of the State Historic Preservation
8 Office, which is an office that's located in the
9 Office of Archives and History down the street at the
10 Department of Cultural Resources. We're housed in the
11 Archives Building.

12 So we're the people that help to tell the
13 story of North Carolina from it's pre-history to the
14 present. And I was asked to give you a quick
15 presentation on what does cultural and historical
16 resources mean. And I believe this entity has been
17 given a great opportunity to expand the kind of
18 projects that it can award and that would be eligible
19 for award to those kinds of properties.

20 So without further ado, I'd just like to
21 bring you some visuals. In the kind of work I do,
22 visuals help a lot. And for some reason it's
23 stretching it out, but a big diagram is sometimes
24 helpful.

25 In terms of historical and cultural

1 resources, we end up having very overlapping kinds.
2 One is archaeological sites. In our work we
3 oftentimes think of what's above the ground, what can
4 you see. But some of the riches stories within North
5 Carolina are the pre-history, anything historic
6 archaeology, and I'll give you an example of one of
7 those in just a moment.

8 An historic built environment, which is
9 covered in statute, it talks about historic structures
10 and historic sites. So that's your historic district.
11 That's individual buildings, individual complexes.

12 Historic landscapes, one of the favorite
13 kinds of projects that DCR brought to the table in
14 Natural Heritage Trust Fund world was battlefields.
15 And so you get an overlap of all three of these
16 historic resources at one time.

17 The nice thing is that we also have as a
18 result of presenting these kinds of projects is state
19 oftentimes gets as a kind of bonus the collateral
20 value, environmental ecological natural values. So
21 we'll sometimes have species present. We sometimes
22 have clean water opportunity. So it's not just the
23 historical value.

24 And I have a little plaque up there. Some
25 of you may have seen these on buildings at some point

1 in your lives. The Natural Register of Historic
2 Places is one measure of historic significance.

3 Now, there are lots of properties in North
4 Carolina that are historically significant and are
5 eligible and/or worthy of being placed on the
6 register, but oftentimes there's owner opposition to
7 that. There's not a sponsor for that property to be
8 moved forward. It's a federal designation. So just
9 because something is not on the Natural Register does
10 not mean that it would not be worthy of inclusion as
11 an historic site or structure.

12 So let's move on to the next page. Under
13 the statute one of the considerations, the criteria
14 that you have is -- and I'm attorney, so words are
15 pretty interesting to me. This is a pretty broad
16 charge, and I'm not sure how the Trustees will see fit
17 to interpret this, but it certainly can go in a
18 variety of directions.

19 Whatever kind of land contributes to
20 development of a, quote, "balanced state program of
21 historic properties," so that asks the question, "Is
22 this going to be something that is state owned or
23 privately owned? And I'll give you a little bit of
24 background about how DCR has handled those kind of
25 projects in the past in Natural Heritage.

1 And just also -- it's in your packet, but I
2 didn't want to inflict too many words in this -- but
3 it's interesting that the criteria under 256 -- 113A-
4 256 says, "Protection or preservation of the site or
5 structure has to be of such historical significance as
6 to be essential to the development of a balanced state
7 program of historic properties."

8 And I did want to mention that, too, because
9 there's one way, I guess, is a consideration for you
10 to measure that. The National Register does have
11 different levels of significance. One is the national
12 significance, that would be the Wright Brothers, the
13 first one. State-wise significance, the State
14 Capitol, for example, would be a good example of that.
15 And then there's local significance. And I would say
16 probably the vast majority of properties that are
17 listed in the National Register in North Carolina are
18 likely of local significance. So when you start
19 counting state-wise significance, it's a really
20 shrinking category of properties.

21 You're seeing a little bit from the northern
22 part of North Carolina. And my apologies -- all of
23 those blue dots you see are individually listed
24 National Register properties. All of the red dots are
25 historic districts that can anywhere from two to a

1 thousand or more individual properties within them.

2 We have about 2,800 listings in the National
3 Register for North Carolina. Within those listings
4 are 71,000 structures or buildings of some sort. We
5 have many more -- I can show you another map -- we
6 also have -- really, we're sort of -- the parallels on
7 the Natural Heritage side, we have gone around for the
8 last 40 years surveying all of those environments in
9 North Carolina. And our sister office, the Office of
10 State Archaeology has a secret, as you can imagine
11 why, it's a quiet, under the radar screen kind of
12 listing. But they're also developed and we don't want
13 people going out leading archaeological sites.

14 So you see it really spans all 100 counties.
15 There's something historic everywhere, so there's a
16 lot to consider in the future.

17 This is kind of the rubric we have used, at
18 least for DCR, in the past. And it really breaks down
19 into two kinds of properties. One is -- well,
20 actually, four kinds, but two subcategories -- one is
21 properties that the state, itself, will own and
22 operate. We have 27 state historic sites in North
23 Carolina that really span, geographically, the entire
24 state that talk the entire length of history from pre-
25 history up to most recent history.

1 We also have what we call DCR partner sites,
2 and these are sites that the state owns in a
3 stewardship kind of position. They're in the state
4 property office records, the whole nine yards, the
5 deed states the State of North Carolina. But they are
6 managed privately by a local entity usually. So I'll
7 give you an example of that in a few minutes. And
8 that really reflects, too, sort of the growing
9 emphasis on private public partnerships for historic
10 sites.

11 And there are two kinds of sites that we're
12 interested in. One is the actual site itself. So if
13 the battle happened here "X" marks the spot, or -- and
14 sometimes we get both -- is buffer property because
15 it's very hard to understand the historic nature of a
16 property if it is surrounded in sight of strip malls.

17 Strip malls have a place, but, again, it
18 detracts from trying to interpret why that property is
19 appropriate for being historic property.

20 Oh, if I can go back one second, please. I
21 did want to mention, too, we have acquired property
22 both fee-simple, which is we own it 100 percent.
23 We've also done conservation easements, which we think
24 is a good way to go as well because it saves the local
25 property base. We're not responsible for the actual

1 buildings there, but we get to have oversight over
2 what happens on that property, so the protection is
3 still there.

4 This gives you an idea of the breadth of
5 what we have asked for in the past. The brown dots
6 are us, and I'm going to give you a little chart of
7 those. But this is Natural Heritage throughout the
8 length of this program over that 15-year period.

9 Next please.

10 And this gives you an idea of, again, what
11 we have owned as the state with a capital "S" and what
12 has been owned by the state but operated through some
13 kind of memorandum agreement or other formal
14 arrangement with a third-party entity. So on the
15 state-wide level you see five of our state historic
16 sites, and you see a real variety.

17 We have military history, so you have the
18 Civil War and the War of Regulation at Alamance.
19 Halifax, that's colonial history; Corn Creek,
20 agricultural history; Stagville over in Durham is a
21 plantation setting, and they're among our partner
22 sites. Again, you see a lot of agricultural history.
23 The Newbold-White house is one of the earliest houses,
24 17th century houses in North Carolina; Roanoke Canal,
25 that's history; Bucker Hill covered bridge, likewise;

1 Bethania, Bethabara and Old Salem are the Moravian
2 heritage.

3 So you really see a wide breadth in our
4 different partners have varied between our land trust
5 colleagues as well as National Park Service, and even
6 local historical societies. So, again, if someone is
7 willing sponsor these -- in the past they have brought
8 them through Natural Heritage. Only state agencies,
9 to my knowledge, were eligible to apply to Natural
10 Heritage.

11 So that vetting process for these third-
12 party partner sites took place in the DCR. And so
13 that's another consideration because this body has
14 typically, in the past, been very a biologically
15 ecologically natural oriented kind of entity. The
16 question is who is going to vet what is so
17 historically significant because we -- we anticipate
18 lots of people coming forward because we've had lots
19 of partners come to us in the past. Next.

20 A couple examples: Bentonville Battlefield
21 -- and Chair Kickler has been kind of involved in this
22 to some extent in the past -- we have had an ongoing
23 partnership with the Civil War Trust as well as the
24 American Battlefield Protection Program, which is a
25 federal funding source. They require matching funds.

1 And the state funds that come from Natural Heritage,
2 and hopefully now from Clean Water, have helped
3 provide that state match.

4 And out of 6,000 acres that were considered
5 the actual battlefield, because you take about 15 --
6 1,500 to 1,800 -- I've got to check whether or not
7 that certain deed did come through or not to get up to
8 1,800.

9 And as you can tell from the photographs, we
10 do have a combination of historic landscapes, a lot of
11 current interests are anticipated in 2015 where the
12 largest re-enactments in North Carolina for the 1865
13 current anniversary -- 115th anniversary of the Battle
14 of Bentonville, which is the last large land battle in
15 the Civil War happened right here in North Carolina
16 right over in Johnston County.

17 And we do have certain buildings that we
18 want to protect as well. The Harper House was used as
19 a field hospital during the battle. You see a real
20 variety, the historic landscapes meets the built
21 environment, and then underneath all of that are any
22 number of archaeological artifacts that help tell that
23 story as well.

24 Just to give you an idea, battlefields are
25 not really confined to one small piece of acreage.

1 They kind of -- it's just the manner of them. They
2 tend to kind of slosh about, so to speak. So where we
3 know the battle activities happened, those are the
4 areas that we're interested in protecting,
5 particularly the central part of the battlefield.

6 We've also, aside from actually -- you can
7 see some of these sites, these are our current -- are
8 the yellow sites. They're getting on the outskirts,
9 but again that's some of your buffer land. We get
10 both the site and the buffer.

11 And if you're familiar with Johnston County,
12 it's in the greater triangle metropolitan area. Lots
13 of people like to live in Johnston County. And what
14 we have found is a lot of conservation easements out
15 there. The farmers continue to farm the land, or if
16 we own it outright, we lease it back to the farmers,
17 which would have been historically what was going on
18 for those properties.

19 So you still see tobacco, which I think -- I
20 don't have any tobacco gum, but my mother certainly
21 does. My father -- grandfather was a tobacco farmer.
22 So we still have that kind of cultural heritage going
23 on. And a lot of the -- in my mind, the cultural
24 aspects that's covered in our new statute really
25 overlaps with our history as well, things that we are

1 familiar with.

2 Another example is the Bucker Hill Covered
3 Bridge. This is the last all original covered bridge
4 in North Carolina. It's right off of I-40 in Catawba
5 County. You can actually get off there, and it's not
6 too far off the interstate. So if you're headed back
7 west, check it out.

8 The actual bridge site itself is owned by a
9 local historical society. But the buffer issue is
10 very important for the site. If you have a covered
11 bridge and you have development all around it, it
12 really loses that special historic character, that
13 integrity that we look for.

14 So through Natural Heritage you see the dark
15 gold tract to the south of the sort of greenish --
16 that's the actual bridge site. The gold was acquired
17 through Natural Heritage. We also have two sites that
18 are currently being acquired, and we partnered with a
19 land trust for this, a conservation fund. And so
20 ultimately we hope to get the tract across the creek
21 there. So, again, you have collateral ecological
22 clean water kind of value here because there's a
23 creek. When you have a creek, you need a bridge.

24 So we're hopeful that all of this will end
25 up being a recreational site, again, very respectful

1 of the bridge and its very fragile nature. A bridge
2 can burn very quickly if it's not cared for. It can
3 depart from us. So this is something that Catawba
4 County has also partnered with us.

5 By the way, the last examples I had are all
6 in the National Register of Historic Places, just so
7 you know.

8 And this gives you an idea of where
9 archaeology and the landscape are going to cross one
10 another. Gilbert Town was the original county seat
11 for Rutherford County, and it's on the Overmountain
12 Victory Trail, so, again, a lot of military history
13 here because of the battlefield kind of places.

14 The Overmountain Victory Trail was -- you
15 might recall was the gentleman who came down from
16 Tennessee and through North Carolina mountains to
17 fight the British ultimately at Kings Mountain, so
18 it's a South Carolina connection as well. But Gilbert
19 Town is right about where the arrow is.

20 And it's an important site because it is on
21 the National Register for archaeological purposes
22 only. It is a site where there are patriots buried in
23 a cemetery. There's also been a little bit of
24 archaeology done and it's -- come to find out that
25 both the patriots and the Tories camped on this

1 particular site. We'll continue on.

2 You see everything that's in red there.

3 That is the National Register Historic District.

4 Again, it's all archaeological. You can't see it, but
5 it's there. But the fuchsia is also amazing because
6 we believe that it's historically still being used as
7 it would have but for the buildings back in colonial
8 days.

9 And what's really fantastic about this
10 particular property -- and this is another
11 consideration for the board -- there is a preservation
12 plan for this property. The National Park Service
13 helped create the American Battlefield Protection
14 Program that says you really should try to acquire
15 this land or at least acquire an easement on this land
16 for protection. So there's a plan here. There's a
17 formal historian vetted plan to act upon if anyone
18 wanted to. So it's not just we say so. There's
19 research to back this up. And that gives you an idea
20 of the kind of U-sheds we're talking about as well.

21 I don't know if you noticed this right here.
22 Does anybody recognize what that is? It's a
23 subdivision. And lots of people like to live where
24 it's beautiful, and that's fine. But there's certain
25 places, again, of state-wide significance that the

1 state has deemed important enough to protect.

2 Are there any questions? I hope that gave
3 you a little bit of background information. I'm happy
4 to answer any questions.

5 MR. TOOLE: How thorough is the
6 archaeological inventory? My experience is that the
7 national -- the ecological inventory you were talking
8 about, Ms. Pearsall, is very thorough, and I've used
9 it in my practice, but the archaeological inventory
10 has been a mystery to me.

11 MS. BARTOS: Well, in some cases it's what
12 we think is there. There are certain places where
13 historically big tribes liked to live, just like we
14 do, where it's dry, high, not going to be destroyed.
15 So there has been over time certain things that have
16 been discovered, oftentimes during development,
17 actually. And then there's also been a certain effort
18 through formulas that are beyond me to figure out
19 where likely places are.

20 And so archaeological sites that we are
21 aware of have been mapped. And then there is also
22 some thought about where some sensitive areas could
23 be. But it is somewhat of a mystery because it's not
24 publicly accessible information. But if you like, we
25 can get you down to the lab and have you talk to our

1 state archaeologist because it is -- it's not as
2 precise as you would imagine as the built environment
3 because we don't always know the boundaries of things,
4 but that's an excellent question.

5 But we have had at least one other
6 archaeological site that has been protected through
7 Natural Heritage, and we partner with their
8 archaeological conservancy, which is sort of the land
9 trust, so to speak, for the archaeological community.

10 Are there any other questions?

11 CHAIRMAN KICKLER: Are there any other
12 questions?

13 MR. BARTOS: Mr. Chair, if I could also
14 just thank the colleagues who we have at DENR for
15 inviting us to have some feedback on the criteria
16 that's under development that all of you will be
17 considering. We very much appreciate that opportunity
18 to have that input.

19 CHAIRMAN KICKLER: Well, considering we
20 have approximately 41 -- 40 minutes until lunch, and
21 the next allotted item on the agenda is supposed to
22 take about 45 minutes, I think we'll proceed onward
23 and have a discussion on the application submission
24 and review process and here -- if I can interject -- I
25 think here's a point of which we need to make sure

1 that this is crystal clear.

2 MR. GOSSAGE: Can we take a five-minute
3 break?

4 CHAIRMAN KICKLER: Sure, a five-minute
5 break. We'll reconvene in five minutes.

6 (Recess taken from 11:21 a.m.
7 to 11:32 a.m.)

8 CHAIRMAN KICKLER: We have reconvened for
9 the next agenda item, which is letter "L",
10 "Application Submission and Review Process." There's
11 five people listed, so I guess I'll turn the time over
12 to the first one listed, Beth.

13 MS. MCGEE: What we're going to do -- we
14 do have a lot of our staff speaking about this
15 application submission and review process. We want to
16 talk about what happens before we ever get an
17 application and then the kind of review process that
18 staff takes to look at the applications before them
19 and then the board takes to review those applications.
20 Then we're going to talk a little bit about the
21 applications that we in house. And then Nancy will
22 finish up talking about our criteria and a couple of
23 potential action items on that.

24 So I'll just turn it over to Bern.

25 MR. SCHUMAK: I'm Bern Schumak. Again, I'm

1 the central field rep. And what I'm going to talk
2 about this morning is kind of what happens prior to
3 the submission and also touch on some of the regional
4 projects that we done over the years.

5 Having been with the program since the
6 beginning, I've seen quite a few changes. And quite
7 often what we have to do is get information out to
8 applicants once we see change. With three field reps
9 that cover the entire state, essentially a hundred
10 counties, quite often we do a good bit of travelling.
11 And we are essentially the face of the program. We're
12 the people that -- we're the guys that the applicant
13 sees. If they have questions or comments or needs,
14 we're the people that meet with them. So we're kind
15 of the face of the program.

16 A big part of what we do is regional
17 outreach. Quite often we'll meet with council
18 governments, local stormwater districts, land trusts,
19 to give them an overview of our program. And as we've
20 recently changed, we'll be doing more of that to get
21 updates. I've already getting some calls for meetings
22 and such regarding that.

23 And when we meet with them, we kind of give
24 them an overview of our program, that it's a
25 proactive, non-regulatory volunteer type program that

1 is really out there to help, assist them protect the
2 water in their community. These meetings often result
3 in follow-up meetings where the applicant actually has
4 an idea of a potential project.

5 And when we meet with them, we hear their
6 ideas. We go over questions that they have. These
7 front end meetings really serve several purposes. One
8 of them is, sometimes an applicant has a great idea,
9 but for whatever reason it just doesn't fit our
10 statute. If it's totally research or if it's totally
11 an education type of program, it might be a great
12 idea, but it doesn't really fit our statute.

13 The other benefit is that, through the
14 brainstorming, quite often you can come up with some
15 ideas that -- essentially take maybe a good idea and
16 make it a great application. And thirdly, one thing
17 that usually develops is sometimes you can bring in
18 other partners, and bringing in other partners can
19 result in some really great regional projects.

20 I will say that the potential applicants
21 really appreciate the time and effort meeting with
22 them, even the ones where maybe it doesn't quite fit
23 our statute. A lot of times you can give them
24 suggestions of other projects in their community, and
25 they appreciate the fact that they're not wasting time

1 submitting an application that's not likely to get
2 funded. So the front end work really pays dividends
3 for what you see in the applications that are
4 submitted each year.

5 Some of the great regional projects that
6 we've seen over the years that have resulted from some
7 of this front end work is the hog lagoon buyout
8 program on the eastern part of the state. This is a
9 program that took waste lagoons that were situated
10 right along the edge of a stream. They were a very
11 high risk for failure. We worked with the stormwater
12 districts to target some of those that had the highest
13 risk and removed them from potentially contaminating
14 the streams.

15 Up in the my neck of the woods the river
16 builders program, which was a program where the
17 grantees went out and essentially helped re-vegetate,
18 repairing buffers prior to high cost stream
19 restoration being done. It was essentially a tree-
20 planting program. And community support for this was
21 really fantastic. It had really great buy-in from the
22 public.

23 We've had several initiatives with
24 stormwater districts with some of their federal
25 programs and EQIP programs to help partner with them,

1 and in a more municipal area the Carolina Thread Trail
2 situated near Charlotte. It's a joint effort to work
3 with 15 counties to have greenway corridors linking
4 those 15 counties, and most of those corridors are
5 situated along streams. That's been a great program
6 and have great public buy-in and a lot of actually
7 private monies going into that initiative.

8 One thing I would like to say is there's a
9 lot of work that goes -- by the applicants prior to
10 submitting an application. Good applications don't
11 happen by accident. They happen through a lot of hard
12 work by the applicant doing their homework. And I
13 personally appreciate being able to work with
14 applicants to take great ideas and hopefully see some
15 great projects that really benefit the citizens of
16 North Carolina and make a significant water quality
17 difference across the state.

18 And we're seeing change again with the
19 change in our statute. And there's going to be
20 questions where the field rep's going to be out there
21 conveying our goals, working with an applicant to help
22 develop good application.

