
BOARD OF TRUSTEES

CLEAN WATER MANAGEMENT TRUST FUND

MINUTES OF MEETING

MONDAY, MARCH 9, 2015

10:06 A.M.

**NATURE RESEARCH CENTER
4TH FLOOR CONFERENCE ROOM
121 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, PH.D., CHAIRMAN

FRANK BRAGG

E. GREER CAWOOD

FREDERICK BEAUJEU-DUFOUR

RENEE KUMOR

CHARLES VINES

NORTH CAROLINA ATTORNEY GENERAL'S OFFICE:

M. SHAWN MAIER, SPECIAL DEPUTY ATTORNEY GENERAL

CLEAN WATER MANAGEMENT TRUST FUND STAFF:

BRYAN GOSSAGE, EXECUTIVE DIRECTOR

BILL CROWELL, DEPUTY DIRECTOR

NANCY GUTHRIE, ACQUISITIONS PROJECT MANAGER

HAILEY MEDLIN, EXECUTIVE/ACQUISITION ADMINISTRATIVE ASSISTANT

LARRY HORTON, P.E., INFRASTRUCTURE PROJECT MANAGER

TERRI MURRAY, INFRASTRUCTURE ADMINISTRATIVE ASSISTANT

GWYN MCCULLOUGH, PROJECT MANAGER

WILL SUMMER, STEWARDSHIP PROGRAM MANAGER

CLEAN WATER MANAGEMENT TRUST FUND FIELD REPRESENTATIVES:

JIMMY JOHNSON, NORTHEASTERN FIELD REPRESENTATIVE, NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES/APNEP

JUDY FRANCIS, FIELD OFFICER, NORTH CAROLINA DEPARTMENT
OF ENVIRONMENT AND NATURAL RESOURCES, OFFICE OF
CONSERVATION AND COMMUNITY AFFAIRS

JIM HAWHEE, POLICY AND ENGAGEMENT MANAGER, NORTH
CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES/APNEP

SCOTT POHLMAN, CONSERVATION INCENTIVES PROGRAM DIRECTOR,
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES

TOM MASSIE, WESTERN FIELD REPRESENTATIVE, NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

A G E N D A

COMMENCEMENT

- 1) Call to Order - Chairman Kickler
 - a) Welcome
 - b) Roll Call
 - c) Review of Statements of Economic Interest
 - d) Compliance with General Statute §138A-15
General Statute §138A15 mandates that the Chair inquire as to whether any Trustee knows of any conflict of interest or the appearance of a conflict of interest with respect to matters on the agenda. If any Trustee knows of a conflict of interest or the appearance of a conflict of interest, please state so at this time.
 - e) Please Put Cell Phones on Vibrate or Off
 - f) Revisions, Additions, and Adoption of the Agenda
- 2) Consent Agenda - Chairman Kickler
 - a) Minutes of the September 2014 and October 2014 Board Meetings
 - b) Jennette's Pier Advisory Committee
 - c) Requests to extend the date to enter into a construction contract for existing Infrastructure Grants
 - d) 2013-417 Transylvania Soil & Water Conservation District - Transfer grant contract to Carolina Mountain Land Conservancy
- 3) Legal Update - Shawn Maier
- 4) Executive Director's Remarks - Bryan Gossage

OLD BUSINESS

- 1) Trust Fund name consideration - Bryan Gossage
- 2) Jordan/Falls Lake allocation - Bill Toole, Larry Horton
- 3) Easement amendment policy - Will Summer

NEW BUSINESS

- 1) Administrative Committee Recommendations - Greer Cawood
 - a) Bylaws revisions
 - b) Policies concerning land acquisition program
 - c) Policies concerning infrastructure programs
- 2) Review of CWMTF Conservation Agreements

PUBLIC COMMENTS

The Public is invited to make comments to the Board -
Chairman Kickler

ADJOURNMENT

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M I N U T E S O F M E E T I N G

CHAIRMAN KICKLER: Good morning, everybody.

I want to welcome everyone to today's Clean Water Management Trust Fund meeting on March 9th, 2015.

Back in February we had to cancel due to winter storms, and so we had to reschedule for today. Our agenda today is the same as it was then, so I hope everybody's had time to review the material, had time to ask questions of staff, and hopefully they've been able to address any questions that you may have.

It's now time to take -- take the roll, so when I call your name, for the record, please state "Present." Frank Bragg?

MR. BRAGG: Present.

CHAIRMAN KICKLER: Greer Cawood?

MS. CAWOOD: Present.

CHAIRMAN KICKLER: Fred Dufour?

MR. DUFOUR: Present.

CHAIRMAN KICKLER: Robin Hackney?

(No response.)

CHAIRMAN KICKLER: Renee Kumor?

MS. KUMOR: Present.

CHAIRMAN KICKLER: Johnny Martin?

(No response.)

CHAIRMAN KICKLER: William Toole?

1 (No response.)

2 CHAIRMAN KICKLER: Charles Vines?

3 MR. VINES: Present.

4 CHAIRMAN KICKLER: And myself, Chair
5 Troy Kickler, obviously here today. We have a quorum,
6 so we are able to take action on our agenda today.

7 Let me take a moment to take a moment to
8 welcome Trustee Renee Kumor. This is a -- she joined
9 us for a special meeting in October or September, I
10 believe it was, but this is the first time she's been
11 able to participate in a newly-constituted Board in --
12 in person so I wanted to take a moment to welcome her
13 here -- here today, and I look forward to working with
14 her in the future.

15 Before I ask if anybody has a conflict of
16 interest, the Ethics Commission requires me in General
17 Statute 138A-15 under a specific section 138A-24(e) to
18 read aloud when there's an actual conflict of interest
19 or a potential for a conflict of interest among the
20 Board members. So I would like to do so at this time.
21 And so I'm doing this for the record, but then also so
22 we, as Board members, can serve as a check on each
23 other if the need arises in the future. So this might
24 be a little time consuming, but it's necessary, so I
25 appreciate your patience.

1 So what I will do is I will read the
2 Trustee's name, and I will read the Ethics
3 Commission's finding, and then I will read specifics
4 regarding why the Ethics Commission came to its
5 conclusion.

6 The first Trustee is Frank Bragg. The
7 Ethics Commission did not find an actual conflict of
8 interest but found the potential for a conflict of
9 interest. The potential conflict identified does not
10 prohibit service on this entity. Mr. Bragg is a
11 member of Catawba Lands Conservancy, a nonprofit
12 entity for conservation easements, and he is also a
13 manager/partner of several real estate investment
14 companies.

15 In light of these interests, Mr. Bragg
16 should exercise appropriate caution in the performance
17 of his public duties should these entities come before
18 the Board for official action or otherwise seek to
19 conduct business with the Board. This would include
20 recusing himself to the extent that his interests
21 could influence or reasonably appear to influence his
22 actions.

23 The next --

24 MR. BRAGG: Mr. Chairman?

25 CHAIRMAN KICKLER: Yes?

1 MR. BRAGG: Could I make a correction
2 to that?

3 CHAIRMAN KICKLER: Okay.

4 MR. BRAGG: I am no longer a member of
5 the Catawba Lands Conservancy Board, having gone off
6 of it in 2014 -- excuse me, I'm sorry, June of 2013.
7 So that -- that information is obsolete.

8 CHAIRMAN KICKLER: Outdated? Okay.
9 Thank you. Great. We are making a note of that.

10 Okay. Moving on to the next Trustee,
11 Frederick Beaujeu-Dufour. The Ethics Commission did
12 not find an actual conflict of interest or the
13 potential for a conflict of interest. Mr. Beaujeu-
14 Dufour fills the role of an at-large member on the
15 Board.

16 Emily Greer Cawood: Ethics Commission did
17 not find an actual conflict of interest but found the
18 potential for a conflict of interest. The potential
19 conflict identified does not prohibit service on this
20 entity. Ms. Cawood is a member of the North Carolina
21 Chapter of the Nature Conservancy, a nonprofit entity
22 for protecting land and water.

23 In light of this interest, Ms. Cawood should
24 exercise appropriate caution in the performance of her
25 public duties should the Nature Conservancy come

1 before the Board for official action or otherwise seek
2 to conduct business with the Board.

3 MS. CAWOOD: And, Mr. Chairman?

4 CHAIRMAN KICKLER: Uh-huh?

5 MS. CAWOOD: Similar to Mr. Bragg, it's
6 been a number of years since I was on the Board of the
7 Nature Conservancy.

8 CHAIRMAN KICKLER: Okay. We are making
9 note of that as well. Thank you.

10 Trustee Hackney is not with us right now.
11 She plans to join us later. But for the record, I
12 will read her -- the findings of the Ethics
13 Commission. The next Trustee is Robin Hackney. The
14 Ethics Commission did not find an actual conflict of
15 interest or the potential for a conflict of interest.
16 Ms. Hackney will fill the role of an at-large member
17 appointed by the Senate on the Board.