23 And I would just ask that, as Trustees,
24 they're out in their communities, if you run across
25 someone that you think has a good idea or needs some

1 help, to go ahead and utilize the field reps. Feel
2 free to give them our names and number and, like I
3 say, we're very willing to go out and meet with them
4 on the front end and help them hopefully put together
5 a great application.

6 And with that I'm going to turn it over to
7 Tom kind of to talk about after an application comes
8 in.

9 MR. MASSIE: Thank you, Bern.

10 Well, welcome to you all. This is the new
11 Clean Water Trust Fund. It's good to see some old
12 faces and some new faces. And, you know, the process
13 is changing significantly.

14 We're talking today about how we've done
15 things in the past in Clean Water. I know it's not
16 the same way the Natural Heritage Trust Fund did their
17 operations in the past. So there's some changes, but
18 it's an exciting time. We're excited about it. We
19 think there's huge opportunities. But it is going to
20 be an exciting time and we look forward to it.

21 Again, I'm Tom Massie. I'm the western
22 field rep. I go from Gaston County to Allegheny
23 County all the way to Cherokee County. It's a big
24 area, but it's an area that I know very well and
25 enjoy.

1 As Bern said, we're the face of the program.
2 I was noticing today Michael Cheek from the Division
3 of Forest Resources was talking to Nancy Guthrie. And
4 quite frequently Bern and Will and I are the Trust
5 Fund to the applicant. They talk with people in the
6 Raleigh office, but all they do is talk over the
7 phone. And they can put a name with their question,
8 but they can put a face with it. They put our face
9 with the program.

10 So it's our job to get out there and talk
11 with them and help them be successful in their
12 applications. We want to provide them with the best
13 opportunity there can be to fund their project for
14 their citizens.

15 In addition to that, the other part of our
16 job is to be your eyes and ears. I mean, we go out
17 there and we get their input and we bring it back to
18 you. And at the same token, if you have questions or
19 comments or don't understand a project, we need to
20 communicate that to them. And then we need to make
21 sure that you understand what the project is at the
22 time that we award the grants because that's what
23 we're going to put in the contract and that's what
24 we're going to follow through on to make sure it's
25 completed as done.

1 Now, Bern can tell you what we do on the
2 front end. After the applications come in then let me
3 tell you how we do it. And if you've got any
4 questions, interrupt me at any time.

5 So we get the applications in. They come in
6 from the land trust. They come in from Natural
7 Heritage. They come in from whoever -- and Cultural
8 Resources. We get them, and so the first thing we do
9 is is we distribute them to the field reps and the
10 program managers.

11 And we spent the next two to four weeks
12 going over the paper applications. We're looking for
13 mathematical errors. We're looking for
14 inconsistencies. We're looking for deficiencies in
15 the projects themselves, any type of questions we feel
16 like we need to have further information on. And then
17 we communicate back directly with the applicants as
18 soon as possible, particularly for deficiencies or
19 mathematical errors.

20 At the same time the program managers are
21 going through the applications and we're starting to
22 compare notes. We're saying what kind of questions do
23 we need to follow up on? Where do we need
24 clarification in these applications? And that goes on
25 throughout the entire review process, the

1 communication amongst the Raleigh staff and the field
2 reps about applications individually themselves.

3 The next thing we do is we actually go out
4 and do a boots-on-the-ground site visit. And we go
5 out there to do several things: number one, go out
6 and meet face to face with the applicant to talk about
7 their application, to make sure that we understand
8 what it is they're trying to accomplish and to tell
9 them what our process is, to say, you know, we've got
10 "X" number of dollars this year. We've got six months
11 before we're going to make a decision. We're going to
12 try to do something in the fall. We're going to try
13 -- whatever our time schedule happens to be. It's to
14 communicate to them when they need to get us
15 supplemental information, when we're going to know
16 exactly what we can do and what the current situation
17 is. So, again, it's that communication process.

18 But most importantly what we do when we go
19 out to do the site visit is to see the project and to
20 make sure that we clearly understand it so we can
21 communicate it to you so you can make an informed
22 decision.

23 We all know people -- and there's a lot of
24 them sitting in this room in the back back here --
25 that can take a paper application and turn a sow's ear

1 into a silk purse. But our job is to go out and make
2 sure to see what it is we have. Do we have a sow's
3 ear or do we have a diamond in the rough? And quite
4 frequently you'll see it both ways. You'll have some
5 people who can fudge a little bit and some people that
6 aren't as good in the paper application, and it's
7 really a great project and we just need to communicate
8 a little bit better and understand how we're going to
9 do it.

10 And that's as much as our job as anything
11 else. Again, it's all about finding out what we need
12 to know, how we communicate it to you, try to
13 eliminate any red flags that you might have because
14 I've seen \$3 million projects hung up over a \$5,000
15 line item because there was a question raised by a
16 Trustee. And we'll spend 45 minutes on that and all
17 of a sudden you put the whole project on hold. So we
18 want to clarify that up front so there's no questions
19 to be done on that.

20 Now, this usually takes somewhere between
21 six and eight weeks to go through this process after
22 we've got through the paper review itself, to go
23 through the site visits.

24 And workload varies. Over the last five
25 years during the recession when we've been down in

1 money, we were looking somewhere in the range of 25 to
2 30 applications per field rep per site. Now with the
3 new Natural Heritage applications coming in, with
4 Cultural Resources, it will be more than that, but
5 it's a natural blend because quite frequently we have
6 those funding parts are all tied together.

7 So while we were only funding repairing
8 buffers, Natural Heritage was funding the uplands
9 portions. A lot of this Cultural Resources things,
10 we're looking at things that -- Overmountain Victory
11 Trails that have a little bit of water on it, so we
12 were one funding piece, and Natural Heritage was
13 another one. So it's a natural blend when we do these
14 kind of things.

15 The other thing is is that these
16 applications are always evolving. When you submit
17 them on day certain, they may very well change
18 multiple times by the time you get around to actually
19 awarding the grant six or seven or eight months later.
20 So we need to keep up with these applications as they
21 change so that you know what the application is the
22 day it's funded because that's what the contract then
23 becomes.

24 Okay. So after all that stuff's done, we
25 sit down as a staff, collectively, and review the

1 projects to make sure there's no further questions
2 that we need. If there are, then we'll contact the
3 applicants again asking for supplemental information
4 to make sure we know what's going on.

5 Then the next step of the process -- and
6 that's usually two to three months before the grant --
7 you actually make the grant awards themselves. And
8 then we sit down, the field reps, and develop four
9 PowerPoints from the pictures that we've taken at the
10 site to make sure that you at least have some vision
11 of what it is.

12 I mean, when we had a hundred million
13 dollars and we had 200 applications and 21 Trustees,
14 there was no way it could operate like Natural
15 Heritage. The Trustees could not go out to every site
16 and see them. So we develop a PowerPoint. We set it
17 up in such a way so that you know how much they're
18 asking for, what the project is, where is the
19 geographical location of that project? What's the
20 positives about the project in terms of significance?
21 How does it protect water? How does it protect
22 cultural resources? Whatever it happens to be. And
23 then finally what are the anomalies that wouldn't
24 normally show up that you need to know about, that's
25 abnormal from what we would normally see when going by

1 conservation easements on a fee-simple acquisition, or
2 whatever, so that you have all the facts so you can
3 make a decision.

4 Those PowerPoints are generated two to four
5 minutes in length, and then you have an opportunity to
6 sit there and discuss that, ask questions of the field
7 reps or staff, and go from that point forward.

8 So the entire process from the time we get
9 the application until grants are awarded in a normal
10 year -- and this is not a normal year -- is six to
11 eight months, depending on the number of applications
12 that we have.

13 Now, I'll be happy to answer any questions,
14 and if you don't have any, then I'll turn it over to
15 Larry. Any questions? Thank you.

16 MR. HORTON: Okay. I guess first of all
17 the -- I'm the projects manager for the infrastructure
18 projects. In the central office the job of the
19 project manager in the application review part is to
20 manage -- it's a team really to evaluate these
21 applications. So you've got your information that's
22 coming in from your applicant and then you've got your
23 field reps who are working on the project. You get
24 information and input from the Trustees, resource
25 agencies, and the water quality adviser does a score

1 and gets information about rare and endangered species
2 and all these other things that fit into the project
3 score.

4 So it's partly just getting and assembling
5 all this information and managing the resources to get
6 all that together as part of a team effort. And the
7 goal is to get a good comparative comparison between
8 these projects because they're all competing, and you
9 want to have a good even comparison between the
10 projects.

11 And for each one, as Tom and Bern mentioned,
12 and to try to get the applicants to put their best
13 foot forward, as it were, to show their projects in
14 their best light and also in a fair way as to help to
15 see what the project is and also be consistent in
16 evaluating all the projects, and then to get all the
17 information together and to present it to the board
18 when it comes time for them to make a final decision.

19 So that's just sort of a general overview.
20 A little bit more about the details of how we work
21 through it, the applications are received in February.
22 We get a paper copy, and we go through all that
23 information, as Tom was talking about, and try to be
24 sure that it's all accurate.

25 Once we've got it to a point that we feel

1 pretty comfortable with it. We put it into notebooks
2 or CDs and send it out to the board and to the staff
3 and to the other stake holders who are going to be
4 helping us evaluate the project so they will have this
5 information so they can look it over and help us as we
6 go forward with evaluating the project.

7 So then what we do with the project manager,
8 the reviewer does, is we build -- one of the main
9 tools we have is we build a large worksheet, and it
10 will have all the applications down the left-hand
11 side, and then all the criteria and so forth go out
12 from that. And we use that as a tool to rate the
13 information. That's one of the tools we use so the
14 information can be ready for the board members to look
15 over so that we can score the project. That's one of
16 the key things. We'll take the information that the
17 applicant has presented to us and come up with a clean
18 -- what we call a clean water score that's based on
19 the criteria that the board has come up with.

20 So we use the criteria that you will
21 establish that you all have talked about earlier in
22 this meeting, and we will use that information to
23 establish a score for each one of these applications.

24 So once we've done an initial score and go
25 over information and had some time to look at the

1 projects, as Tom has mentioned, the staff gets
2 together and just discusses the projects so we can
3 fill in the gaps and have some discussion over the
4 projects to see -- to get our ideas about them. And
5 then out of that discussion often comes questions
6 where we need to go back to the applicants and get
7 some additional information. So once we've got that
8 additional information, we roll that into the review,
9 factor that in.

10 Then we prepare what we call a draft project
11 summary or a scope, which includes the staff funding
12 recommendation for the board's consideration. And at
13 that time, once we've got our scores together, summary
14 page for each project, before the meeting -- before
15 the funding decision meeting we will meet with the
16 established committees, we will meet with many co-
17 chairs to see -- in the past we've met with many co-
18 chairs to see if they have any additional input into
19 the projects, so we could over the staff funding
20 recommendation with them also.

21 Another thing that has been discussed in the
22 past at those meetings was if there were any other
23 factors that needed to be considered or that the board
24 wanted to consider as part of the decision-making
25 process. So in the last few cycles we haven't had a

1 whole lot of money to work with, so we've set funding
2 caps for projects.

3 In the past we've decided not fund planning
4 projects, to only focus on construction projects
5 because they create more jobs. So these are just --
6 those are just some examples of things that we do in
7 addition to the project criteria to help make funding
8 decisions in the past.

9 So once all that is taken care of and has
10 been discussed, then a final project summary is
11 written up and established. And along with a
12 recommendation based on staff review and any
13 additional factors that were included as a result of
14 meeting with the committee co-chairs, all that
15 information is put together in a clear way for the
16 board.

17 It's sent out to the board in advance so
18 your funding -- the meeting where you make your
19 funding decisions for that program area, and the
20 information packet that we've been sending to the
21 board for reference in the past has included that
22 summary worksheet that I was talking about. And that
23 would sort -- one of the things that would do, that
24 would sort all the projects from high score to low
25 score, and it would also show things like how much the

1 project -- how much the grant was requested, what the
2 funding recommendation was, what the total project
3 amount was, those sorts of things.

4 So you have the worksheet, and then you have
5 the project summary for each project along with the
6 staff recommendation. And also in that packet would
7 be any additional information for consideration that
8 has been submitted since the time of the application.
9 So applications come in, but this is -- it's a process
10 and some -- when we get clarification information we
11 want to be sure that the board has that available to
12 look at when they're making their decision.

13 So then at the board meeting, as Tom was
14 saying, the project is presented and the field reps
15 make a PowerPoint presentation. The staff answers any
16 questions that the board has about the project. In
17 the past when the committees -- the Funding Committee
18 would discuss the project and discuss the staff's
19 recommendation, they would come up -- then the
20 committee would come up with a funding recommendation
21 and take that to the full board. The full board would
22 discuss it and then make a funding decision at that
23 time. That's some more of the details about how the
24 process works. I'll be glad to answer any questions.

25 MR. TOOLE: There's an item in here we've

1 talked about -- you described it quite nicely, the
2 scoring mechanism for Clean Water. How does that work
3 for the Natural Heritage? Do we have a scoring
4 mechanism? How do you do it now? I'm sure you've had
5 more requests than you had money. How did you do it a
6 year ago?

7 MS. GUTHRIE: This is an item down a little
8 bit. But, Mr. Chairman, do you mind if we go ahead
9 and talk about --

10 MR. TOOLE: That's the agenda item that's
11 been forwarded in, but how was it done?

12 CHAIRMAN KICKLER: We'll let Nancy go,
13 then, Linda, you can add on.

14 MS. GUTHRIE: Let's go ahead and -- this is
15 Item L.3 -- the first part of L.3, which is for 2013
16 we are proposing that we keep the Clean Water
17 Management Trust Fund applications and the Natural
18 Heritage Trust Fund applications separate so that we
19 are not trying to blend them in this funding cycle.

20 The applications were submitted before the
21 legislation changed, so to kind of be fair and
22 respectful of what our applicants prepared and put in.
23 It's also to keep the process moving and get awards
24 made this winter and spring.

25 And we also need the Natural Heritage funds

1 separate for this year. So for 2013 we are
2 recommending Clean Water Trust Fund applications stay
3 on the previous criteria and process. And then with
4 the Natural Heritage we don't have the same process.
5 And I think maybe this is where Linda can step in.

6 MS. PEARSALL: I was not on the board and
7 Troy, obviously, was, but I can provide you with
8 historical perspective because I was worked with the
9 Heritage Trust Fund board for more than 20 years.

10 The Heritage Trust Fund could only -- by its
11 legislation, it could only accept applications from
12 state agencies until the state agencies did a certain
13 amount of sorting and vetting, and they had to submit
14 their applications and identify them in order or
15 priority. And the legislation required that those
16 priorities be given consideration, the priorities that
17 were set by Wildlife Resources Commission, the
18 Department of Environment and Natural Resources, the
19 Department of Cultural Resources, and the Department
20 of Agriculture.

21 The heads of each of those departments
22 provided their applications. There usually were
23 probably between 15 and 25 applications. The board
24 only met twice a year, so they had more time to
25 consider fewer applications than Clean Water could

1 safely get back then.

2 And the legislation also provided that the
3 board take into consideration the ecological priority
4 for the land conservation project that -- and also the
5 historic priorities. The ecological priorities were
6 set by the Natural Heritage program, not on a project-
7 by-project basis, but we had maps -- we still have
8 maps that show the ecological priorities that the
9 natural areas that have been identified, so that was
10 used to evaluate the quality of the natural
11 priorities. And then the Department of Cultural
12 Resources used the historic register sites, I believe,
13 in setting their priorities.

14 The other key component that Tom alluded to
15 was the board would actually do site visits. And they
16 wouldn't always get to every site, but they certainly
17 got to the top one to three -- top one to three
18 priorities that each department submitted. And so it
19 was -- there was not a rating process, other than that
20 Heritage value or the Cultural Resources value.

21 MR. TOOLE: Historically, the
22 applications did or did not exceed the amount
23 available to fund --

24 MS. PEARSALL: Always -- it's sometimes by
25 another two or three times the amount --

1 MR. TOOLE: So then the board would just
2 -- by site visits and just it felt right to figure out
3 how to prioritize it?

4 MR. PEARSALL: The board -- the applicant --
5 the agencies would present projects, and the board
6 often had very hard questions. And one of the things
7 they considered was whether the project's ready to go.
8 Is there an agreement with the landowner? Has the
9 price been agreed to? Has the property office
10 evaluated the proposed purchase price?

11 MR. TOOLE: And typically how much would
12 be disbursed annually?

13 MS. PEARSALL: That varied over the years
14 from as little as probably ten to 12 million when we
15 had the additional funding. So the -- let me start
16 again.

17 The dedicated funding screen went from about
18 12 million to 24 million. Then for a few grant cycles
19 there was an additional funding provided by the
20 certificates for participation, and that could have
21 raised it up -- I think 15 million may have been the
22 highest at any one meeting that was ever considered.

23 MR. TOOLE: And the COPs program is no
24 longer accessible?

25 MS. PEARSALL: That's right. It was only

1 for a very short time.

2 CHAIRMAN KICKLER: And many of the board
3 members were also considering matching funds as well
4 as matching funds from non-profits for all -- from the
5 federal government as well as, so that was also a
6 factor in making decisions.

7 MR. BRAGG: So just a point just for
8 clarification. Nancy, if only have two parts of Clean
9 Water applications and one for Natural Heritage, do
10 you have a designated amount of dollars that are going
11 to go to each one so you when you use it up in one,
12 the other doesn't get it, or how is it going to work?

13 MS. GUTHRIE: This is a more detailed
14 budget item that will come up later. But yes, there
15 is a specific amount of funding to be used for Natural
16 Heritage Trust Fund applicants or acquisitions, which
17 that is from the legislation. And then the board will
18 take the remainder and discuss that in detail later
19 today.

20 MR. TOOLE: So just to help me -- and I
21 know we're jumping here -- is that agenda Item O-1-1
22 where we've got 8.6 million for Natural Heritage Trust
23 Fund carried forward?

24 MS. GUTHRIE: Yes.

25 MR. TOOLE: And then 9.3 for both?

1 MS. GUTHRIE: Yes.

2 MR. TOOLE: Okay.

3 MR. BRAGG: We ought to be through by
4 3:00.

5 CHAIRMAN KICKLER: Within the realm of
6 possibility.

7 MS. MCGEE: Well, there's -- well, there
8 are two other parts we haven't got to. I don't know
9 if you want to have lunch now and go back to those
10 or --

11 CHAIRMAN KICKLER: I'd say let's log on.

12 MS. MCGEE: One of the other parts that
13 also goes back to Nancy for 2014, just the
14 applications are in your package L-2. And we've got
15 the current Natural Heritage applications, which the
16 total request for those is 20 applications, 19
17 million. And then following that is a listing and
18 summary of the Clean Water applications.

19 The Clean Water ones we've got -- we've lost
20 one, was withdrawn, restoration -- Charlotte -- in
21 Mecklenburg County was withdrawn. So we've got 61
22 applications from Clean Water requesting 33 million.
23 So we've got a total of 81 of those. Sixty-two of
24 them are land acquisitions, two greenways, and 17
25 restoration, and in total requesting about 42 million.

1 And agenda "O", Christopher will be going over all the
2 financial information on how much we actually have
3 available for the grants.

4 MR. GOSSAGE: As far as the criteria goes,
5 staff is identifying two potential action items. The
6 first is -- in your agenda is L-3-a, the
7 recommendations is for to use the existing criteria to
8 evaluate and approve the Natural Heritage and Clean
9 Water applications that we received in 2013.

10 MS. MCGEE: And this was just what Nancy
11 was talking about a minute ago.

12 MR. MARTIN: So you will need to evaluate
13 and come back with us for recommendations with the
14 funding that we have on which ones -- I mean, are you
15 talking going ahead and approving or are you talking
16 about just evaluating and coming back to us with the
17 recommendations?