18 The next Trustee is Troy Kickler. The
19 Ethics Commission did not find an actual conflict of
20 interest or the potential for a conflict of interest.
21 Mr. Kickler serves as an at-large member on the Board
22 appointed by the Governor.

23 Next Trustee is Ms. Renee Kumor. The Ethics
24 Commission did not find an actual conflict of interest
25 but found the potential for a conflict of interest.

1 The potential conflict identified does not prohibit
2 service on this entity. Ms. Kumor will fill the role
3 of a member appointed by the House on the Board.

4 She disclosed that in October 2014 she will
5 be a member of the Board of Directors of RiverLink, an
6 advocacy group which has received grants from the
7 Board. As such, she has the potential for a conflict
8 of interest and should exercise appropriate caution in
9 the performance of her public duties should RiverLink
10 come before the Board for official action or otherwise
11 seek to conduct business with the Board.

12 Next Trustee is Johnny Martin. Ethics
13 Commission did not find an actual conflict of interest
14 but found the potential for a conflict of interest.
15 The potential conflict identified does not prohibit
16 service on this entity. Mr. Martin will fill the role
17 of an at-large member appointed by the Senate on the
18 Board.

19 By his own disclosure, his employer has
20 helped towns with projects funded by the Board. As
21 these clients could continue to seek to do business
22 with the Board, he has the potential for a conflict of
23 interest. Mr. Martin should exercise appropriate
24 caution in the performance of his public duties should
25 any of his clients come before the Board for official

1 action or otherwise seek to conduct business with the
2 Board. This would include recusing himself to the
3 extent that his interests would influence or could
4 reasonably appear to influence his actions.

5 Johnny wasn't able to be with us today
6 because he had some work obligations that he must
7 fulfill, but he wanted to be here today but schedule
8 conflicts didn't allow for it.

9 And the same goes for the next Trustee,
10 William Toole. There were some schedule conflicts
11 with his work schedule. Next Trustee is William
12 Toole. Ethics Commission did not find an actual
13 conflict of interest but found the potential for a
14 conflict of interest. The potential conflict
15 identified does not prohibit service on this entity.
16 Mr. Toole fills the role of an at-large member
17 appointed by the Senate on the Board.

18 By his own disclosure, he receives wages
19 from the City of Belmont. As the City of Belmont
20 could seek to do business with the Board, he has the
21 potential for a conflict of interest. Mr. Toole
22 should exercise appropriate caution in the performance
23 of his public duties should the City of Belmont come
24 before the Board for official action or otherwise seek
25 to conduct business with the Board.

1 And the last Trustee, Charles Vines. Ethics
2 Commission did not find an actual conflict of interest
3 but found the potential for a conflict of interest.
4 The potential conflict identified does not prohibit --
5 prohibit service on this entity. Mr. Vines fills the
6 role of a large (sic) member of the Board -- an at-
7 large member of the Board. He is County Manager for
8 Mitchell County.

9 Mr. Vines should exercise appropriate
10 caution in the performance of his public duties should
11 issues involving Mitchell County come before the Board
12 for official action or otherwise seek to conduct
13 business with the Board. This would include recusing
14 himself to the extent that those interests would
15 influence or could reasonably appear to influence his
16 actions.

17 All right. Thank you for your patience. So
18 we will move on to the next item agenda which is
19 Compliance with General Statute 138A-15. That statute
20 mandates that the Chair inquire as to whether any
21 Trustee knows of any conflict of interest or the
22 appearance of a conflict of interest with respect to
23 matters on the agenda. If any Trustee knows of a
24 conflict of interest or the appearance of a conflict
25 of interest, please state so at this time.

1 (No response.)

2 CHAIRMAN KICKLER: Okay. As a
3 reminder, as always, as we're going along, and you
4 become aware that there's a conflict of interest, you
5 can always recuse yourself or announce that you have a
6 conflict of interest, but please do so before we get
7 to that or start to discuss that agenda item.

8 All right. As a reminder, please put your
9 cell phones on vibrate or off. Moving on to the next
10 agenda item, that's Revisions, Additions, and Adoption
11 of the Agenda. Is there any discussion about the
12 agenda for today?

13 (No response.)

14 CHAIRMAN KICKLER: Any additions?

15 (No response.)

16 CHAIRMAN KICKLER: Is there a motion to
17 adopt the agenda as it's presented?

18 MR. VINES: So moved, Mr. Chairman.

19 MR. BRAGG: Second.

20 CHAIRMAN KICKLER: So all those in
21 favor, say, "Aye."

22 BOARD MEMBERS: Aye.

23 CHAIRMAN KICKLER: All those opposed?

24 (No response.)

25 CHAIRMAN KICKLER: Motion carries.

1 We'll move on to the next item which is a legal
2 update. Mary Lucasse was unable to be here today.
3 She's not with us today. Sorry. I skipped one item.
4 Excuse me. Let me hit the rewind button.

5 Go back to the Consent Agenda, which is
6 Number 2. Consent Agenda items are noncontroversial
7 items unanimously recommended for approval by all
8 involved parties. A single vote may be taken for the
9 approval of all the Consent Agenda items. Any
10 Trustee, however, may pull items off the Consent
11 Agenda to discuss them, and they will be put -- that
12 particular Consent Agenda item will be handled in the
13 New Business section.

14 Is there a motion to accept the Consent
15 Agenda?

16 MR. BRAGG: So moved.

17 MS. KUMOR: Second.

18 CHAIRMAN KICKLER: Second?

19 MS. KUMOR: Yes.

20 CHAIRMAN KICKLER: All right. Thank
21 you. And if there's no more discussion, all those in
22 favor, say, "Aye."

23 BOARD MEMBERS: Aye.

24 CHAIRMAN KICKLER: All those opposed?

25 (No response.)

1 CHAIRMAN KICKLER: The motion carries.
2 Now, we are on to Agenda item 3 under the
3 Commencement, which is the legal update. As I
4 mentioned prematurely, Mary Lucasse is not here with
5 us today, but Shawn Maier from the Attorney General's
6 office is on my right, and he will be serving as our
7 counsel today. So I'll turn the time over to Shawn.

8 MR. MAIER: Thank you. Good morning.
9 There is only one issue in your legal update today and
10 that is the *Coffee versus Edgemont* (phonetic) case.
11 This is one that we've brought up to you before, and
12 it's one that I've been working with Mary on, so I'm
13 pretty well familiar with what's going on with this.

14 We have court-ordered mediation a week from
15 Thursday. That'll be March 19th. Chairman Kickler
16 and Bryan Gossage will be going with us, and they will
17 be representing you at that mediation. They will not
18 be taking any action on your behalf. If there is any
19 settlement proposal, or whatever concept comes out of
20 this mediation, it's going to be brought back to the
21 Board for its approval, modification, or rejection.

22 So just know that we will be there
23 representing your interest, but we won't be doing
24 anything without your permission and approval. So
25 that is where we are in that process. We're also

1 expecting the plaintiffs to respond to their -- to our
2 discovery requests, and that is due today. So I'm
3 hoping that by the time I get back to my office this
4 afternoon I will have some pretty voluminous reading
5 to do. But that will give us a much better idea of
6 where we stand with their claims and where we're going
7 to be going with the mediation.

8 So that's the only update we have on that
9 for now, and we will let you know how mediation turns
10 out.

11 CHAIRMAN KICKLER: Thank you. The next
12 item is Executive Director's remarks. Bryan, I think
13 you're next.

14 MR. GOSSAGE: Good morning, everyone.
15 I'd like to thank the -- thank the Trustees who are
16 here today for adjusting their schedule. I know the
17 weather messed up a lot of people's agenda, school,
18 work, and this meeting included. So thank you for
19 being flexible in your calendars and attending today.

20 The first thing that I have on my list of
21 things to talk about is in doing some research on how
22 the Clean Water Management Trust Fund receives
23 funding, we receive an allocation from the Legislature
24 each year, and we also receive a monthly or quarterly
25 allocation from our license plate regimen, and most of

1 that comes from the First in Forestry plate.

2 And I was actually questioned on that, and
3 in doing some research, I uncovered another plate that
4 was not in existence that we receive, I believe, \$20
5 from the First in Forestry plate. Does that sound
6 right? Or \$10 -- \$10 from the First in Forestry plate
7 and \$20 from what is called the Scenic Rivers plate,
8 which did not exist.

9 And so I went to our internal marketing and
10 design folks and asked them to design a plate and that
11 is what they came up with. And so we're going to -- I
12 think it actually had to have 300 applicants for that
13 plate, and -- and it didn't just because it really
14 didn't exist. And so technically it's -- it's expired
15 but we're gonna go back and ask for them to kind of
16 reactivate that because we get \$10 from the First in
17 Forestry plate, but we get \$20 for each Scenic Rivers
18 plate.