18 MS. MCGEE: It's just our evaluation
19 process. We have these applications in hand, and we
20 would use our existing Clean Water criteria for land
21 acquisition and restoration to evaluate those
22 applications that we have. And then Heritage we've
23 got -- those would just be presented with the
24 information that Linda talked about. We would have
25 the parties of the agencies and we've got summaries, a

1 spreadsheet of those. And those would just sort of go
2 along parallel -- and it wouldn't be until next cycle
3 that we would -- the board would work to merge those
4 other interests in the Heritage and the historic
5 properties into the criteria. That was the other
6 agenda item that Nancy was going to get to.

7 MR. TOOLE: And this is jumping ahead,
8 but is it the thinking that we might for the 2014
9 cycle merge the two budget line items as well, or is
10 that under thought?

11 MS. MCGEE: They can -- well, the reason
12 they're separate now is there was a -- was a remaining
13 balance --

14 MR. TOOLE: Yes.

15 MS. MCGEE: -- in the Natural Heritage
16 Trust Fund, and by statute that actually restricts
17 what that money can be used for. It has to be used
18 for land acquisition projects for Natural Heritage and
19 historic properties, or, like we were saying before,
20 it's optional to use it to pay off some of the debt
21 service for those earlier COPs projects.

22 MR. TOOLE: But it's going to be a robust
23 conversation, I think, about whether all projects in
24 the future will compete for a single budget item or
25 whether we're going to keep two budget line items

1 separate. I don't have --

2 MR. GOSSAGE: My understanding is that the
3 8.6 million will -- that's a one time pool of money,
4 and when that's gone -- so the criteria that applies
5 to that, that's --

6 MR. TOOLE: That's easy.

7 MR. GOSSAGE: Right. That's easy. And
8 then you're correct going forward, do we take the
9 regular allotment and does the board want to view that
10 in such a way that it's Clean Water criteria only or
11 does the board want to have a Natural Heritage that's
12 sort of --

13 MS. MCGEE: I think a lot of that, you
14 know, as the work is done to develop the criteria for
15 next year, you know, it's -- because some projects
16 have many -- many benefits. They have heritage. They
17 have historic. They have water quality. So, you
18 know, it will be a lot of thought going into what the
19 criteria needs to look like because then that really
20 reflects the priorities of the board in terms of how
21 projects are elevated in scoring.

22 MR. MARTIN: So the other question I have
23 is, since you do have such a defined criteria for the
24 Clean Water Management projects, I can understand how
25 you've got to --

1 COURT REPORTER: Mr. Martin, could you
2 please speak up?

3 MR. MARTIN: I can understand how you can
4 quickly go through the same process. But then since
5 the Heritage Trust Fund has been a little bit more
6 subjective, if you will, how do you guys envision
7 prioritizing those when you come back to us using the
8 current criteria since it's a little bit more
9 subjective?

10 MS. GUTHRIE: Working through the agency
11 priority -- working with the Natural Heritage program
12 staff on the Heritage rating, I think the other items
13 -- ideas that Linda gave of how ready to go with is
14 makes a big difference, and will the funds be used
15 quickly. So I think that those would those broad
16 brushes that we would use to kind of have a priority
17 order for you to consider.

18 CHAIRMAN KICKLER: Well, I want to --
19 because I think this is a point that needs to be
20 crystal clear, I want to ask if there is a motion to
21 accept 2013 applications to the Natural Heritage Trust
22 Fund and Clean Water Management Trust Fund,
23 respectively, to accept those applications by the 2013
24 standards of the Natural Heritage Trust Fund and the
25 Clean Water Management Trust Fund exclusive of any

1 standards for wastewater and traditional stormwater
2 projects?

3 MR. MARKHAM: So moved.

4 MR. BRAGG: Second.

5 CHAIRMAN KICKLER: Is there any discussion
6 on that motion?

7 MR. TOOLE: Yes. Is it -- are we clear
8 that we're going to be operating under two separate
9 line items, one that would be funding -- is the
10 carried forward 8.6 million that's been carried
11 forward that would be exclusively used for Natural
12 Heritage and that the remainder of the budget, which
13 is about 9.3 million, would be exclusively for Clean
14 Water, or is that something we need to discuss
15 further?

16 MS. MCGEE: That actually is an agenda
17 item. It's O-2-c on page three that you all will get
18 to after -- what we had thought is is Christopher --
19 Christopher would go through all the budget sheets
20 that would lead through this the available funds.
21 These are things that are earmarked specifically for
22 Natural Heritage. This is the remaining money that's
23 available for grants. Then it really is a board
24 decision if you -- how you want to divide that money
25 up and when you want to make that decision to divide

1 the money up.

2 MR. TOOLE: The reason I ask that, I
3 think that has a lot to do with how I feel about what
4 guidelines we use.

5 MR. MARKHAM: As I understood the motion it
6 does not include any discussion about how much is
7 being allocated to either direction. It's only to
8 apply the criteria for Natural Heritage.

9 MR. TOOLE: Well, I ask the question
10 because if you're going to apply -- I know the 8.6 is
11 earmarked, and that's an untouchable for Natural
12 Heritage. If Natural Heritage applications may also
13 be made for the 9.3 million, then I am uneasy using
14 two separate selection criteria for that amount, and
15 that's why I'm asking this question now.

16 CHAIRMAN KICKLER: We have -- we'll look at
17 some issues later. But we have a motion and a second.

18 MR. TOOLE: I'll move to table it.

19 CHAIRMAN KICKLER: Is there a --

20 MS. HACKNEY: Troy, I have a point of -- I
21 don't know if it's to clarify -- but this is what I'm
22 hearing, that there are two separate sets of
23 applications. So when we're looking at the Heritage
24 applications, then our -- in my thinking, our mind set
25 is we're using those criteria that are for the

1 Heritage, and then for the Clean Water. So there
2 isn't -- or shouldn't be any --

3 MR. TOOLE: Well, this is my problem.

4 MS. HACKNEY: -- question because we're --
5 now, next year when it's all thrown into the same pot,
6 then yes, I see your point.

7 MR. TOOLE: Well, here's the question
8 that I'm unclear on. The 8.6 million that is only
9 going to be subject to the guidelines for the Natural
10 Heritage, and that's easy. But there's a 9.3 million
11 amount of money that could be used for both Clean
12 Water projects and Natural Heritage this year. And
13 then I run into the -- and if we're going to use two
14 separate guidelines and award out of that 9.3 million,
15 I don't know how to evaluate whether a Natural
16 Heritage project that's competing for money out of the
17 9.3 million compares in contrast with the Clean Water
18 that also scores high on the guidelines. And that's
19 why I'm -- I think that you can't separate those two
20 questions.

21 MS. HACKNEY: I guess my question is can
22 you -- because they're already separated because they
23 were -- you know, if I put my application in for Clean
24 Water, I expect it to come from Clean Water money. If
25 I put my application into Heritage, I expected it to

1 come from Heritage. And the people that submitted to
2 Heritage are -- can get the 8 point whatever, but that
3 doesn't mean that they can jump over -- because it's
4 -- I mean, in my world --

5 MR. TOOLE: That asks the question --

6 MS. HACKNEY: -- it's not fair for the
7 Clean Water people not to get hold of the -- so

8 MR. TOOLE: And that's the question that
9 I posed.

10 MS. HACKNEY: Yeah, so keep them separate
11 for 2013, and, you know, if you submitted to Heritage,
12 then that's the pot of money you have access to
13 because -- I get sort of what you're coming at, but I
14 think if we just maybe agree to keep them separated,
15 then -- because they were originally separated anyway.

16 MR. TOOLE: I think that's the right way.
17 To me, that's the right thing, but --

18 MS. HACKNEY: Yeah. Yeah.

19 MR. TOOLE: -- that we've been offered to
20 -- yes.

21 CHAIRMAN KICKLER: I would try to make an
22 effort to separate the money here. Beth, would you
23 like to --

24 MS. MCGEE: I was just going to say
25 that's -- that actually speaks to one of the reasons

1 that we did have the allocation, and we actually --
2 when we had our appropriation, the board actually
3 decided, okay, 50 percent goes to the Land Acquisition
4 Committee, 25 percent goes to wastewater, 25 percent
5 goes to restoration/stormwater so that the money was
6 separate so we did not -- we were not ever comparing a
7 land acquisition to a wastewater project because, even
8 though we had Clean Water criteria, it was they just
9 scored differently.

10 Likewise, a Natural Heritage we don't use
11 the scoring criteria. They're both land acquisitions,
12 but they're different and we have different ways of
13 evaluating them. So our idea is that -- and what this
14 agenda item is about is taking that remaining money
15 and talking about how you want to divide it up. So do
16 you want to put a certain part towards an additional
17 part above and beyond the 8.6 in the Heritage
18 applications, and that would become the new total for
19 Natural Heritage. How much do you want to put for
20 Clean Water land applications? How much you want to
21 put for restoration?

22 Whether they are -- when you actually review
23 the applications, you have your total. I mean, it
24 really is a little silo. And we're not trying to
25 compare projects because it does really make it

1 difficult. It's hard, and it's almost impossible in
2 this case because we don't have the same scoring
3 criteria.

4 Does that help clarify what we're --

5 MR. TOOLE: That's what I hope we could
6 do.

7 MS. MCGEE: Yeah, that's --

8 MR. TOOLE: But I want to be sure we get
9 there.

10 MS. MCGEE: That's what this agenda item
11 is all about.

12 CHAIRMAN KICKLER: Well, we need a point of
13 clarification as far as following any procedure.

14 MS. LUCASSE: Thank you very much for
15 letting me do some work here.

16 You made a motion to lay something on the
17 table.

18 MR. TOOLE: Yes, ma'am.

19 MS. LUCASSE: A motion to lay something on
20 the table is, according to Robert's, something that
21 enables the assembly, that is you, to lay the pending
22 question aside temporarily when something else of
23 immediate urgency has arisen. And I think that's
24 actually not what you're intending to do. Perhaps you
25 are intending to postpone something to a certain time

1 or postpone the motion indefinitely.

2 Before we can proceed on your motion,
3 though, there needs to be a second. Or if you want
4 to, instead of going to a motion immediately, continue
5 the discussion, I would recommend that you could
6 withdraw your motion.

7 MR. TOOLE: I will withdraw my motion.

8 MS. LUCASSE: Thank you. And now we're
9 discussing the motion that has been on the table. And
10 I didn't mean to interrupt that.

11 CHAIRMAN KICKLER: Okay. I guess, yes, I
12 shall reread it just so we're all on the same page.

13 The motion is that we accept the 2013
14 applications that were submitted for Natural Heritage
15 Trust Fund and Clean Water Management Trust Fund,
16 respectively, and that the standards of the Natural
17 Heritage Trust Fund be applied to the Natural Heritage
18 Trust Fund applications, standards of Clean Water
19 Natural Trust Fund exclusive of any standards for
20 wastewater and traditional stormwater projects be
21 applied to the Clean Water Management Trust Fund
22 grants. That is the motion that has been seconded.

23 Is there further discussion?

24 MR. MARTIN: Just to get to the point of
25 what I heard Beth say the reason -- it is a later

1 point of discussion, is that really what we're asking
2 right now is are we use the criteria -- are we going
3 to have two separate sets of criteria. And later
4 today we'll decide does the money stay where they're
5 at right now or if we will move some a little bit
6 around. So really, I think --

7 MR. TOOLE: But there's an understanding
8 I hear developing that we will separate out and have
9 two silos of money that we will use and we won't try
10 to compare, is that --

11 MR. VINES: I think the board decision is
12 going to be made, when we combine the dollars, we're
13 going to determine what percentage of those dollars
14 we're going to put in Heritage, we're going to put in
15 acquisitions, greenways. We'll decide those
16 percentages at that point. That's where it will
17 separate out because you can't complete a wastewater
18 -- can't compete an acquisition to the Natural
19 Heritage. So once we determine what percentage of
20 money -- the dollars we have, when we know what those
21 dollars to spend after the 8.6 is gone, because that
22 has to go to them, then we'll set a percentage of that
23 on the criteria we have that we have to fund, and
24 that's -- then we'll base each of the applications
25 based on the criteria separately based on the dollars

1 that's been set aside -- a percentage of dollars
2 that's been set aside for funding.

3 MS. MCGEE: One thing that Tom reminded
4 me, just a wrinkle, it doesn't -- just as you're --
5 when you all get to actually reviewing projects, some
6 of the land acquisition projects have applied to
7 Natural Heritage and they apply to Clean Water for the
8 same project, so you'll -- and we'll just make sure we
9 make notes to identify those in the information that
10 you get. It doesn't really have a bearing on the
11 allocation, but just it is something that you'll see.
12 You know, in future years, we won't have that, but for
13 this year we do have some.

14 MR. BRAGG: So in essence what we're
15 voting on is the fact that we will have two criteria,
16 one for Natural Heritage and one for Clean Water. And
17 that keeps us from coping with the monies really.

18 CHAIRMAN KICKLER: We're discussing for
19 2013.

20 MR. BRAGG: For this cycle?

21 CHAIRMAN KICKLER: Yes.

22 MR. BRAGG: And then we're going to start
23 a ballgame with a new way to --

24 CHAIRMAN KICKLER: We'll have another
25 conversation.

1 All those in favor of the motion say aye.

2 TRUSTEES: Aye.

3 CHAIRMAN KICKLER: All those opposed say
4 no.

5 (No response.)

6 CHAIRMAN KICKLER: The motion has carried.

7 And I would like to take the opportunity as
8 Chairman to direct the Clean Water staff to generate
9 -- or make a rough draft of merged criteria so the
10 board can consider that and start that conversation in
11 the upcoming -- in our next meeting, which we will
12 decide on that later on.

13 MR. TOOLE: May I ask a question? I
14 don't know the answer. Is that worthy of another
15 discussion, whether we merge those or have -- develop
16 two separate criteria, because we're going to have two
17 silos of money? Should these projects compete equally
18 or are they sufficiently distinct that there should be
19 -- just like an acquisition project is different from
20 a sewer project?

21 MR. MARTIN: I think that that's why -- I
22 think what will happen -- what I'm envisioning is
23 that, since the Clean Water Management Trust Fund
24 already has a breakdown of percentages for acquisition
25 versus innovative stormwater versus other things, that

1 they'll probably -- that that's the way that when they
2 come back with the criteria -- I think there's things
3 already in there that we work at and -- the emphasis
4 would be on us as to what are those percentages, and
5 that's what maybe we can get to. What you're thinking
6 about as far as -- you have all the acquisition
7 process -- acquisition projects competing against each
8 other versus innovative stormwater versus restoration,
9 greenways and streams.

10 MR. GOSSAGE: We will bring a proposal --

11 MR. TOOLE: You all struggle with it and
12 figure it out.

13 CHAIRMAN KICKLER: And then what I'm asking
14 staff to do is to bring that proposal, that rough
15 draft to us and we will evaluate it, say start over.
16 We like this. We don't like that. We don't like --
17 you know, and then we can discuss the percentages.
18 This is just to find out more information so we can
19 make an informed decision.

20 MR. TOOLE: It may not merge. You all
21 will see.

22 MR. MARTIN: The only direction I would
23 add is, since I was part of the board that came up
24 with that criteria, the one thing that's left in
25 stormwater -- innovative stormwater is -- as you guys

1 know, about two or three years ago there was a bunch
2 of meetings that were all about developing the
3 criteria for those grants. So I would just say -- I
4 know you guys wouldn't do that, but just go back and
5 revisit that. Don't reinvent the wheel.

6 CHAIRMAN KICKLER: Well, if there are no
7 other pressing questions, I believe it's lunchtime.

8 (Recess taken from 12:30 p.m.
9 to 1:41 p.m.)

10 CHAIRMAN KICKLER: Welcome back, everyone.
11 We will finish the rest of our agenda. Before we move
12 on where we left off, we have Jeff Manning will tell
13 us a little bit about water quality resources.

14 MR. MANNING: Thank you having me. My name
15 is Jeff Manning. I'm with the Division of Water
16 Resources. I'm here today to talk to you about the
17 classifications and standards program for surface
18 water.

19 And, as you know, the Division of Water
20 Resources has been going through some reorganization
21 over the last several months. And our Planning
22 Section that covers the classification of standards is
23 still there, and now we're also doing rules review for
24 House Bill 74.

25 There's lot of other changes in the Planning

1 Section as well. We're integrating the river basin
2 planning processes for quality and for quantity.
3 We're coordinating some of the components, grant
4 administration programs, like 205(j) and 319, which
5 that might not mean a lot to you now, but that's the
6 Clean Water Act Section references. And those are
7 non-point source and water quality planning monies
8 that we administrate.

9 So we're more closely coordinating those
10 activities so that the 205(j), which is planning
11 money, is done to make watershed restoration plans.
12 And then the 319 money, which is the implementation
13 for non-point source restoration is used for
14 implementation to implement those plans.

15 So those are some of the things that are
16 going on in our division in the Planning Section.
17 We're also working on a project to prioritize waters
18 for restoration using all the data that we have. We
19 have tons of data now, and so coordinating that and
20 organizing it in a manner that we can rank watersheds
21 for -- to target money towards is one of our big
22 priorities for this upcoming next couple of months.
23 So we're real close to having a ranking system for
24 restoration of watersheds.

25 But I'm here today to talk to you about the

1 water quality standards program, so next slide.

2 The water quality standards obligations --
3 program obligations are to protect waters. And then
4 to do that we determine the levels of protections that
5 are needed. And to do that we set standards. And
6 standards involve several different components. It's
7 really a federal program by Clean Water Act, and all
8 the states implement it.

9 So as part of standards there's also
10 policies that we always review, variances. And this
11 review that's kind of always going on all the time --
12 seems like all the time. It's called a triennial
13 review. It means every three years review all your
14 standards and make sure you've got the best science,
15 the most current information, and your standards are
16 appropriate. So we're kind of always working on
17 components of that.

18 And then part of that is to reclassify the
19 waters. So we have classifications -- next slide. We
20 have classifications -- various classifications for
21 different waters, and those classifications are based
22 on the designated uses. So these are the four
23 components of standards. You don't really have to
24 worry too much about that, just know that
25 classifications are probably the ones that -- the

1 parts that are most interesting to you.

2 We have classifications like high quality
3 waters, outstanding resource waters, trout waters,
4 water supply waters, and those often incorporate large
5 watersheds where various activities in the watershed
6 can help to restore the waters back to their standards
7 or not. So we also have anti-degradation policies and
8 implementation polices as part of the standards.

9 This classification system was set up way
10 before the Clean Water Act back in the fifties, and
11 it's evolved over the years. There used to be
12 classifications like A-2, A-3. We don't use any of
13 those anymore. But we have different classifications
14 for fresh water and saltwater. It's not perfect
15 because we should have some brackish classifications,
16 but we don't. But it's a pretty darn good system.
17 It's worked for a long time to protect a lot of our
18 waters in North Carolina.

19 And when Clean Water Act came out in the
20 seventies, our schematic for classifications fit
21 really well with some of the Clean Water Act
22 requirements. So today we have primary
23 classifications, which are water supply -- and there's
24 several -- there's five different levels of water
25 supply -- there's Class C, which is the basic baseline

1 for all waters; and there's Class B, which is just an
2 indication of primary recreation used for swimming,
3 things like that; and then the SA, SB here is the salt
4 water versions of the fresh water classifications.

5 And then the supplemental classifications
6 are ORW, HQW, trout, swamp -- that's what SW is -- UWL
7 is unique wetlands. We have a few of those that we've
8 done in North Carolina. And this website here -- I've
9 kept the link up there because it's such a long -- I
10 used to be able to quote our web links, but anyway
11 that's the link that you need to go to it for more
12 information about classifications.

13 But I also gave you one of these glossy
14 flyers, which there's a lot of information in this
15 flyer. That's why the print is so small. But really
16 the information that you probably want is just open it
17 up right there. That describes all the
18 classifications right there.

19 If you want to get into a lot of details,
20 you can open it up further and get lots of information
21 about the different classifications. But the
22 description of all the different classifications are
23 in this brochure, which is still good for content, but
24 a lot of the division references and things like that
25 are out of date, so we need to update this. But for

1 content or what the definitions mean, this is still
2 good.