19 So we'll be marketing -- we've been
20 marketing the First in Forestry plate. We'll be
21 marketing the Scenic Rivers plate instead. But that's
22 what it looks like, and I think that -- I think they
23 did a great job. I think it's a beautiful plate. So
24 hopefully in the -- in the months to come you'll
25 actually maybe see one of those plates on the car

1 ahead of you and know that the funds are coming to the
2 Clean Water Management Trust Fund.

3 The next item that I have is for the 2015
4 cycle applications, we received, I believe, 111 total
5 applications, and all of that is material that will be
6 put on a DVD probably this week, and you'll -- so
7 you'll get that in your mailbox. All the Trustees
8 will receive those on the DVD as you normally do.

9 Let's see. I also wanted to make some
10 introductions. We have hired a couple of new folks
11 and internal transitions have -- have brought a new
12 face over as well. I wanted to introduce Hailey
13 Medlin who you may recall at your September meeting
14 was Penny's last meeting as she retired from state
15 service after 30 years of government service, and so
16 Hailey came on board in October. She's a quick study
17 and has gotten up to speed on things, so you've
18 probably interacted with her already through e-mail if
19 not over the phone.

20 We also hired Qwyn McCullough. Gwyn is a
21 program -- no, sorry, project manager who works with
22 the two program managers. And so Qwyn will handle
23 various aspects of the restoration projects and land
24 acquisition projects for the two of them.

25 And finally, Scott Pohlman. Scott is one of

1 the folks who is out in the field a lot and already --
2 and so the way that we've internally adjusted the
3 division is to use that resource to review properties
4 as well as folks like Jimmy and Judy and Tom as
5 they're out there making sure that what's on the
6 application is -- is what's on the property and on the
7 site. So welcome to Scott.

8 Finally, in front of you you have your blue
9 folder and that has the standard items in front of it.
10 A reminder to the Trustees, your statement of economic
11 interest is due by April the 15th. There is a list of
12 the 2015 Clean Water Management Trust Fund
13 applications, although the full details will be on the
14 DVD that's sent to you.

15 There are -- there is a list of the 2014
16 Clean Water Management Trust Fund awards to date, and
17 so that includes provisional -- provisionally-funded
18 projects that have been allocated resources since --
19 since you voted in September on those funding -- on
20 those projects -- funding on the projects.

21 Finally, there is the correspondence that
22 comes in regularly to either the Chairman or myself,
23 and we just make a copy of that and put that in there
24 for you to see. Is there also a budget -- a snapshot
25 of the budget? Yeah, that -- that's in there as well,

1 which we always provide to you just to look at where
2 things stand at kind of as of this moment.

3 The last thing that I have is just a
4 reminder for our court reporter to speak loudly and
5 clearly and if at all possible, to say your name
6 before you speak. And I know that they appreciate
7 that a whole lot. It makes their job a lot easier and
8 if we don't do that it makes their job a lot harder.
9 That's all I have, Mr. Chairman.

10 CHAIRMAN KICKLER: Okay. Thank you.
11 Moving on to Old Business, 1) Trust Fund name
12 consideration. It looks like I'll turn the time back
13 over to you, Bryan, for a little bit.

14 MR. GOSSAGE: So at the -- let me
15 follow my own advice, Bryan Gossage. At the September
16 meeting we had an agenda item and a conversation about
17 the name of the trust fund, considering the fact that
18 the mission of the trust fund had been expanded beyond
19 just that initial clean water mission and that there's
20 been the addition of protection of cultural resources,
21 of the military mission in North Carolina by buffering
22 installations and training routes, of additional
23 natural heritage protection through the combination of
24 the Natural Heritage Trust Fund and the Clean Water
25 Trust Fund.

1 And so sometimes there is a misunderstanding
2 out there in the public and with our customers as to
3 exactly what the Clean Water Management Trust Fund
4 does and what we're charged to do. And so I had asked
5 the Board if you wanted to consider a name change and
6 y'all had given me that feedback that, yes, we would
7 be open to that.

8 So I had -- I had suggested at the time that
9 what I would do is go back to the division staff and
10 open the floor to them for suggestions for a name
11 change. That's what -- that's what I did, and you'll
12 see in front of you a list of, I believe, 16
13 suggestions. From that list, you can pick a name, you
14 can reject them all and come up with one of your own,
15 or stick with the name that we have.