3 So this is a map I wanted to show you of the
4 -- of water supply watersheds in North Carolina. So
5 all of these watersheds have some sort of setback or
6 buffer requirement, some sort of discharge
7 restriction, depending on the classification of water
8 supply to protect the standards that are set for human
9 health purposes. Next slide.

10 And then these are the watersheds in North
11 Carolina for HQW and ORW classifications. So HQW or
12 ORW, that's what you want to know about. These are
13 waters that are above the standards. So over the life
14 of the program in DENR, these waters have been
15 reclassified. Each one has been carried out in like a
16 rule-making process to look at the watershed, to
17 collect data on the watershed, to go out and get more
18 data if needed, and then take that data and say, yeah,
19 the water here is excellent and there's also something
20 going on here, like there's a significant species of
21 some sort, or a threatened endangered species, or it
22 might be a component of a state park, some other what
23 we call a resource value and that makes it -- it kicks
24 up out of HQW into ORW. So these are ORWs and HQWs.
25 The yellow ones are the HQWs; the green ones are the

1 ORWs.

2 And this next slide just kind of details a
3 little bit more about the definition of HQW and ORW.
4 The Clean Water Act has referenced the ONRW,
5 Outstanding National Resource Waters, which here in
6 our program we translate that to ORW. They have a
7 strict definition of no discharges at all in a
8 National ORW. We don't have that quite that
9 stringent. Although some of our ORWs don't have
10 dischargers, but they might have had a discharger
11 prior to it becoming an ORW. So we don't fit the
12 national definition, except in some cases, so the same
13 thing with HQW.

14 This is just probably more information that
15 you need. This is actually quoting the rule for ORW,
16 how it's a subset of HQW, and then all of these things
17 are what we call the values. For an ORW you only have
18 to have one to qualify as an ORW. But often it's more
19 than one. And simple weight, that will consider a lot
20 of things when we're looking at ORW reclassification.
21 Next slide.

22 And then we have the unique wetlands. I
23 wanted to mention these. These were -- they're very
24 small. We do a map of them and show it on -- in this
25 scale in North Carolina, you can't even see them

1 because they're just really -- really small unique
2 little wetland areas. And all the ones that -- we've
3 done 33 of them and classified them as unique
4 wetlands. They're all on public lands, mostly state
5 parks, some federal lands down near Southport. And
6 then in those areas they're treated -- by rule they're
7 more protected than a regular wetland.

8 You couldn't do anything there in those
9 areas unless you found -- mitigated with the same
10 thing. Since they're unique, they have some sort of
11 special characteristic. It's pretty unlikely that you
12 would ever be able to impact those wetlands at all.
13 So those are recognized, and we have that
14 classification set up for that purpose.

15 I think that's it. These are -- this is a
16 report that we do for the legislature every year where
17 we show all our water quality impairments. So our
18 classification program is really opposite of this,
19 where we don't -- for HQWs and ORWs, where you don't
20 have impairments, and where the water quality is
21 better than, you know, in exceedance, and so we want
22 to protect that. So that's why we have those
23 classifications. Next slide.

24 MR. TOOLE: Can you leave that for just a
25 second? So mercury hasn't changed?

1 MR. MANNING: Yeah, mercury's a -- as you
2 can tell, this axis here is the number of water bodies
3 that we assess, almost 12,000. And then mercury's all
4 of them. So mercury has a state-wide -- mercury is a
5 unique situation in that it's a state-wide
6 applicational impairment. And that's really based
7 on --

8 MR. TOOLE: Air deposition?

9 MR. MANNING: Yeah. And so the water
10 quality component is such a micro amount that any
11 change -- we've ratcheted it down all we can do in
12 water quality for mercury.

13 MR. TOOLE: Saltwater fecal coliform,
14 what's driving that?

15 MR. MANNING: Saltwater fecal coliform is
16 -- the fecal coliform in saltwater is for shell fish,
17 and that's an FDA standard, Food and Drug
18 Administration. That's really low. It's like 14
19 milligrams per hundred. It's way lower than the
20 recreation standard. So that's for eating shell fish.

21 MR. TOOLE: And that's being driven by
22 wastewater treatment plants or --

23 MR. MANNING: Probably stormwater runoff.

24 MR. TOOLE: Stormwater runoff.

25 MR. MANNING: Yeah.

1 MR. TOOLE: Thank you.

2 MR. MANNING: Sure. I think I have one
3 more slide. This side -- I just want you to blur your
4 eyes and look at the coverage of this slide. This is
5 kind of a dated slide, but this is one that I could
6 grab real quick that all the different layers of
7 strategies that we have in North Carolina.

8 So this shows all the ORWs, the HQWs I
9 showed you on the other map. It shows all the water
10 supply watersheds that I showed you on the other map.
11 It also shows those river basins, Neuse, Tar-Pam,
12 Chowan areas that are covered by Nutrient Management
13 Strategy. So we have a classification for that, too.
14 It's called NSW, and that's the impairment
15 classification, so it's the reverse of the HQW or ORW.

16 So I just wanted to show you this to show
17 the different strategies that we have in place here in
18 the state.

19 I just wanted to include my contact
20 information in case you have any follow-up that you
21 want to do.

22 MR. TOOLE: Can you -- that slide that
23 showed the impaired waters, can you make that
24 available?

25 MR. MANNING: Oh, sure. Yeah. Absolutely.

1 MR. TOOLE: It might be strategic --

2 MR. MANNING: Absolutely. Yeah, it's in a
3 legislative report, so it's available in lots of
4 places, but I can send it to you however -- I can send
5 it to you. You've got it there.

6 MR. TOOLE: Thank you.

7 MS. MCGEE: I was just going to say, we
8 wanted -- appreciate Jeff being here and sharing that
9 because this kind of information, this jargon and all
10 these terms, they feed right into the criteria. So
11 the special significance where a project is will kind
12 of -- a classification a water body has that is -- the
13 drainage from the project goes into that stream, that
14 has a bearing on how many points it gets and whether
15 it's in a targeted area, some of those -- or those
16 classifications or if they're impaired on the -- the
17 preview of both.

18 So all this information, as well as what
19 Linda mentioned as well, too, the rare plant species,
20 how they rank those. We didn't get into all those
21 details, but we use that information, and that feeds
22 right into the number of points, at least for where a
23 project is.

24 CHAIRMAN KICKLER: Are there any other
25 questions for Jeff?

1 (No response.)

2 CHAIRMAN KICKLER: Thank you, Jeff.

3 Then we'll move right along to agenda item
4 "O", which is on page two at the bottom. And "O" is
5 "Planning for Current Funding Cycle," and I'll turn
6 the time over to Bryan, Christopher and Beth.

7 MR. GOSSAGE: Thank you, Mr. Chairman.
8 Beth and Chris are really going to run with this
9 agenda item, which is going to be an overview of the
10 funds, fund balances, some of our expenditures, where
11 money is coming in and where it's going out.

12 Beth, do you want to go first?

13 MS. MCGEE: Christopher, he's going to go
14 over the budget sheets that are your package under
15 O-1-1 through 4.

16 MR. FIPPS: Thank you, Beth.

17 Yeah, this is just going over, as Beth said,
18 supplemental items O-1 through 4. And this was just a
19 starting point. Mainly here we're trying to get to
20 the numbers that you all were interested in discussing
21 earlier just to see how much funds will be available
22 this year for grant making purposes.

23 But we wanted to give you a little detailed
24 information. And these were typical sheets that we
25 used to provide to the prior board, so we were just

1 using this as a starting point to provide you all some
2 information, and we can produce things later if you
3 all want to see information a different way.

4 Page one is just a picture of where the
5 funds were at September 30th of this year. Line one,
6 starting with the total cash inclusive of Clean Water
7 Management Trust Fund and the prior Natural Heritage
8 Trust Fund cash balance, so just shy of \$60 million
9 total.

10 Moving down -- starting with line four,
11 looking at the remaining revenue that's projected for
12 the rest of the fiscal year. Line four, there was an
13 appropriation this year of \$10.4 million. Some
14 allotments have come in as of September 30th, so there
15 remain \$7.7 million still to receive toward the
16 appropriation for the remainder of the fiscal year.

17 Line five, we started this year with an
18 interest projection of \$150,000. We have received
19 some of that to date, and \$84,000 remaining on that
20 projection.

21 Line six is a grant -- and I think a Trustee
22 actually spoke to this earlier -- where we are getting
23 refund -- refunded on a grant that -- the City of
24 Shelby, and they are doing that over a six-year period
25 in installments. So we had an instalment that was due

1 this -- the beginning of this fiscal year, and that
2 will be over the next -- inclusive of this year and
3 the next six years in 2018. They have already paid
4 that first installment, so there's nothing remaining
5 on that for the fiscal year. I just wanted to show
6 that as a reference; that has come in.

7 Starting on lines 10, then, look at the
8 obligations of funds. On line 10 there is a cap on
9 the administrative budget at \$1.25 million. This is
10 just showing what's left to spend toward that cap.

11 Line 11 is Natural Heritage Program
12 Inventory of Natural Heritage Areas, \$750,000, which
13 will be one of the points later in this agenda item as
14 an action item.

15 Line 12 showing the allocation to the Jordan
16 Lake Water Quality Improvement Demonstration Project,
17 which should be a transfer back into the department
18 for that \$1.35 million.

19 In looking down there are a few lines that
20 reference encumbered grant contracts. Fourteen, 15,
21 16 and 17 refer to previously awarded Clean Water
22 Management Trust Fund grants broken out by the funding
23 areas and the dollar amounts to each of those funding
24 areas with a -- that subtotal is on line 18, the \$42.6
25 million in encumbered contracts.

1 Line 19 were the previously awarded Natural
2 Heritage Trust Fund grants that we will still be
3 managing moving forward until those projects close out
4 at just shy of \$4 million.

5 Line 22 and 23 refer to the Stewardship
6 Program Operating Funds. There is an endowment that
7 the trust fund has, which we'll go over a little bit
8 later, that is set aside from acquisition conservation
9 projects to fund perpetual monitoring of the
10 stewardship easements that we talked a little bit
11 about previously.

12 And at the beginning of each fiscal year
13 what has happened is the trust fund has -- the board
14 authorized withdrawing the interest earnings out of
15 the endowment that were needed to fund the stewardship
16 contracts for the coming year. Again, those are
17 contracts with the land trusts that we contract out to
18 actually do the monitoring of those easements.

19 MR. TOOLE: Are we taking all the
20 interest out of the stewardship funds, or is it just a
21 portion?

22 MR. FIPPS: This past year just a
23 portion. What we --

24 MR. TOOLE: Like four percent or --

25 MR. FIPPS: Of the interest earnings or

1 just --

2 MR. TOOLE: Yes.

3 MR. FIPPS: No, I mean, it's a greater
4 percentage of the interest earnings that we took out
5 this year. I think the interest earnings they had
6 available to use was over a hundred and some thousand
7 dollars. We needed to take out about \$34,000. And
8 the reason being, as you'll see on line 23, we carry a
9 little bit of a cash reserve.

10 We contract these stewardship contracts for
11 the annual monitoring for an estimated amount that the
12 land trust is going to need to use. We then only pay
13 their direct actual expenditures, so those contracts
14 also come in under budget during the year and we will
15 carry that forward to the end of the fiscal year.

16 Therefore, out of the interest earnings --
17 we won't actually have to draw out all the interest
18 earnings to fund the next year's contracts.

19 MR. TOOLE: So we're building importance?

20 MR. FIBBS: Right. The principal -- yes,
21 Mr. Bragg?

22 MR. BRAGG: I just thought I'd add that,
23 Bill, you and I are familiar with taking four percent
24 out to pay for the cost of land trusts. But the way
25 ours was structured, we cut a deal with each land

1 trust for each of these parcel, and it was a fixed
2 amount. So our four percent has been growing because
3 we're invested roughly 70/30, so we're not taking out
4 a percentage as traditionally it is done.

5 Is that correct, Chris?

6 MR. FIPPS: Right.

7 MR. BRAGG: Thank you.

8 MR. FIPPS: So these are just referencing
9 the dollars that are in the cash fund that are
10 allocated toward the stewardship monitoring program,
11 the stewardship contracts and easement management fund
12 that we've been talking about.

13 So that basically gets you to line 27, which
14 is the \$17.9 million total for grant making.

15 If you go over to page two, basically just
16 getting at this information the same way. I just
17 wanted to step back a minute. This is a little bit
18 redundant, but instead of looking at the entire cash
19 fund right now, where funds are obligated, where they
20 were obligated to previously, encumbered contracts, I
21 just wanted you to be able to see -- just in talking
22 about this fiscal year -- where that \$17.9 million is
23 really coming from for this current year.

24 Line two, Clean Water Management Trust Fund
25 had about \$727,000 in funds that become unencumbered

1 from closed grant projects, and this is since the last
2 board meeting. And as projects close that under
3 budget, what Clean Water has done is taken those funds
4 and just put them back into other projects for the
5 next funding cycle.

6 Line three was some under-run in the
7 administrative budget and over-realized interest
8 earnings for last fiscal year. The breakdown of that
9 \$106,000 is roughly an \$80,000 under-run in the
10 administrative budget for last fiscal year and about a
11 \$26,000 amount in over-realized interest earnings.

12 Line four is what we've been talking about,
13 the carry forward of unencumbered funds from the
14 Natural Heritage Trust Fund, which was the \$8.6
15 million figure. Coming in for this fiscal year new
16 revenue, the appropriation of \$10.4.

17 Clean Water Management Trust Fund is also
18 going to be getting license plate revenue that the
19 Heritage Trust Fund had previously been getting. So
20 far, as of September 30th, we've realized 1.17, so
21 nearly \$1.2 million in license plate revenue. There
22 was the interest projection and then the repayment of
23 that City of Shelby grant.

24 Then, again, just looking at total
25 obligations, administrative budget capped at \$1.25

1 million; the Natural Heritage Program Inventory of
2 Natural Areas at \$750,000, which will be an item to
3 discuss; and the Jordan Lake Water Quality Improvement
4 Demonstration Project at \$1.35. Again, it's \$17.9,
5 and then below that it's, again, just broken out to
6 exceed -- how the 17.9 is made up of the 8.6 carry
7 forward, which we'll discuss in a little bit further
8 detail in one of the coming items, to be used for
9 Natural Heritage projects or COPs debt service, and
10 then that remaining amount for the Trustees to decide
11 on allocating the \$9.3 million.

12 And we have on line 22, just for information
13 purposes, another point to consider is the license
14 plate revenue is estimated to be about \$4 million per
15 year, and we've received \$1.17, which would leave
16 about \$2.8 million and change that ought to be
17 realized during the fiscal year. That may be another
18 point that the board might want to consider.

19 The previous Clean Water board has, in the
20 past, made provisional lists of grant projects
21 conditional on the receipt of funding becoming
22 available. So we felt this is just another
23 opportunity that the board may want to consider this
24 when they make their awards over the next few months,
25 possibly making an award provisionally, contingent

1 upon actually receiving the funds.

2 Page three is just the detail -- again, in
3 the past what we've done is we've shared with the
4 board the list of projects that have come in under
5 budget with realized funds being unencumbered. This
6 is making up that \$727,000 that I just spoke of on
7 page two.

8 And last but not least is just an update on
9 page four of the stewardship endowment report. Again,
10 what we do intend to do -- we can answer questions now
11 -- we also want to go over just the endowment, the
12 stewardship program itself and how that operates in a
13 lot more detail at the next meeting or the meeting
14 where you all look at acquisition projects since the
15 stewardship program is an integral part of how those
16 projects get managed specifically in the acquisition
17 program.

18 But what this is doing is at least showing
19 you an update of where the endowment is at the current
20 time. The previous board had gone through a process
21 of having this diversified. The investment of it with
22 the Treasurer's Office diversified across long-term
23 investment, short term, as well as equity. The split
24 is about 65 percent equities, 25 percent short term,
25 10 percent long term. The total value of the fund on

1 August 31st was \$2.8 million.

2 And we can answer questions, and a lot of
3 these numbers that we've been going over, again, will
4 those points to discuss in the very upcoming agenda
5 items on that 8.6 and the 9.3 million as well as the
6 Natural Heritage inventory.

7 MS. MCGEE: Does anyone have any
8 questions for Christopher on this budget sheet?

9 CHAIRMAN KICKLER: Well, if there are no
10 other questions, we'll move on in the agenda, and that
11 brings us to O-2-a.

12 From what I understand some property owners
13 were invited -- given the opportunity to show up in
14 attendance today, because if we have a meeting -- if
15 the trust fund has a meeting in 2013, they can take
16 advantage of a tax credit for this year. So I was
17 wondering if any of the property owners are here.

18 MS. MCGEE: We had talked with the
19 agencies, but --

20 MS. GUTHRIE: To add a little bit of
21 clarity with what staff had done, we had asked state
22 agencies that had applied to the Natural Heritage
23 Trust Fund to please get in touch with the landowners
24 to see if any were seeking to take advantage of the
25 tax credit that ends at the end of this calendar year.

1 We did hear that it would be nice if some
2 awards could be made, but no one came with really an
3 identified project that is in jeopardy. And I hope I
4 have not missed anything from the state agencies, but
5 that was the message I got, that there's not a project
6 where the landowner walks away at the end of this
7 year. It's just some information to consider.

8 CHAIRMAN KICKLER: All right. Yes?

9 MR. TOOLE: So from what I understand, we
10 are not legally required to meet in 2013?

11 MS. LUCASSE: That's right. To answer that
12 question what I did is I went and I looked at our
13 statute, and the statute simply requires two meetings
14 per calendar year. There was a meeting in June, if
15 I'm not mistaken, and this meeting, so that meets our
16 statutory requirement for how often we meet.

17 CHAIRMAN KICKLER: We thought we might
18 extent as a courtesy to those property owners, but
19 you're saying -- what I understand your saying that
20 the projects aren't in jeopardy whether we meet in
21 December or --

22 MS. GUTHRIE: That is the feedback I've
23 gotten.

24 MR. STRONG: This is Brian Strong with
25 State Parks. We do have one project that I think it

1 would be extremely if the landowners were to know,
2 especially the joint project with Audubon, and Audubon
3 is looking for a bone from the land trust. So in
4 order to get the tax credit for this year, the owner
5 would have to close with Audubon. So knowing that
6 would be very helpful, that they would have a take-out
7 option in the coming year, so that's just information.

8 MR. TOOLE: Bryan, would you remind us --
9 I believe I recall that the tax credits for land
10 conservation easements expire at the end of the year.
11 Is that also true for Natural Heritage and Cultural
12 Trust projects?

13 MR. GOSSAGE: Yes, that's correct.

14 MR. TOOLE: So the whole grant would
15 expire?

16 MR. BRAGG: I think it's significant to
17 know that there's a huge rush in the private sector
18 for the land trust to close these deals to take
19 advantage of the income tax credit, and the point
20 being to show you how important it is. And, believe
21 me, the land trusts are working 24/7 to close land
22 deals because this is going away. It's a huge loss to
23 the state, and I just wanted that to be part of the
24 record, that I, as one of the Trustees, regret that
25 the state has made that decision.

1 CHAIRMAN KICKLER: Are there any other
2 discussion regarding our next meeting, when it should
3 be?

4 Yes, I forgot to say, you have a schedule of
5 potential board meetings in the blue folder, and we --
6 and correct me if I'm wrong -- but we do not have to
7 decide today on a date. I can direct the staff to
8 send an email out and coordinate with all the Trustees
9 for our next meeting. The next meeting could also be
10 a -- we've got the special meeting for the purpose of
11 scheduling meetings for 2014.

12 MR. GOSSAGE: But that can be a conference
13 call.

14 CHAIRMAN KICKLER: But that can be a
15 conference call. We do not have to make a trip to
16 Raleigh for that. So that being said, I'll open it up
17 for discussion.

18 MR. TOOLE: I do expect, as people
19 realize they're about to lose tax credits, they're
20 going to want to close a deal by December 31st, if
21 they possibly can. I'm delighted to come back down on
22 Wednesday the 18th to deal with those. If there are
23 none, we go home. We can always cancel. But I'll bet
24 you there will be a bunch. What happens after that,
25 you know, we can work it out.

1 CHAIRMAN KICKLER: Is there any other
2 discussion, comments?

3 MR. TOOLE: I'll move December 18th we
4 meet, subject to cancellation if there's no project to
5 review.

6 CHAIRMAN KICKLER: Okay. The motion is
7 that the board meets on December 18th subject to if
8 there is no --

9 MR. TOOLE: If there's nothing -- there's
10 no reason to have a meeting, we don't need to.

11 CHAIRMAN KICKLER: In regards to the tax
12 credit.

13 MR. BRAGG: Can the staff not address
14 what's in the pipeline that's contingent upon us
15 needing to make those easements happen in December?

16 MS. GUTHRIE: You would like to know if
17 there are projects that are -- will be lost,
18 essentially.

19 MR. BRAGG: Right, because we don't meet
20 or --

21 MS. GUTHRIE: If we don't meet in December.
22 Otherwise, making that decision on all of the
23 acquisition that -- the 57 applications that were
24 submitted, you feel you can wait.

25 MR. TOOLE: I mean, if we're going to

1 meet, I'd just as soon deal with them all. But it
2 takes away the time pressure, the imminence.

3 MS. GUTHRIE: Right. Those are two very
4 different levels of meeting for staff prepare, and
5 that's why I -- doing harm with, you know -- to be
6 here all day long making acquisition decisions, or is
7 there a subset you want us to go back and find
8 information and see if there is an urgency with a
9 subset of them?

10 MR. GOSSAGE: If the board chooses not to
11 meet until their first quarterly meeting in 2014, what
12 imposition or hardship does that place, if any, on
13 those 57?

14 MS. GUTHRIE: It would just delay those
15 considerably -- or not considerably -- it would just
16 delay them to the meeting.

17 I think another part of this is wrapping
18 into when do you want to make decision to start the
19 next cycle? And I say that because I've gotten some
20 feedback, that if people have a Clean Water Trust Fund
21 decision, then they may leverage that to get
22 additional grants.

23 So I don't think there is a catastrophic
24 result if the decision is delayed a few months, but
25 this is a rolling consequence of just pushing other

1 decisions that the land trust can make.

2 MR. MARTIN: We've just given you guys
3 direction on what criterion should be used to even
4 look at these things, so -- I know you guys are
5 awesome, but 57, to go through them, I'm just thinking
6 it would be impractical to think that you would ever
7 -- could come back to us with a list, unless you were
8 to contact people and just make sure that there's no
9 one who's going to walk away if we don't meet, kind of
10 like what you were saying.

11 MR. BRAGG: During the normal course, if
12 we were on a regular cycle, we would have met in
13 October and dispensed those funds because we would
14 have gone through our committees and come up with --
15 and it would have been done in October. Is that
16 correct, Nancy?

17 MS. GUTHRIE: Yes.

18 MR. BRAGG: So maybe we should meet in
19 December and try to really work on it.

20 MR. MARKHAM: If I could, I would be
21 concerned about trying to elevate projects because
22 they may be lost if they don't -- but they're projects
23 we would not have funded because there's so much
24 competition for the funding that we do have. So to
25 make decision in December, it really needs to be the

1 entire group, in my opinion. I'd like to weigh all
2 equally because they're all great projects and not all
3 of them can get funded. So we can't base it on just
4 time restraints and who may lose --

5 CHAIRMAN KICKLER: Before we go any further
6 I want to say we have a motion --

7 MR. TOOLE: I'll withdraw it.

8 CHAIRMAN KICKLER: -- on the table.

9 MR. GOSSAGE: Staff is happy to accommodate
10 the board one way or the other, whichever way you
11 decide.

12 MR. TOOLE: Can you all -- I mean, would
13 you have to slide through all 57 in order to talk to
14 us in December, or can you bite off as many as you can
15 and let us deal with those, or do we need to look at
16 them all at the same time?

17 MS. GUTHRIE: The real advantage of looking
18 at them all at the same time --

19 MR. TOOLE: It's all apples and apples.

20 MS. GUTHRIE: Right, at that point.

21 MR. TOOLE: Can you get it done in that
22 time frame?

23 MR. GOSSAGE: Maybe I misspoke. Is that a
24 reasonable amount of time for us to be ready?

25 MS. GUTHRIE: I think with the work that

1 we've already done we could get there. I'm looking at
2 the field reps. They're nodding, so I'm going to
3 leave it on them to --

4 MR. SCHUMAK: We anticipated -- I'm trying
5 to think of when we might -- the earliest we might be,
6 and we've been targeting that. So I think the field
7 reps would be ready in December to present projects.

8 MR. TOOLE: Well, the way to eat the
9 elephant is one bite at a time, and we need to get
10 started.

11 MR. SCHUMAK: Yeah. The other thing is,
12 typically we'd start getting new applications. People
13 are already calling about new applications coming in
14 whatever date you all choose to be, but normally that
15 would have been February 1st.

16 MS. MCGEE: I do think it's important, as
17 has been mentioned, to look at all of them -- all of
18 the number because you may have some that really want
19 the tax credit. Like Kevin said, they would have
20 scored low, with the limited amount of money that we
21 have, you all might not be able to get down to those,
22 and so that's important.

23 MS. HOLDEN: Mr. Chairman, may I address
24 the board?

25 CHAIRMAN KICKLER: Yes.

1 MS. HOLDEN: A couple things, one is in
2 regards to -- Beth, this might be a question for you
3 -- the Natural Heritage Trust Fund money, the
4 applicants that have already submitted those
5 applications, would that be one bucket that could be
6 considered in full as compared to the Clean Water
7 component and separate that out? I know on behalf of
8 the Department of Environment and Natural Resources,
9 the parks and rec group, I believe you have five. And
10 of those five I think there may have been four that
11 specifically had a desire to take advantage of the tax
12 credit.

13 It didn't say that there would be a walk
14 away situation, but it certainly had that as part of
15 the criterion to try to move forward with -- you know,
16 with the private parties.

17 And then in regards to the meeting on
18 December the 18th, would that give adequate time for
19 an individual to actually be able to close on the
20 property, assuming that they were awarded the grant?

21 You know, I don't want to hurry up and then
22 we're not able to take action quickly enough once the
23 grant is awarded to be able to take advantage of that
24 tax credit if that was the whole purpose in expediting
25 the meeting anyway.

1 MS. GUTHRIE: Mr. Chairman, I can speak to
2 that as well, the process.

3 CHAIRMAN KICKLER: Okay.

4 MS. GUTHRIE: There would not be time there
5 to have any state funds available for the closing. So
6 it would have to be a situation where a land trust
7 stepped in and was able to get a loan or funding from
8 their private fund raising, close the deal, and then
9 the contract from the state would be working it's way
10 through the process and could reimburse the land trust
11 who had taken out the loan to close the deal by the
12 end of the year. So it's actually there's a specific
13 process that has to happen for this to be successful.

14 MS. MCGEE: And there may be Clean Water
15 projects that people are interested in the state tax
16 credit as well. I mean, it could be any of the -- any
17 of the 62 that we have, or whatever the number is.

18 MS. GUTHRIE: It is very late in the year.
19 No one will be able to have the decision from Clean
20 Water and then decide, hey, yes, let's go start this
21 and get it funded. So these have to be projects where
22 there's already a land trust essentially willing to
23 take out that loan knowing that a grant has been made
24 and that they can get reimbursed.

25 MR. GOSSAGE: But there's nothing specific

1 that you're aware of, there's not any one specific
2 project that you're aware of?

3 MS. GUTHRIE: The one that was mentioned
4 today is the --

5 MR. GOSSAGE: That one does meet that
6 criterion?

7 MS. GUTHRIE: Yes.

8 MR. GOSSAGE: Okay.

9 MR. BRAGG: Will we need to meet
10 tomorrow?

11 MR. TOOLE: It's not reasonable to ask to
12 meet earlier than December 18th, is that --

13 MS. MCGEE: Well, yeah, I mean we would
14 need to find -- the only day in December that this
15 room is available is December 18th. We could look for
16 a different place. But if you get much earlier --
17 even the December 18th, we would need to have the
18 packages mailed out by early December, and so we only
19 have really a couple of weeks. We don't have a whole
20 -- I mean, two and a half weeks, as it stands, to get
21 the package together, to get it to you to have enough
22 time for you to review it.

23 MR. TOOLE: Can they do a dry closing and
24 get the tax credit through a dry closing is money
25 moves after the first of the year?

1 MS. LUCASSE: I recommend that Beth not
2 provide legal advice.

3 MR. TOOLE: That's practical advice, but
4 that's okay.

5 I'll move that we meet on December 18th, and
6 (indiscernible).

7 COURT REPORTER: I'm sorry, Mr. Toole, I
8 couldn't hear you.

9 MR. TOOLE: I move that we meet on
10 December 18th because it doesn't sound like we can do
11 anything else.

12 MR. GOSSAGE: And what would you like the
13 agenda to be?

14 MR. TOOLE: Look at all the projects you
15 all got and --

16 MS. MCGEE: All the acquisition projects?

17 MR. TOOLE: Yes.

18 CHAIRMAN KICKLER: So the motion is to meet
19 on December 18th to look at all the acquisition
20 projects, correct? That's the motion. Is there a
21 second?

22 MR. BEAUJEU-DUFOUR: I second.

23 CHAIRMAN KICKLER: Second. Is there any
24 more discussion?

25 MR. MARKHAM: Clarification, that's both

1 the Clean Water and Natural Heritage acquisitions?

2 MR. TOOLE: Yes.

3 CHAIRMAN KICKLER: Any more discussion or
4 other questions?

5 (No response.)

6 MR. MARTIN: Can we all look at the
7 acquisitions or are we doing -- can we -- since we're
8 only going to look at the acquisitions, then we're not
9 going look at all of them then. I'm just trying to
10 think, I mean, how we determine the breakdown of each?

11 CHAIRMAN KICKLER: That's a good question.

12 MS. MCGEE: We'll get with you on -- it
13 would be -- just from a practical standpoint, it would
14 be a lot to try to do all them in one meeting. We've
15 been sort of gearing up to have the restoration
16 meeting after the acquisitions.

17 What we have thought about is, before you
18 all actually start looking at making awards, to go --
19 we're going to have the orientation materials very
20 specific for land acquisition projects. Christopher
21 mentioned stewardship, and there are some other items
22 like just the whole process that we go through that we
23 wanted to go over with you all, the legal instruments
24 that we use, all sorts of things, just pertinent to
25 the land acquisition projects. That was our vision,

1 just to sort of -- Larry's looking at me, too.

2 But it's a lot and we would get the
3 applications out to you. We can send those out on a
4 CD even before we get the board package out so you can
5 be looking at those.

6 MR. BRAGG: I would like to ask this
7 question again, is it possible to identify those 62
8 cases that are individuals making donations of land
9 for permanent easements that meet tax credits? It
10 would be a travesty to leave those on the table.
11 We're going to lose them.

12 I have worked in the land trust business for
13 the last 15 years, and people are counting on this.
14 And can't the staff -- I mean, you all have a feel for
15 those? Surely there's a way to say, yeah, here's one
16 of the guys donating 100 acres and picking up a little
17 bit of money from land -- from Clean Water, and he's
18 going to walk away from the deal, I'm afraid.

19 MR. GOSSAGE: Mr. Bragg, I'm seeing some
20 nodding heads over there.

21 MR. BRAGG: Can you identify those cases?
22 That's my question.

23 MR. SCHUMAK: I believe so. I believe, for
24 the most part, we have already got that information.

25 MR. BRAGG: That's what I thought.

1 MR. MARKHAM: Is that part of like our
2 donated -- donated easement mini grant program?

3 MR. SCHUMAK: No, it's where a landowner is
4 wanting to go ahead and take advantage of a tax credit
5 before the end of the year and --

6 MS. GUTHRIE: And the donations may be part
7 of the matching funds of a project. That's where we
8 see it a lot as far as a landowner donation would be
9 involved.

10 CHAIRMAN KICKLER: Hasn't the motion on the
11 table assuaged those concerns, or am I incorrect?

12 MR. MARTIN: The only question I had was
13 really how do we determine on December 18th how much
14 of the funding that we're going to do versus -- so if
15 we're just going to talk about the acquisition
16 projects, how are we going to figure out what that
17 amount is compared to the total 17 million that we
18 have to do? That's the only question I'm wondering in
19 my mind, how do we -- so that we know what we're
20 dealing with when we come here on the 18th?

21 MR. BRAGG: Which, in essence, the approach
22 I'm taking, we would be given preference to those
23 people who are trying to get their taxes together
24 before the end of the year, and that's not right
25 either.

1 MR. TOOLE: Bryan, you can't withdraw it
2 once it's seconded.

3 It does seem to me that we do have another
4 problem, which is giving some rough allocation to how
5 -- for our money, some portion to the acquisitions,
6 some -- well, of the unencumbered \$9.3 million, how
7 much do we want to allocate to Clean Water versus
8 Natural Heritage projects, and then of the Clean Water
9 silo, how much do we wish to allocate to acquisition
10 versus restoration projects?

11 I hope that staff can tell us roughly what
12 percentages have been done in the past that would give
13 some guidance to new folk like me, because that would
14 be something to look at.

15 CHAIRMAN KICKLER: There's money that has to
16 be used for the --

17 MR. TOOLE: They decide to use the 8.6 that
18 has to be used, which has to be used.

19 CHAIRMAN KICKLER: So I'm wondering if a
20 special committee can be assigned to answer your
21 question.

22 MR. TOOLE: That would be fine, but we need
23 to know by December 18th. I know there would have to
24 be a report back and a decision made before we start
25 squandering money on other projects -- not

1 squandering.

2 But we need that direction before we start
3 making awards on December 18th, don't you think,
4 Frank?

5 MR. BRAGG: I assume, yeah.

6 MR. TOOLE: That would be one of the first
7 thing -- one the first agenda items -- take the
8 recommendation and it could be modified and make a
9 decision, whatever we do, and then go with it.

10 MR. GOSSAGE: And we have actually, just two
11 items down on the agenda here, allocation of grant
12 funds, which is essentially what you're talking about.
13 And so if, Mr. Chairman, you want to go forward with
14 an ad hoc, with a special committee to deal with that,
15 which needs to be dealt with anyway, then -- Mr. Toole
16 is correct, it would be extremely helpful to have that
17 in place prior to any decision making on the 18th of
18 December.

19 MR. TOOLE: And would staff need that
20 information as they go through their evaluation
21 process and recommendations before the 18th, or can
22 you live with that decision -- not knowing what that
23 decision would be until the 18th?

24 MR. GOSSAGE: That's a great question.

25 MS. MCGEE: It's helpful, but we can still,

1 I think, make recommendations on the merit of a
2 project. In the past when we had a lot of requests and
3 limited funding, the board typically would make
4 allocations in August. Historically, I think it was
5 about 50 percent to acquisitions, about a quarter to
6 -- around about to wastewater -- although one year we
7 did a lot more because that was a priority for the
8 board -- and the remaining for -- maybe about 20
9 percent restoration and stormwater and greenways. I
10 guess wastewater was more like 30 percent.

11 So they made the allocation in August. And
12 so then what we did the last few years because of
13 limited funding, we had so many requests, and we
14 scored them all. And then after we knew the committee
15 allocation, we would take about two times that amount.
16 We would go down our list, and we would say these top
17 20 projects, if it amounted to 20 projects, we're
18 going to develop full scopes and all the information,
19 and then actually present them in the board meeting.

20 And we would not present those lower-scoring
21 projects unless a Trustee wanted to elevate those up
22 into the group -- the top group. And that allowed us
23 to spend more time on the highly scoring projects and
24 those that had a special interest. But we do that
25 allocation ahead of time.

1 And for this meeting we thought that you all
2 would probably want to see all the projects since this
3 is a new thing and you haven't seen any of these
4 applications. But that is something that we did in
5 earlier cycles. We didn't actually present all the
6 projects, but we knew the allocation ahead of time.

7 MR. MARTIN: I've just got one more
8 question. Just given the fact that we know the 8.6 is
9 for the part of the projects that we're concerned that
10 people might walk away from, are they all contained
11 within that portion of the applications, and the 8.6
12 that we already know will be put toward that?

13 MR. TOOLE: No, you've got -- you've got
14 Clean Water projects as well. The 8.6 is only Natural
15 Heritage projects.

16 MR. MARTIN: Right. But my question was is
17 -- the ones that we're worried about people walking
18 away from, are they all in the Natural Heritage --

19 MR. TOOLE: No, they're in the Clean Water
20 projects as well.

21 MS. MCGEE: Probably.

22 MR. TOOLE: Well, I don't -- I don't need to
23 see 54 projects if there's some that are just really
24 not -- doesn't rank. I mean, I don't want to make you
25 all work to show me it's not a very good project.

1 Others might have a different view, but I want to be
2 respectful of your time.

3 MS. GUTHRIE: I appreciate that view very
4 much. I do want to say, though, of the projects, we
5 don't see very many that just don't meet the criteria
6 and that aren't kind of worthy of consideration. And
7 while a project may score lower on the list, you, as
8 the board, have every reason and right to consider
9 pulling a project up out of the scoring order for
10 reasons that come to light during the discussion, or
11 for making the tax credit a priority.

12 So I am very hesitant for staff to make that
13 decision of not presenting projects, particularly two-
14 thirds of the board have not seen us go through the
15 process before, and I think it would just be more
16 beneficial to have the whole range of the projects.

17 MR. BRAGG: I do agree with that, Nancy, and
18 I think I'm comfortable letting the staff develop the
19 criteria on how the Natural Heritage is going to fit
20 in with Clean Water, keeping in mind that during this
21 cycle we've got to deal with 8.6. And you give us the
22 recommendations and show us how and why you scored it,
23 that way we'll have a reference point that we can
24 raise our hand and say, "Wait. Why did you do that?"
25 and solve the problem by looking at the real cases.

1 I think that's the only way. I mean, we're
2 -- some of us have seen it and some of us haven't, and
3 it's just hard to know until you look at this matrix
4 of plans and see how they're scoring. But having
5 talked to some of you all at break, staff, I think you
6 can develop that and be comfortable that -- we'll ask
7 questions, of course, but I think we can come to a
8 solution.

9 I think there's motion on the floor and I'm
10 way out of line.

11 CHAIRMAN KICKLER: Is there any other
12 discussion? And there is a motion that has to be
13 voted on, and that motion is -- make sure I get it
14 correctly -- motion is to meet on December 18th for
15 the purposes of looking at acquisition proposals for
16 both Clean Water Management Trust Fund and for the
17 Natural Heritage Trust Fund.

18 All those in favor say aye.

19 TRUSTEES: Aye.

20 CHAIRMAN KICKLER: All those opposed say no.

21 (No response.)

22 The ayes carry it.

23 And we are meeting on December 18th --
24 Wednesday, December 18th, for the purposes of looking
25 at acquisition proposals for both the Natural Heritage

1 Trust Fund and the Clean Water Management Trust Fund.

2 Now, because it was brought up in the
3 discussion, something we were going to address anyway
4 and may answer Trustee Toole's questions earlier on, I
5 would like to assign a special committee for a
6 temporary purpose to talk about the allocation of
7 funds, the Clean Water acquisition, Natural Heritage
8 Trust Fund acquisition, et cetera, as it reads in
9 O-2-c. And we can report -- that has been reported
10 back before December 18th.

11 MR. GOSSAGE: How much lead time is helpful,
12 understanding that it's already a very narrow window,
13 with a special committee coming back to --

14 MS. GUTHRIE: For more information on staff
15 recommendation, previously we have not come back with
16 a very specific to-the-dollar amount these projects
17 fit the allocation. Our recommendation will be more
18 of a, this project fits all of our criteria; they're
19 requesting this amount. There is no reason not to
20 fund that amount, so the recommendation from staff in
21 the past will go way beyond the funds that are
22 available.

23 So in that way knowing the number, since
24 we're going to present all of them, is not that
25 critical for this situation.

1 MR. GOSSAGE: Okay. So if they come back on
2 the 18th -- okay.

3 CHAIRMAN KICKLER: Well, I will withdraw
4 assigning a committee, then, and you are welcome.

5 MR. TOOLE: No, no, no, because -- it seems
6 like we need to know -- when it comes to awarding
7 grants, we need to have some guidance in December on
8 whether we're going to assign -- if we're going to
9 take the entire 9.3 million and apply it only to Clean
10 Water Management Fund, and use the 8.6 -- and use that
11 exclusively Natural Resources and not take any
12 additional money from the 9.3 and apply it to Natural
13 Resources or not. And then once we get to the Clean
14 Water -- once we have assigned a rough number for what
15 we're going to disburse out on Clean Water, we need to
16 clarify it in our heads if we're going to assign 65
17 percent to acquisition and 35 percent to restoration,
18 which would be historic or something different.

19 But I think we need that guidance, which
20 would be guidance as we start making awards. Because
21 otherwise the awards -- the acquisition requests
22 exceed everything we've got, so we've just got to know
23 when to stop, I think, got to have to some internal
24 brake.

25 CHAIRMAN KICKLER: And when can that --

1 MR. GOSSAGE: I think the board is still
2 going to want to have those specific allocation
3 percentages or amounts. But from the staff's
4 perspective it's not necessary that that comes prior
5 to December 18th. We can work with that just
6 receiving that committee report on December 18th. But
7 it sounds like it still would be important to have the
8 committee and understand it correctly, and to have
9 those specific allocations, sort of that formula
10 figured out.

11 MR. TOOLE: Or a recommendation to the full
12 Trustees --

13 MR. GOSSAGE: So the two pieces can match --

14 MR. TOOLE: Yes.

15 MR. GOSSAGE: -- on the 18th?

16 MR. TOOLE: That's what I'm thinking.

17 MS. HACKNEY: I'm asking this question for
18 the ones who have been on the board before. So how
19 did those allocation percentages come about before?
20 Did you take recommendations from the committees prior
21 to, from staff, from, you know, whoever, because this
22 is all sort of new to me.

23 My thinking is that it worked with the
24 percentages you were using prior knowing that some of
25 things were going away, the stormwater, that kind of

1 thing. But could we not kind of -- instead of setting
2 another committee up, could we just kind of figure out
3 that, hey, this is where they spent it before, maybe
4 we could follow in that path if some people who have
5 been on the committee before have any -- anything
6 about did it work before, and kind of "If it's not
7 broke, don't fix it"?

8 MR. BRAGG: It's not a clear path because
9 the legislature told us to only fund shovel ready
10 projects, cut out the land trusts and buy land around
11 military bases. Whether we wanted to or not they said
12 that's what you had to do. So we were stuck with that
13 for a couple years, and finally we got them to see
14 that, being in this recession, land trusts had
15 opportunities that were incredible and some of the
16 shovel ready projects were going to be built anyway
17 and finally got that approved for some of the people.

18 So that isn't a really clear-cut pattern.
19 It's a -- staff does a great job of showing us
20 criteria that makes sense. Like I say, I think once
21 we look at these spreadsheets and give them some
22 leeway based on what we've done in the past that it
23 will focus.

24 MR. MARKHAM: I believe the -- in the long
25 term the breakouts on percentage with different

1 funding committees, it generally broke out by the
2 percentage of application dollar amount and then what
3 was actually ever awarded. It may vary a little bit
4 from year to year, but it seems to follow that general
5 pattern.

6 And so the previous chairman and then the
7 committee chairs would make that decision, that it
8 sounds -- it was reasonable to keep those basic
9 percentages similar.

10 I'm wondering if it would be possible to
11 look at that private information for the new board
12 about past application requests, what was exactly
13 funded each year taking into consideration the couple
14 of -- last couple of years when the board was told
15 what to fund and how to fund it. And also then to
16 look at the Heritage Trust Fund and look at their
17 application amounts each year and what they actually
18 had funding, so that be factored in, if that's
19 possible, Mr. Chairman. I just make a request of
20 Bryan and staff to pull that together.

21 MR. MARTIN: I was just going to add one
22 thing, too. I was just sitting here looking at the
23 table that you guys have pulled together for us as far
24 as the -- what some the Clean Water cycle
25 applications, it looks like that as far as the number

1 of applications as a percentage and the amount of what
2 they requested as a percentage for land acquisition is
3 roughly about 68, 70 percent. And greenway and
4 restoration is added together right around 30 percent.
5 So that might be something that we can just look at
6 since we're kind of under the gun here, as just to
7 say, okay, well, of the 9.3 maybe 70 percent will go
8 to land acquisition and 30 percent will be left for
9 the other projects that we'll talk about after
10 December 18th.

11 MR. MARKHAM: If I'm not mistaken, I think
12 this is just the Clean Water grants in this table. So
13 it does factor in the Heritage, so we'd have to run
14 some new numbers.

15 MR. MARTIN: But I'm just saying as far as
16 we know that the 8.6 is going to go toward the
17 projects that may come in, so really what we're
18 talking about is how do we figure out on December 18th
19 -- the bigger question is how do we figure out how
20 much of the 9.3 goes to land acquisition versus
21 everything else?

22 So, again, just being simple -- because I'm
23 a very simple man --

24 CHAIRMAN KICKLER: I'm going to assign a
25 committee for this, and I would like the committee to

1 give its recommendations, let's say five to seven days
2 before December 18th, so the rest of the Trustees can
3 evaluate that. And then --

4 MS. LUCASSE: When is the mail out? Maybe
5 they could have it by the 9th.

6 MS. MCGEE: It's December 3rd and 4th.

7 MS. ADAMS: It will be to me by the 2nd and
8 3rd and it should be mailed out by the 4th.

9 MS. MCGEE: We start copying -- we have to
10 have it ready to copy by the 2nd of December.

11 CHAIRMAN KICKLER: Okay. So we should have
12 something at least a week before. Okay.

13 So I would like -- again, so I can clarify,
14 I would like to assign a committee to explore this
15 matter of the allocation of grant funds, and I would
16 say for the 2013 cycle -- for the 2013 cycle for the
17 Clean Water acquisitions and Natural Heritage Trust
18 Fund acquisitions, clear water restoration, land
19 acquisition, donated easement, mini grants. And that
20 the committee give its report or recommendation to the
21 entire board three days before December 18th, on
22 December 15th.

23 And at our meeting, the Clean Water Board
24 meeting on the December 18th, that we vote -- that the
25 committee present its findings on the 2013 cycle, or

1 its recommendations on the 2013 cycle, and that the
2 committee -- that the board as whole vote on that
3 before we proceed further at our next meeting.

4 So for this committee I'll assign Trustee
5 Toole.

6 MR. TOOLE: Thank you.

7 CHAIRMAN KICKLER: You're welcome. Trustee
8 Bragg, and then Greer is not here. I will appoint --
9 okay -- then I will be on that committee.

10 MR. TOOLE: Will we also talk about whether
11 any of the funds from the unencumbered 9.3 million
12 will be transferred over and assigned to Natural
13 Heritage, or are we just going to assume that the only
14 funds to be spent on Natural Heritage are the
15 encumbered 8.6 million?

16 CHAIRMAN KICKLER: From my understand 8.6 --
17 and correct me if I'm wrong -- the 8.6 has to be spent
18 on Natural Heritage, and then the 9.3 can be Clean
19 Water and Natural Heritage.

20 MR. TOOLE: And my question is, will we
21 address whether any of the 9.3 would be open to
22 Natural Heritage projects or would we keep it closed
23 for this funding cycle?

24 CHAIRMAN KICKLER: I would say it would be
25 better to put everything on the table when we talk

1 about it.

2 Moving on to the next item, which is O-2-b.
3 The budgetary and administration of Natural Heritage
4 Trust has been shifted over to DENR. And so we have a
5 suggestion here that the board authorize -- just to
6 make it clear, authorize \$750,000 to Natural Heritage
7 for the 2013/2014 cycle. And so I would ask Beth if
8 you could -- or the staff to add clarity to that.

9 MR. GOSSAGE: My understanding is that this
10 is an amount that has been -- and if I'm wrong,
11 someone will correct me -- this is an amount that has
12 been approved by the General Assembly and that has
13 been signed off on by the department, and that
14 previously would have been under the umbrella of the
15 board. But there is -- Mary, I believe your sense on
16 this is that there may be enough uncertainty as to
17 whether or not the board should or should not need to
18 -- or need not approve this, that we go ahead and err
19 on the side of caution, be conservative, but bring
20 this before the board. If I misstated that at all,
21 please --

22 MS. LUCASSE: Mr. Chairman, can I answer
23 that?

24 CHAIRMAN KICKLER: Yes, please.

25 MS. LUCASSE: In addition, just to clarify,

1 under Session Law 213-360 the section of that was
2 added to 113A-253-8(e) says that the board may
3 authorize expenditures from the fund not to exceed
4 \$750,000 to pay for this inventory.

5 That language is a little more critical than
6 the Jordan Lake language also included in Session Law,
7 which basically moved over the money and put the money
8 for Jordan Lake right into DENR by operation of that
9 statute.

10 So only because it appears to give this
11 board some authority to do up to but not to exceed
12 \$750,000 to pay for the staffing that, as I
13 understand, has already happened, it seemed clear to
14 me that we should vote to approve that, and that
15 certainly wouldn't hurt anything because that's the
16 pertinence of what they're planning on doing, and we
17 should make sure that that's consistent with what the
18 board has authorized as well.

19 CHAIRMAN KICKLER: So is there a motion to
20 authorize \$750,000 for the 2013/2014 fiscal year for
21 the purposes of the Natural Heritage program?

22 MR. MARTIN: So moved.

23 CHAIRMAN KICKLER: Is there a second.

24 MR. MARKHAM: Second.

25 CHAIRMAN KICKLER: All those in favor say

1 aye.

2 TRUSTEES: Aye.

3 CHAIRMAN KICKLER: All those opposed say no.

4 (No response.)

5 CHAIRMAN KICKLER: The ayes carry it.

6 It seems like we've made some progress in
7 the next item, so we'll move on. Unless there's other
8 discussion, we'll move on.

9 MR. FIPPS: There is one item there that we
10 needed to get action on, as we spoke of earlier, just
11 the question of using the Heritage money for Heritage
12 allocations or the COPs debt service and getting a
13 formal board action on that so that we take that back
14 to the Treasurer's Office.

15 And if you like, I can just update the board
16 on what that --

17 MR. TOOLE: I'd like to know what the
18 interest and principal is on the COPs. Is that in
19 this 0-1-1 budget? I didn't see it.

20 MR. FIPPS: No, this is something -- the
21 details of this came up a little bit after we got this
22 out to you all. As some of you may know, there were
23 COPs projects, which are certificate of participation,
24 which are a type of bonds that were used to fund
25 projects across the state previously.

1 The previous Clean Water board had taken
2 advantage of that and funded some COPs funded project
3 as well as Natural Heritage Trust Fund board. And
4 with the legislation changes this year, the obligation
5 was taken away. Basically, the language to pay that
6 service was stricken out of the Clean Water statute.
7 And the Heritage Trust Fund statute was eliminated.

8 There was language when it merged, that and
9 Clean Water, speaking to this unencumbered dollar
10 amount being that it shall be used for Heritage -- not
11 for Heritage Trust Fund applications for acquisition
12 projects or shall be used to pay the previous COPs
13 debt service.

14 So the obligation to do that is not there
15 anymore, but it's an option that still exists, if the
16 board would want to go that option. And we simply got
17 a call from the State Treasurer's Office just inquiry
18 if any of those funds would be available.

19 The budget office within DENR also followed
20 up just to get clarity to have a conversation with the
21 Treasurer's Office. They're truly just inquiry --
22 they're trying to pull together all of their funding
23 sources to pay the state's debt service and just
24 wanted to factor in where they had money coming from.

25 So for this fiscal year the debt service

1 would have been \$4,397,191. And it looks -- the debt
2 service for Heritage Trust Fund would have gone
3 through 2029, and it roughly stays around that
4 \$4,000,000 mark the entire time. So the almost \$4.4
5 million for the current fiscal year would be what the
6 debt service would have been.

7 So we felt that we really needed to get the
8 board's action on this so that we can just give the
9 Treasurer's Office an answer if the money's going to
10 be available or if they will put it toward Heritage
11 applications.

12 MR. TOOLE: So originally that was coming
13 out of the Natural Heritage fund, of which there is
14 8.6 encumbered, plus whatever was appropriated from
15 year to year, is that accurate?

16 MR. FIPPS: Right.

17 MR. TOOLE: And the legislature didn't think
18 this through, is that -- you don't know what they were
19 thinking?

20 MR. FIPPS: I don't think staff would
21 presume --

22 MR. TOOLE: No, staff would not presume.

23 And we don't -- if we -- if this board says
24 that we decline the opportunity to pay half of the
25 encumbered Natural Heritage fund, that would come out

1 of the general revenue fund, is that correct?

2 MR. FIPPS: Well, I'm not exactly sure where
3 they --

4 MR. TOOLE: It would come from someplace?

5 MR. FIPPS: Right.

6 MR. TOOLE: And the legislature would hear
7 about it, right?

8 CHAIRMAN KICKLER: I think one thing to keep
9 in mind, too, is that part of what was used for COPs
10 for the debt service was a percentage of land deed
11 taxes for property deeds, and that was taken away.

12 MR. TOOLE: All of it or just a portion of
13 it? I think just a portion, or was it all?

14 MR. GOSSAGE: I believe it was just a
15 portion.

16 MR. TOOLE: And those deed taxes amounted to
17 about the debt service, is that -- no --

18 MR. GOSSAGE: More.

19 MR. TOOLE: That makes things simpler.
20 I'm ready to make a motion.

21 CHAIRMAN KICKLER: Okay.

22 MR. TOOLE: In light of the fact that the
23 revenue source that was used to cover the debt service
24 is no longer directed to the Natural Historic fund,
25 but is in fact going to the general fund, I move that

1 the debt service for this particular participation not
2 be drawn out of the Clean Water Management Trust Fund
3 that have been put in our care.

4 CHAIRMAN KICKLER: Is there a second?

5 MR. MARKHAM: I'll second that.

6 CHAIRMAN KICKLER: Is there any more
7 discussion?

8 (No response.)

9 CHAIRMAN KICKLER: All those in favor say
10 aye.

11 TRUSTEES: Aye.

12 CHAIRMAN KICKLER: All those opposed say no.

13 (No response.)

14 The ayes have it.

15 MR. GOSSAGE: I think it's not unlike a
16 situation where -- in a business where there's a
17 merger or an acquisition where the liabilities and
18 assets are both inherited and it's just kind of washed
19 out. And so -- but Mr. Toole is correct, the revenues
20 there do not exceed the debt service.

21 CHAIRMAN KICKLER: Moving on to the next
22 item of order, Potential Revenue from License Plates.
23 It's my opinion that we wait for the next meeting to
24 talk about this some more and not give a provisional
25 award, because in my mind that's sort of a de facto

1 commitment in the next cycle that could -- you know,
2 it's a de facto commitment, and I -- for that reason I
3 think we should avoid that. And then, too, I think
4 it's good to actually know what numbers you actually
5 have, know what you have before you get into a credit
6 cards and spending mentality.

7 But, having said that, this is a new revenue
8 source, so I would ask someone on staff, if they'd be
9 willing, if they could briefly describe this new
10 revenue source.

11 MS. MCGEE: It is in the statute for the
12 Session Law and it's from license plate sales. If you
13 look at your Session Law 2013-360, page one up near
14 the top, right above the halfway mark "Distribution of
15 Fees." It's a special registration plate account, and
16 the collegiate, cultural attraction plate account.

17 And we get a portion of those. Natural
18 Heritage used to get those funds, and we now get
19 Natural Heritage's portion of those. And I think --
20 it seems like I've looked at the statute and they have
21 them all listed, and they have these columns with --
22 it was Natural Heritage and now it's Clean Water. It
23 actually has a percentage, I think, of each type of
24 plate. Linda's shaking her head. So it's a lot of
25 different kinds of plates that people purchase, these

1 special plate, and we just get part of that revenue.
2 And it has been averaging I think around four million
3 a year. And so that's why we had -- we're estimating
4 that potential revenue -- potential additional revenue
5 that we would get of around 2.8 million if the four
6 million pans out is what we have -- has been seen in
7 the past, the average revenue.

8 So I don't know exactly what the plates look
9 like, but that's the type of plates that they are.
10 Linda can add a little bit.

11 MS. PEARSALL: It basically applies
12 primarily to any personalized license plates. So you
13 will find a lot conservation committees have special
14 messages on the license plates, things like SAVLAND or
15 EZ2 BB9 OR WYZNHNER. And I can help spell those later
16 if you like for the court record.

17 But it's personalized license plates. That
18 money gets divided between the Roadside Beautification
19 Program and the Heritage Trust Fund, and now it will
20 be the Clean Water Management Trust Fund. And the
21 idea was, as North Carolina population grows,
22 development grows, the dollars are used to protect the
23 scenery in the most significant areas to balance the
24 rate of population growth.

25 CHAIRMAN KICKLER: Moving on to the next

1 item, which is item "P", "Consideration of Prior
2 Policy Decisions Pertinent to All Program Areas."
3 These are potential actions. And my recommendation,
4 at this point, is to keep it for now as it is, and
5 then we revisit it at the next meeting. But having
6 said that, I'll call on Clean Water staff to discuss
7 it a little more at this moment to give us an idea of
8 what it might be, if you can briefly do that.

9 MS. MCGEE: I think Christopher and Larry
10 and I are going to handle this agenda item. And,
11 Christopher, you want to just start off with yours?

12 MR. FIPPS: So the Clean Water previous
13 board had looked at different cost as related to the
14 administration from a grant recipient's perspective,
15 administration of the grant and the cost associated
16 with that.

17 And the prior Clean Water board had approved
18 a few different categories or specific points that
19 related to project administration and management from
20 the grant recipient and what costs they would allow to
21 be incurred in that line item.

22 Certain direct project administration costs
23 were eligible under a Clean Water grant as it related
24 to direct labor costs associated with progress
25 reporting, reimbursement requests, project scope,

1 budget, schedule and management, so the actual staff
2 time that it was to -- to do that work.

3 The Clean Water Management Trust Fund did
4 not reimburse for grant recipients other from that
5 project administration costs, including but not
6 limited to things such as their travel, their audit,
7 direct phone and postage costs. They also did not
8 reimburse for grant recipients overhead or what's
9 otherwise known as indirect costs, things like that
10 include things like rent, utilities, facility costs,
11 general phone and postage costs.

12 Also, specifically the acquisition program
13 had placed a cap on that type of cost within a
14 specific project, and it was calculated at 10 percent
15 of the transaction cost with an acquisition project.
16 The transaction cost being surveys, the appraisals,
17 legal cost, things like that. Ten percent of that to
18 be capped at \$25,000 per project is how they
19 calculated the available amount to go into project
20 administration.

21 Clean Water Management Trust Fund also did
22 not reimburse any of these project administration
23 costs for state agencies. In addition, Clean Water
24 Management Trust Fund did not reimburse state agencies
25 for the transaction costs of their projects. So with

1 regard to state agency applications, the money from
2 Clean Water was only going toward the land acquisition
3 line item itself.

4 There is a note in your materials -- a
5 specific note related to this one. For the 2013 cycle
6 the -- applications to the Natural Heritage Trust
7 Fund, it looks like had included these costs in those
8 applications from state agencies to the Heritage Trust
9 Fund, transaction costs. And so staff would recommend
10 just moving forward with the current applications as
11 is with the applications basically being looked at
12 individually under a process that had been used for
13 each of those applications.

14 So those are just the general practices
15 related to those types of costs that have been
16 followed. They were typically followed by the board,
17 unless a grant recipient made a specific request for
18 exception that the board took up.

19 Another item which we basically talked about
20 in detail earlier in the day was matching funds and
21 just the board's consistently holding that the
22 documentation, the accounting for expenditure of
23 matching funds was very important and as way to ensure
24 that the anticipated funds were being brought to the
25 table and utilized for the project since the grant

1 recipients were being scored -- the applications were
2 being scored by bringing this amount of matching funds
3 to the table.

4 And as we talked about earlier, if there
5 were savings in a project, that the Clean Water Trust
6 Fund would realize in those savings just as the other
7 matching funds would realize.

8 And then I think the next item is looking
9 at the contract fund retention schedule.

10 MR. HORTON: The contract fund retention
11 schedule is -- that is something that comes into play
12 and the contract retention amount comes into play
13 during the process of the project going forward and
14 it's something that gets put into the grant contract.

15 The prior board adopted a policy to retain a
16 prescribed amount of contracts until the entire scope
17 of work is completed and the (indiscernible).

18 COURT REPORTER: I'm sorry. I'm having
19 trouble hearing you.

20 MR. HORTON: I'm sorry?

21 COURT REPORTER: Could you speak up a little
22 bit, please?

23 MR. HORTON: Yes, I will.

24 COURT REPORTER: Thank you.

25 MR. HORTON: The prior board adopted a

1 policy to retain a prescribed amount of the contract
2 until the entire scope of work is completed and the
3 final report and paper requests are submitted and
4 approved.

5 This requirement really applies only to
6 infrastructure projects. It does not apply to land
7 acquisition and Clean Water acquisition projects since
8 the entire grant amount is likely to be needed for the
9 acquisition closing. So the retainage requirement and
10 the retainage amount become a part of the grant
11 contract agreement.

12 And the retainage amount is generally based
13 upon -- based on the grant amount. And the total of
14 the schedule of the retainage amount that had been
15 used in our grant in the past is included in the
16 materials in the board packet. So, for instance, the
17 greater the amount -- in other words, the greater the
18 amount of the contract, the greater the amount of the
19 retainage amount.

20 So as the project reimbursements come in, we
21 would reimburse up to the point where we got to the
22 retainage amount, or as -- for instance, if the amount
23 of our grant contracts is \$500,000, then we would make
24 reimbursements to the grantee until we got to \$450,000
25 that we had paid out of that \$500,000. We would hold

1 that last \$50,000 until they have demonstrated that
2 they have completed the whole scope of the project,
3 they submit their final pay request and their final
4 report, and that's all been completed and approved.

5 So I'll take any questions, if there are
6 any.

7 MR. TOOLE: Has that system worked well?

8 MR. HORTON: Yes. It works -- it works
9 well. I don't think it would be a great idea to not
10 have any retainage because it definitely incentivises
11 people to finish up, get their final report in, and
12 address everything that needs to be addressed.

13 And just like for a construction contract,
14 you want the retainage amount to be enough that it
15 incentivises people to get things done, but you don't
16 want it to be so much that it's burdensome on their
17 cash flow to get the work done. So it's kind of a
18 balance. And this amount in the schedule is what has
19 been used in the past.

20 MR. TOOLE: And so the staff recommendation
21 is what?

22 MR. HORTON: Staff recommendation would be,
23 I guess, at least for the time being, that we stick
24 with this.

25 MR. GOSSAGE: I think the consistency for

1 now -- unless there's another plan to put in place
2 immediately, the consistency would be appreciated.
3 And certainly we're happy to provide the board with
4 more information, more detail, so that you all can
5 come back in December or the first meeting in the --
6 first quarterly meeting in 2014 and have had some time
7 to formulate -- to review it and to keep it the same
8 or to offer up any changes.

9 CHAIRMAN KICKLER: I think we need to become
10 more familiar with the process, become more
11 knowledgeable about it before we make any substantive
12 decision.

13 If we could maybe go on to the decision
14 matrix process, P-3, and have a brief description of
15 that, and then I would like to take a little break
16 afterwards and reconvene -- well, we'll see after the
17 explanation of the decision matrix process, something
18 that we will revisit in our next meeting or in early
19 2014.

20 MS. MCGEE: The decision matrix process is
21 something the board developed. I think it was 2007 or
22 2008, thereabouts. Before then we brought -- every
23 time a project had a change in project scope, matching
24 funds, unit costs, something like that, we would bring
25 it to the board for a decision. Now, regular project

1 extensions, we did not. But we brought a lot of
2 things to the board.

3 And as a way to sort of streamline that
4 process, we just called it the decision matrix. But
5 those major decision, they would come to the board.
6 Additional money, if the change was more than like 25
7 percent change, those would come to the board. If
8 they were a moderate level of change, they could --
9 they still had board input through our chairman -- the
10 Funding Committee co-chairs and the chairman, they
11 would decide those issues. And then for the smaller
12 it be handled at a staff level.

13 Last year there were about 60 requests that
14 we filtered through the decision matrix. And every
15 June we provide the board, in your packet, a full
16 listing of those, a brief description of what they
17 were, if they were a board level, chairman, co-chair
18 or a staff level. You could see when we got them, if
19 they were approved or not, and sort of the -- if there
20 were any water quality impacts to that request.

21 It's worked well for us. There are some
22 exceptions that -- like decreases in match. If it's
23 for restoration projects for the decrease match, it's
24 because the tax value is less than what was in the
25 budget. That just automatically goes to the board and

1 committee co-chairs.

2 We also have reductions in the grant award
3 for construction contract bids. Any time we have a
4 construction contract it's a requirement for us to get
5 a copy of the bid. And if it's less than what was
6 budgeted, we can automatically, on a staff level,
7 reduce that grant award. That's really the only time
8 staff can reduce a grant award, and we can't add money
9 as well.

10 So it's worked well for us. There are a lot
11 of -- it seems like -- I was just looking at last
12 year, about 70 percent of requests came to the board.
13 And if we keep this process, you'll see most of them.
14 And then between the staff and the committee co-chairs
15 and the chairman, it was about 15 percent each.

16 Most of the requests that we seem to get are
17 the construction contract deadline extensions, and
18 that's actually the next agenda item. You'll actually
19 see some of those. And then the others are usually
20 predominantly a change in match or a change in the
21 scope of work.

22 There are a few more details in the write-
23 up, but in general it's a tiered approach to allow us
24 to know which level we need to take something to make
25 a decision.

1 CHAIRMAN KICKLER: Are there any questions?

2 MR. TOOLE: It makes a lot of sense.

3 CHAIRMAN KICKLER: Okay. Well, let's take a
4 break, and let's reconvene here at 3:30.

5 (Recess taken from 3:21 p.m.
6 to 3:40 p.m.)

7 CHAIRMAN KICKLER: We are reconvening to
8 discuss agenda item "Q", "Consideration of Requests on
9 Existing Contracts." There are five parts to that,
10 and that's going to be the last item on the agenda.

11 Before we start with agenda item Q-1, just
12 to double-check I want to ask if anyone has a conflict
13 of interest or the appearance of a conflict of
14 interest on this particular item, Q-1.

15 Does anyone have a conflict of interest or
16 appearance of a conflict?

17 (No response.)

18 CHAIRMAN KICKLER: Okay. We will want to
19 give a little time for people to look at it and
20 respond, and I'll turn the time over to Larry Horton.

21 MR. HORTON: So this is a discussion about
22 the construction projects that are not under
23 construction contracts within one year.

24 Our infrastructure projects that were
25 approved after January 1st, 2006, are subject to

1 General Statute 113A-254 requiring grant recipients to
2 enter into a construction contract --

3 CHAIRMAN KICKLER: Larry, if it's not a
4 problem, could you stand?

5 MR. HORTON: Yes.

6 CHAIRMAN KICKLER: That way we can all hear
7 you.

8 MR. HORTON: -- requiring grant recipients
9 to enter into a construction contract for the project
10 within one year after the grant award. The statute
11 states that the award is withdrawn unless the Trust
12 Fund Board of Trustees finds that the applicant has
13 good cause for failing to meet this requirement. The
14 statute further states that, if the Trustees find good
15 cause for the failure, then they must set a date by
16 which the grant recipient must take action or forfeit
17 the grant.

18 The grant recipients shown in the table in
19 agenda item Q has submitted information summarizing
20 the reasons for their delay in entering into a
21 construction contract and have proposed new dates for
22 doing so. There are normally a few of these
23 extensions that need to be addressed at each meeting,
24 but not generally this many.

25 This is really an accumulation of project

1 deadlines that would normally have been addressed in
2 the two or three meetings that weren't held this year.
3 And, secondly, another reason why there's so many this
4 time is because one year for the construction contract
5 award begins when the board makes the grant approval
6 decision, and the decisions were made in August and
7 October of 2012. So one year for all of those
8 approvals expired in August and October, so you'll see
9 that, when you look at the table, the deadline for a
10 lot of these was either October the 15th or August the
11 13th or thereabouts.

12 So some of the typical issues that delay the
13 construction contract award are design and permitting
14 problems -- there were seven of those in this group --
15 difficulty in securing all the match funding for the
16 project -- there were nine of those -- difficulty in
17 securing easements or agreements -- there were five of
18 those.

19 And also there were four of these that were
20 provisional awards that didn't get their funding
21 confirmed until a while after the provisional award.
22 And we erred on the side of being conservative and
23 started a one-year for these projects when the
24 provisional award was made.

25 So I'll be glad to answer any questions.

1 Staff recommends approval of the requested proposed
2 time extensions as noted in the table in the agenda.
3 If there's any questions, I'll be glad to take those
4 and do the best I can.

5 MR. TOOLE: How many have asked for -- are
6 on their second or third approval extension request?

7 MR. HORTON: The wastewater project 2011-508
8 is on their second one. The Green Level project,
9 2011-511, is on their second one. The Thomasville
10 Rehab project is on -- this is their second one. And
11 the Taylorsville project, this is their third one.
12 All the rest this is their first request.

13 MR. TOOLE: So just focusing on those that
14 have got second and third requests, what are their
15 reasons for not being able to get started?

16 MR. HORTON: Well, the Gastonia project is a
17 regional project, and they've had some difficulty in
18 securing their match funding, and they're also -- I
19 don't know if you remember before when I was talking,
20 I said the more moving parts the more difficult it is.
21 This one is, like I said, is a regional project.
22 They're going to illuminate some treatment plants, so
23 they needed to come to an agreement with two
24 government agencies -- or two towns, I think, and one
25 industry.

1 Green Level has just went round and round,
2 and had difficulty securing their match funding. I
3 think they were probably too optimistic on their first
4 -- or second request. Anyway, they've encountered
5 some unforeseen difficulties with that.

6 Thomasville is basically the same problem.
7 They had some design issues. We've talked with the
8 infrastructure finance section about that project and
9 some of the design issues and getting their
10 environmental approvals and securing their match
11 funding with them.

12 Taylorsville is -- their biggest problem has
13 been with their budget. They put their project
14 estimate together in one big climate, and they've had
15 difficulty getting the project bid -- getting bids
16 that would fit within their budget. So they've had to
17 re-bid it twice. And they're also considering some
18 changes to design to reduce their scope or get the
19 project within their available funding.

20 MR. TOOLE: And historically how many
21 extensions have the Trustees been willing to go out
22 on?

23 MR. HORTON: So far, as far as I know, we
24 have not -- the board has not not approved one.

25 MR. TOOLE: Yeah, but have they gone out

1 four or five, six, seven?

2 MR. HORTON: No, no.

3 MS. MCGEE: I think three is the most.

4 MR. HORTON: I think three is pretty much
5 the most. And there are in -- also these folks are
6 moving forward. The project has been -- their
7 progress has been difficult at times and they've taken
8 some steps forward and some steps back. But they are
9 generally making progress and making an effort to move
10 forward. So that's encouraging.

11 And Taylorsville has been to bids twice
12 already, so they're -- I mean, it's not like they're
13 not trying to get the award.

14 MR. MARTIN: I'll just add, just given my
15 experience with these types of projects, a year is --
16 everything has to be -- line up perfect. Most
17 drainage infrastructure projects that I've worked on
18 take two years once you get the permit in and the
19 easements and everything else through and the data
20 collection. So really, to be quite honest, the year
21 requirement that we have here is pretty --

22 MR. TOOLE: Didn't work.

23 MR. MARTIN: Right. And it's a little too
24 -- it's a little too optimistic for the projects. I
25 think a year is just really unrealistic. So I'm not

1 surprised. Like I said, I've been involved in ones,
2 too. Currently involved in one that's taken longer
3 than expected just due to these kind of issues.

4 CHAIRMAN KICKLER: Is there any other
5 discussion?

6 (No response.)

7 Is there a motion to extent all of the
8 restoration and wastewater contracts listed in item Q-
9 1?

10 MR. VINES: Mr. Chairman, if I may make that
11 motion because I feel like that we need to make sure
12 that we get these project numbers listed in the --
13 here --

14 CHAIRMAN KICKLER: Okay.

15 MR. VINES: -- because this is an official
16 document, but it's not an attachment to the public
17 record.

18 I make a motion that restoration grants
19 2012-437, Mecklenburg County, construction date
20 deadline was 10/15/2013, change it to the proposed
21 deadline of 10/15/2014; restoration project 2012-438,
22 RiverLink, construction deadline was 10/15/2013,
23 proposed deadline changed to 4/15/2014; restoration
24 project 2012-441, Resource Institute, from deadline
25 date of 10/15/2013 to 12/1/2014; restoration project

1 2012-722 for Charlotte, deadline date of 10/15/2013 to
2 6/30/2014; wastewater project 2011-508, Gastonia, go
3 from 8/15/2013 to 4/30/2014; wastewater project 2011-
4 511, Green Level, go from 6/14/2013 to 7/1/2014;
5 wastewater project 2011-533, Thomasville, go from
6 10/10/2013 to 4/30/2014; wastewater project 2011-609,
7 Taylorsville, go from 9/1/2013 to 3/1/2014; wastewater
8 project 2012-502 for Town of Bailey, go from 8/13/2013
9 to 1/31/2014; wastewater project 2012-540 for Town of
10 Stanley, go from 8/13/2013 to 6/1/2014; wastewater
11 project 2012-542, Yadkin Valley Sewer Authority, go
12 from 8/13/2013 to 3/13/2014; wastewater project 2012-
13 548, the City of Eden, go from 8/13/2013 to 5/15/2014;
14 and wastewater project 2012-549 for the Town of
15 Biscoe, go from 8/13/2013 to 7/7/2014; and wastewater
16 project 2012-612 for Edgecombe Water & Sewer District
17 No. 5, go from 8/15/2013 to 4/1/2014.

18 CHAIRMAN KICKLER: Is there a second?

19 MR. BRAGG: Second.

20 CHAIRMAN KICKLER: All those in favor say
21 aye.

22 TRUSTEES: Aye.

23 CHAIRMAN KICKLER: All those opposed say no.
24 (No response.)

25 CHAIRMAN KICKLER: The ayes have it.

1 Is there conflict of interest or a potential
2 conflict of interest for item Q-2?

3 (No response.)

4 CHAIRMAN KICKLER: Without hearing any, I'm
5 going to ask Beth to explain.

6 MS. MCGEE: Bern and I are going to do a
7 little tag team. He's going to start.

8 MR. SCHUMAK: And I might reference -- it's
9 agenda item Q-2, there's a letter from Resource
10 Institute. And I'm going to give a quick little
11 background, but Beth's going to go in more detail on
12 the specific things.

13 But in 2005 Resource Institute was -- the
14 Town of Mount Airy did a stream restoration project
15 that we funded, and it started near center city and
16 went down about two miles. It was a very successful
17 project. It partnered with DOT, a greenway grant, and
18 actually Wildlife Resources came in. And they did
19 such a good job that it's now a delayed harvest trout
20 fishery waters in there.

21 In 2011 they came to us with an application
22 to try to do stream restoration from the end of the
23 first phase around -- with the desire to tie-in to
24 another existing greenway trail, so the idea is to do
25 stream restoration, partner with another DOT grant to

1 tie the two existing greenway trails together.

2 In 2011 it was the year that we didn't get
3 very much funding, so the project had to get scaled
4 way back. They modified it significantly to mainly do
5 three stormwater BMP's and do a 30 percent design on
6 the stream restoration.

7 The reason behind doing the 30 percent
8 design was to figure out where the stream needed
9 significant changes and in -- when the greenway was
10 constructed, it would not mitigate some of the stream
11 restoration that might happen at a later date. And,
12 again, that was done because of shortage of funds.
13 Their match was acquiring easements along this section
14 and also along the main stint.

15 And at this point I'm going to turn it over
16 to Beth and let her go through the next slide.

17 MS. MCGEE: So as Bern said, this project is
18 a -- has three design and construction of three
19 stormwater BMP's, which are actually up in this area
20 up here. And it also was to do the 30 percent design
21 for the stream -- restoration of the stream.

22 And the match for the property was the value
23 of all these donated easements. So there were 14
24 donated easements whose -- their value was what was in
25 the match -- provided most of the match for this

1 project. Also, Mount Airy, I think put in \$65,000.

2 So the yellow -- all the yellow on these
3 maps are ones that they either have a copy of the
4 easement or they know that they're going to get the
5 easement. They have the agreement and they're
6 actively working on the easement with the property
7 owner.

8 Three of them up here were a mini grant, an
9 earlier grant, and they're just on this map. So
10 they've gotten 10 of the 14. The four down here are
11 the easements that they have had difficulty actually
12 getting the easements. One is the Hurst family, and
13 they -- I think they actually had a draft easement,
14 and because of the family situation, they just -- I
15 think someone in the family has changed their mind and
16 were just -- at this point they're not able to get
17 that easement.

18 These three are Virginia Appalachian
19 Properties. It's an out of town property owner, and
20 they've been trying to get an easement from them and
21 just have not been successful. They still want to get
22 the easements at some point, but they just cannot get
23 them at this point in time. And this was a 30 percent
24 design.

25 So what they are asking is to drop these

1 easements out of the scope of work and out of the
2 matching funds. And what this does it changes the
3 overall match. It's a good distance, but it changes
4 the overall match in the contract one percent, from 59
5 percent to 58 percent.

6 So it would not have changed the score of
7 this. In 2011 this project scored 113. It was the
8 sixth highest scoring project. It was really a great
9 project. So it doesn't change so much. You're still
10 going to do the stormwater BMP's. They still had the
11 design in place. When they can get these easements,
12 then they can finish those. And as Bern said -- or
13 maybe he said -- in 2013 they hope to just do the --
14 instead of doing the restoration all the way down in
15 here, they're just going to hook it back up on this
16 part.

17 We have not paid any funds out yet. The
18 design has been completed, the stream restoration and
19 the BMP's. They're ready to start constructing the
20 BMP's. But in order to be reimbursed for any
21 construction we have to have all of the easements, so
22 they would not really be able to construct anything
23 because they don't have the easements right now on
24 these four white ones.

25 So we're just proposing -- they proposed,

1 and we think it's a good idea, just to put these out
2 of the scope of work and reduce the matching funds. I
3 think it's a reduction of \$25,000. So that's our --
4 it's a reduction of \$25,327 from the matching funds.

5 So that's our recommendation.

6 MR. TOOLE: How does this fit in the
7 decision matrix?

8 MS. MCGEE: It actually comes to the board
9 -- what happens -- if there are a couple of things
10 that change in a project, we go the most conservative
11 route. So this one, the match, as I said, only
12 changed from 59 to 58, which would have been a staff
13 level decision.

14 However, if you see this -- the reach, the
15 length of easements was like half -- cut in like half.
16 And so that is what popped it up to the board level
17 decision. So we do -- that's a good question -- so
18 when we have more than one thing, we always go with
19 the most conservative route, so that's why we brought
20 it to the board.

21 CHAIRMAN KICKLER: Are there any other
22 questions, any more discussion?

23 (No response.)

24 CHAIRMAN KICKLER: Is there a motion for
25 project 2011-416 to approve the reduction of the scope

1 of work in the budget?

2 MR. BRAGG: So moved.

3 MS. HACKNEY: Second.

4 CHAIRMAN KICKLER: All those in favor say
5 aye.

6 TRUSTEES: Aye.

7 CHAIRMAN KICKLER: All those opposed say no.
8 (No response.)

9 CHAIRMAN KICKLER: The ayes carry.

10 Moving on to item Q-3. Again, just to be
11 sure and to double-check, is there a conflict of
12 interest or an appearance of a conflict of interest
13 for item Q-3?

14 MR. BRAGG: Mr. Chairman, (indiscernible).

15 MR. TOOLE: And I'll leave it to you whether
16 I should or not, but I have represented Catawba Land
17 Conservancy in entirely other matters.

18 CHAIRMAN KICKLER: I believe to be on the
19 safe side --

20 MR. TOOLE: I'll recuse myself.

21 MS. LUCASSE: And just as a practice we
22 recommend that, if you're going to recuse yourself
23 from the discussion, you go and sit in the audience.
24 And that way there's just no debate about whether you
25 had participated or not.

1 (Whereupon, Trustees Toole and Bragg recused
2 themselves from discussions regarding
3 agenda item Q-3.)

4 CHAIRMAN KICKLER: Without further ado, I'll
5 turn it over to Nancy.

6 MS. GUTHRIE: Thank you, Mr. Chairman.

7 Clean Water Trust Fund, when we have
8 easements on property, we take those very seriously
9 and we try to enforce them without revising them or
10 amending them to the extent that we can. There has
11 been an investment in those and we want to protect the
12 state's investment.

13 But sometimes we recognize that public
14 utility projects, DOT bridge widening projects, will
15 encroach on Clean Water Management Trust Fund
16 easements. And in June of the past year the board did
17 adopt a protocol of, again, when staff can make
18 decisions on releasing portions of easements or when
19 it needs to come to the board.

20 The project that's in front of us is a
21 project where a sewer line is running parallel to a
22 stream, and, therefore, is impacting the entire length
23 of that Clean Water easement.

24 If the sewer line were going perpendicular
25 across the stream, that would be more the staff level

1 to go ahead and work to release that portion of the
2 easement. But since this is a significant length of
3 the easement, it does come back to the board for your
4 approval to release that portion of the easement. And
5 then the final decision goes through the Council of
6 State. So it would be put on their agenda in January
7 for final release.

8 Clean Water Trust Fund does get compensated
9 the value of that portion of the easement that is
10 released. So the Clean Water Trust Fund will receive
11 a small amount of funding back whenever we release
12 easements.

13 Are there questions that I can answer?

14 MR. MARKHAM: Nancy, a question I had is, in
15 the past we have actually, I think, gotten more than
16 the initial value -- the easement value when we've
17 released easements. We've had actually multipliers,
18 so the intended purpose of the buffer has been
19 altered. We would get some compensation for the value
20 of the easements, but are they proposing to do
21 anything above and beyond just the fair market value
22 of the easements?

23 MS. GUTHRIE: For the public utility
24 projects we just get the compensation -- the value.
25 There is not a multiplier. And there are other

1 instances where we'll have a city park maybe wanting
2 to encroach for a public benefit. And in those cases
3 they had -- or we will require a calculation of
4 additional lands being put under easements as another
5 form of compensation.

6 MR. MARKHAM: Thank you.

7 CHAIRMAN KICKLER: Is there any other
8 discussion?

9 MR. MARTIN: Is going to be open cut a
10 directional bore, or do you know?

11 MS. GUTHRIE: I'm sorry, I couldn't --

12 MR. MARTIN: Is it going to be directional
13 bore or open cut, the installation of the sewer line?

14 COURT REPORTER: I'm sorry, Mr. Martin, I
15 can't hear you.

16 MR. MARTIN: I just was asking about the
17 construction process, was it going to be open cut or
18 directional bore.

19 MS. GUTHRIE: And I do not know the answer
20 to that.

21 MR. MARKHAM: It's parallel to the stream,
22 so from that end it's going to be cut and dry.

23 CHAIRMAN KICKLER: Any other comments,
24 questions?

25 (No response.)

1 CHAIRMAN KICKLER: Is there a motion on item
2 Q-3 referring to grant recipient 1999A-001 to
3 recommend to release a portion of the easement as
4 requested to the Council of State for formal release?
5 Is there a motion?

6 MS. HACKNEY: So moved.

7 CHAIRMAN KICKLER: Is there a second?

8 MR. VINES: Second.

9 CHAIRMAN KICKLER: All those in favor say
10 aye.

11 TRUSTEES: Aye.

12 CHAIRMAN KICKLER: All those opposed say no.
13 (No response.)

14 CHAIRMAN KICKLER: Ayes carry it.

15 Moving on to item Q-4, "Request to Terminate
16 Restrictive Covenants on Bear Garden Tract of Holly
17 Shelter Game Land." Again, is there a conflict of
18 interest or an appearance of a conflict of interest
19 regarding this item among any of the Trustees?

20 (No response.)

21 CHAIRMAN KICKLER: Without hearing one,
22 let's proceed further, and I'll ask Nancy, once again,
23 to tell us more about this particular agenda item.

24 MS. GUTHRIE: Thank You. This is a project
25 where a grant was awarded to the Nature Conservancy.

1 And according to the grant contract they put
2 restrictive covenants on the property.

3 The restrictive covenants were meant to be
4 temporary until a couple conditions could be met. One
5 is until the year 2095, another is until an easement
6 is recorded on the property, and another is another
7 document of termination could be recorded.

8 The Nature Conservancy then transferred the
9 land to the State Wildlife Resource Commission. And
10 at that time of the transfer they were told that the
11 requirement to put an easement on the property would
12 be waived.

13 Typically, when Clean Water works with state
14 agencies, we do not have conservation easements on
15 state property, instead it is dedicated under the
16 Nature Preserve Act. So the property transferred to
17 the state with the restrictive covenants still intact,
18 but that did not trigger the termination of the
19 restrictive covenants.

20 At this point the Wildlife Resource
21 Commission has applied for a federal grant for
22 restoration of this very large property of 14,000
23 acres.

24 The restrictive covenants, which are still
25 there, have very specific worry about timbering that

1 is now in conflict with the larger management plan
2 that they want to put into place, and are requesting
3 the board consider removing the restrictive covenants
4 to allow the management and restoration of the
5 property for red-cockaded woodpeckers to go forward.

6 It's also important to say that Wildlife
7 Resource did dedicate the property under the Nature
8 Preserve Act as they were requested to do. So
9 removing the restrictive covenants you still have the
10 property dedicated, and there's still, therefore, a
11 protection for conservation.

12 Kind of a convoluted story on this one, but
13 I'll stop and see if there are questions.

14 CHAIRMAN KICKLER: Any questions?

15 (No response.)

16 CHAIRMAN KICKLER: There being no questions
17 or any discussion, is there -- in regards to 2001B-
18 017, is there a motion to forward the recommendation
19 to terminate the declaration of restrictive covenants
20 to the Council of State for formal release?

21 MR. BRAGG: So moved.

22 CHAIRMAN KICKLER: Is there a second?

23 MR. MARTIN: Second.

24 CHAIRMAN KICKLER: All those in favor say
25 aye.

1 TRUSTEES: Aye.

2 CHAIRMAN KICKLER: All those opposed say no.
3 (No response.)

4 CHAIRMAN KICKLER: Okay. The ayes carry.
5 That leads us to the last agenda item, Q-5. Again, is
6 there a conflict of interest or an appearance of a
7 conflict of interest?

8 MR. MARKHAM: Mr. Chairman, again, as I
9 would mentioned at the beginning of the meeting, the
10 firm I work for has done work for Durham County. The
11 applicant is not Durham County, but the land may be
12 turned over to the City of Durham or Durham County in
13 the future. However, I don't believe -- I'm not
14 working on this project and don't believe I will be.
15 So I don't believe it's a conflict of interest, but I
16 will leave it to you all to make a decision.

17 MS. LUCASSE: We had talked about this at
18 the break. And based on the information that you
19 provided that you were not receiving monetary benefit
20 from this contract and didn't think that your firm
21 would be either, I agree with your concurrence. We
22 are glad that you revealed this potential issue, but
23 it doesn't appear to be a conflict of interest.

24 CHAIRMAN KICKLER: We'll proceed on. Let me
25 say before we begin discussion that I personally am

1 wary of setting a precedent for the future in this
2 regard. As I read the first sentence there, I wonder
3 if we might be opening up more -- the possibility of
4 more contract extensions in the future based on this
5 explanation here. But I will turn it over to Nancy.

6 MS. GUTHRIE: Thank you. And the first
7 sentence does give you the background to why this is
8 coming to you as the board. The Clean Water policy
9 has been to not allow the Clean Water easement area to
10 be used to satisfy any open space or development
11 requirements.

12 So the Trust for Public Land received a
13 grant from Clean Water Trust Fund, and this is
14 acquiring property in the Falls Lake watershed. They
15 will turn the property over to Durham County or the
16 City of Durham who will then plan to build or develop
17 a public park.

18 When looking at the development limitations
19 in the watershed -- in the Falls Lake watershed, they
20 found that the project is set up such that there's 30
21 acres without the Clean Water easement and 104 acres
22 with the Clean Water easement.

23 If they develop the park the way they have
24 planned in this 30-acre section, they would be limited
25 to 1.8 acres of impervious surface, and they feel like

1 that is not enough area to built recreational fields,
2 put in a parking area, et cetera, for a park.

3 So they are asking for an exception that the
4 entire area of 134 acres be used in a calculation of
5 the open space requirements. And as our chairman has
6 stated, this is changing a policy. It is possibly
7 opening up the gate here for other requests.

8 Staff recommendation was looking at how we
9 had developed exceptions for amendments to easements,
10 that there is a public benefit to the project. The
11 impact on water quality is likely to be minimal
12 because there's still 300-foot buffers on most of the
13 streams on the property. And the easement exception
14 would be limited to development by Durham City or
15 Durham County. So that's how staff arrived at
16 bringing this forward recommending -- or agreeing with
17 the request to make an exception.

18 But the last item of the day, I will let you
19 all discuss the way the -- the specific project with
20 your longer term policy.

21 MR. MARKHAM: Mr. Chairman?

22 CHAIRMAN KICKLER: Yes.

23 MR. MARKHAM: Just to get this on the table
24 for discussion, I'd like to move that we not accept
25 staff recommendation and that we do not grant the

1 exception on this project.

2 CHAIRMAN KICKLER: Is there a second?

3 MR. BEAUJEU-DUFOUR: Second.

4 CHAIRMAN KICKLER: Any other discussion,
5 comments?

6 MR. MARKHAM: I'd like to discuss that if
7 you don't mind.

8 I agree with you that it is precedent
9 setting. It is a very worthwhile project, and I agree
10 with that. It's for very public use. However, it's a
11 slippery slope, that once we start granting
12 exceptions, that we start allowing this entity or that
13 entity to start using different space we've already
14 dedicated and funded to promote higher conservative
15 purposes, it sends a message to the rest of the
16 previous grants as to future grants. So that is a
17 possibility.

18 I don't want the public or the General
19 Assembly to see that we back off of our own rules for
20 water quality protection. And so that's the reason
21 I'm proposing that we not accept this particular
22 project.

23 CHAIRMAN KICKLER: Thank you, Trustee
24 Markham. So the motion on the table is that the board
25 not accept the staff recommendation in regards to

1 2010-094.

2 MR. VINES: Mr. Chairman, I agree with that
3 for the same reason. I feel like we'd set a
4 precedence here that we would have to open this up to
5 every proposed projects that comes forward.

6 CHAIRMAN KICKLER: The motion has been
7 seconded. All of those in favor of this motion say --

8 MR. TOOLE: I'd like to discuss it a bit
9 further if I might.

10 It seems to me that, when you set out on a
11 slippery slope, you do risk sliding down unless you're
12 wearing cleats. In this case we've got the cleats of
13 some conditions that are unusual. There is a public
14 benefit with recreation parks. There's the clean --
15 and you're not dealing with a private developer. That
16 makes it different in my view.

17 It seems to me that there are guidelines
18 which we have to guide but not to bind. In this case
19 I can understand the proposal for an exception to the
20 general rule, which is a good one -- the general
21 guideline, it's a good one.

22 I'm also persuaded by -- had the City of
23 Durham bought the land, then they would have been able
24 to develop nine acres of impervious surface. In fact,
25 what they're asking to do is an allowance for an

1 additional 3.14 acres, which is five acres minus the
2 1.2 they're allowed because they own the 30 acres. So
3 they're not even looking for the full opportunity.

4 This doesn't trouble me the way some others
5 might. And for that reason, I understand the staff
6 recommendation, and I vote in favor of -- against the
7 motion and in favor of the staff recommendation.

8 CHAIRMAN KICKLER: Is there any other
9 discussion?

10 There is the motion on the table that's been
11 seconded. I'd like to call for a vote. Again, the
12 motion is not to adopt the staff recommendation in
13 regards to 2010-094. All those in favor of this
14 motion say aye.

15 TRUSTEES: Aye.

16 CHAIRMAN KICKLER: All those opposed say no.

17 MR. TOOLE: No.

18 CHAIRMAN KICKLER: And the motion carries.

19 Our next item is agenda item "R". Is there
20 any further discussion?

21 MR. TOOLE: I did have one question, Mr.
22 Chairman.

23 Is there anything to thank the prior board
24 members? Has that been done, all the other folk that
25 served?

1 CHAIRMAN KICKLER: I do not know the answer
2 to that question. Does anyone?

3 MS. MCGEE: I know our former executive
4 director, Richard Rogers, did call many of them. We
5 haven't -- I don't think we've sent a formal letter or
6 anything. But I do know that he talked to many of
7 them and thanked them.

8 MS. LUCASSE: I have seen -- if I may speak?

9 CHAIRMAN KICKLER: Yes.

10 MS. LUCASSE: The ENC has been through a
11 similar situation as we did with many long-serving
12 members released from service and new members put on
13 did adopt a resolution just to thank each of the
14 former people serving as commissioners and trustees,
15 and that would be something that you could make a
16 resolution that would become a paper that would be
17 signed by the chairman.

18 MR. TOOLE: I think some folks who served 20
19 years desire our thanks.

20 MR. GOSSAGE: The staff can prepare a
21 resolution for the next meeting.

22 CHAIRMAN KICKLER: I think that's
23 appropriate, a good suggestion. Is there any other
24 discussion?

25 MR. MARKHAM: I was also giving some thought

1 to our next meeting. And we've got a lot to cover and
2 I'm wondering if one day is really enough time to get
3 through the business on acquisition projects and --
4 especially with a new board. I thought it may be
5 beneficial to extend that to a day and a half in case
6 we need the time, or one very long, long, long day.

7 MR. GOSSAGE: My thought on that would be,
8 if it's all right with the board, that -- I think
9 staff, we can look at the workload and prepare an
10 agenda with the assumption that we'd be able to do it
11 in a day. I think that's the consensus from staff.
12 If we feel like we need more time than that, then we
13 can come back and see how we stand.

14 CHAIRMAN KICKLER: That's fine.

15 MR. BRAGG: The other board, as you all
16 know, did come in on Sunday at 12:30.

17 COURT REPORTER: I'm sorry, Mr. Bragg, I'm
18 having trouble hearing.

19 MR. BRAGG: I'm sorry. The other board came
20 in at 12:30 on a Sunday and met until probably 4:30 or
21 5:00, would go out to eat together, some of us, and
22 the next morning we would meet at 9:00, and we'd
23 usually be through by 11:00, sometimes 10:00 because
24 the work had been done in the committees. And the
25 talk was that we were consolidated to do it all in a

1 day because, if you think about four hours on Sunday
2 and two hours on Monday was what we were doing. Is
3 that not about right, Kevin?

4 MR. MARKHAM: Some meetings, yes. Where
5 things are contentious, it could definitely go out a
6 little longer. And I think there were some meetings
7 that were very early days that would really push the
8 late evening.

9 MR. BRAGG: Well, anyway, I agree with
10 letting it be flexible to start with but -- you know,
11 we look toward getting it all done in a day, I think.
12 It's not like we've got \$180 million dollars.

13 CHAIRMAN KICKLER: Is there any other
14 discussion? Is there any other questions?

15 MS. HACKNEY: I have one question, just the
16 thing about speeding the process up a little. When we
17 get our packets ahead of time, can we -- or would it
18 be prudent for us, if we do have some specific
19 questions, to go ahead and maybe kick those back to
20 one of the staff and say, "I need a little clarity
21 here"? That way when I get here today, I can -- we've
22 read through it, but if we did have something come up
23 in the course of reading it, I'm sure -- I'm just
24 thinking about we can always reach out to staff. That
25 would speed the process up.

1 CHAIRMAN KICKLER: Instead of waiting until
2 the day of?

3 MS. HACKNEY: Yes. You know, so instead
4 cramming the night before, if you can kind of look a
5 little forward.

6 CHAIRMAN KICKLER: Right.

7 MR. GOSSAGE: And hopefully going forward,
8 you know, we'll have had more time to discuss amongst
9 ourselves and put the agenda together and -- maybe not
10 the December meeting because that's short notice and
11 we're going to be cramming a lot in, but going forward
12 on that we can create a process that really works for
13 you all so that there's that chance to send in
14 questions, a chance for us to respond, and by the time
15 the meeting comes, you'll feel like you're well
16 prepared.

17 MS. HACKNEY: And maybe just copy everybody
18 on those questions just so that everybody is on the
19 same page. He may have a question that I was getting
20 ready to --

21 MS. LUCASSE: My concern is that the
22 Trustees don't communicate by email. But you ask a
23 question to staff, and then staff can send out to all.

24 MS. HACKNEY: Send their response out to
25 everybody.

1 CHAIRMAN KICKLER: I had a question about a
2 Clean Water Management email. And I think you brought
3 that up earlier. I'm wondering if we should have a
4 separate email just for our business here with Clean
5 Water.

6 MR. GOSSAGE: And I'll look into whether or
7 not we can work with our tech guys to give you all an
8 email.

9 MS. LUCASSE: You can do through gmail.

10 MR. GOSSAGE: I was going to say, if we
11 can't, you might want to just set up your own gmail
12 account that's specific to your work as a Trustee.

13 CHAIRMAN KICKLER: And do we notify you
14 or --

15 MR. GOSSAGE: Sure. We keep a list of all
16 the staff contact information, so we would be more
17 than happy to have that list and distribute that.

18 MS. LUCASSE: And I think that would
19 information that we would send to Penny, and then
20 Penny would update the list and give it out to
21 everybody again.

22 MR. TOOLE: So that does raise the
23 documentation policy on emails. If I delete the
24 email, is that violating public records retention or
25 not?

1 MS. LUCASSE: If you delete every email that
2 you get from Penny, is that your question?

3 MR. TOOLE: Yes.

4 MS. LUCASSE: If there has been a document
5 pulled and is shaded because you were aware of
6 potential litigation of that, then that would be a
7 violation that would subject the board to possible
8 fines or fees. However, if it's your normal practice,
9 that you can support that every time you get an email
10 you just read it and delete it when you're done, and
11 that's your normal practice, there has been no hold
12 that's been shaded, then that would be fine.

13 I don't a lot of people put together a
14 folder just for this business, for, you know,
15 different things, like if you turn -- if you're on one
16 of these committees, you have a little committee and
17 then everything -- you could stick it in there. And
18 when the committee's work is done, you're finished.

19 I do have to check. Now that we're under
20 DENR, I have to look into the issue of whether DENR
21 has a policy that its commissions that are under it
22 have to follow the DENR document retention policy, and
23 I don't know the answer to that. So I'll work with
24 staff, and if the answer is different based on that
25 research that I do, I'll get back to you.

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MR. TOOLE: Thank you.

CHAIRMAN KICKLER: Any other discussion?

(No response.)

CHAIRMAN KICKLER: There not being any more discussion, this meeting is so adjourned.

(Meeting adjourned at 4:46 p.m.)