16 Whatever you end up doing, with the
17 exception of sticking with the name you have, we'll
18 take that name and go to the Legislature. It would
19 still require their approval to -- to make the change.
20 So that -- that is the plan going forward if you elect
21 to change the name. If you decide not to make a
22 change at all, then we won't do anything.

23 CHAIRMAN KICKLER: Thank you. I, too,
24 in talking to people in the public some -- as you
25 know, the Natural Heritage Trust Fund was dissolved

1 and its mission was incorporated into Clean Water, and
2 certain aspects of Clean Water was removed. I'm
3 thinking in particular about wastewater and storm
4 water-type projects. And we now deal with historic
5 sites, to name one new item.

6 And so there has been some confusion. I'm
7 just basing this on some conversations that I've had
8 with folks. There's been some confusion about what
9 Clean Water does. And so we thought -- the idea
10 floated around that the new name might accurately
11 reflect that and eliminate some -- some confusion.
12 However, as Bryan alluded to, we do not have the
13 authority to change our name. We can make
14 suggestions. That's up to the General -- General
15 Assembly.

16 So we are here today to talk about whether
17 we need to change the name, and if so, what do we need
18 to change it to. And when I was looking over this
19 list, 16 in all, which are quite a few names, I
20 noticed that some are very similar to some nonprofit
21 groups that already exist or some current federal
22 programs. And so that might cause a different type of
23 confusion if we go with -- with that name.

24 But I was looking at the list, and if you
25 want to take the liberty to do so, I am particular --

1 and one I also want to -- and correct me if I'm wrong
2 about this, but I think if we want to change the name
3 we have to make a decision today because the timing --

4 MR. GOSSAGE: Correct.

5 CHAIRMAN KICKLER: -- of the
6 Legislature is the end of March.

7 MR. GOSSAGE: That's correct.

8 CHAIRMAN KICKLER: Okay. End of March
9 where a bill could be introduced. If we do not like
10 the Clean Water name, we might have that name for
11 another year or two.

12 So anyway, to get this conversation started,
13 I, in particular, like number 6 and number 14. But,
14 however, I -- just my personal opinion, I would think
15 that the word Trust would need to be included, like
16 the Land and Water Preservation Trust Fund, or the
17 North Carolina Land and Water Conservation Trust Fund.

18 And I like that for two reasons. Again,
19 just to get the conversation started. One is because
20 you've put the word Trust in there it eliminates
21 confusion with other groups that might have a similar
22 name or have some of the same words in it. And then
23 two, I think it's important that we remind ourselves
24 that we've been entrusted with the public's money, and
25 -- and we need to take the -- our responsibilities

1 seriously and try to find good projects to fund and
2 suggest good policy.

3 So again, just take the liberty to offer my
4 suggestions out there, number 6 and number 14.
5 Anybody have any other thoughts about possible name
6 changes or the necessity of it?

7 MR. BRAGG: I reckon -- Mr. Chairman, I
8 reckon the question is whether we want to include
9 North Carolina or N.C. I like number -- I mean, I
10 wrote down number 6 as my first choice, and I wrote
11 down number 16 as my second choice. But I like 14 as
12 well. So I'd have no problem with any of those three.

13 I think the word Trust -- I won't tell you
14 who I met with, but it was a high-ranking state
15 elected person. And when I told him I was involved
16 with the Clean Water Trust Fund, he thought a trust
17 fund had a lot of money in a trust, and it took me 15
18 minutes to get him to understand, no, we don't really
19 have any money. I came to see you about getting
20 money.

21 (Laughter)

22 MR. BRAGG: So -- so I'm not sure. I
23 mean, I like the word Trust. That's why banks use it
24 all the time, I reckon, but I think -- think it can be
25 confusing that people think we have a lot of money.

1 So that would be my opinion that number 6, number 16,
2 and number 14 are my three choices.

3 Now, I could be wrong about the trust thing,
4 but this was -- I mean, if I told you who it was it'd
5 be embarrassing, so I'm not gonna tell you.
6 Embarrassing to him, not me.

7 (Laughter)

8 CHAIRMAN KICKLER: Any other thoughts?

9 MR. VINES: Mr. Chairman, Charles
10 Vines. I looked at 6 and 14. I think the difference
11 between 6 and 14 to me was the word Conservation and
12 also we had the -- we had the North Carolina reference
13 at the beginning. Six or 14, either one, I feel like
14 would be the best choice. But I do think that North
15 Carolina should be the first two digits of that -- of
16 that line.

17 MR. DUFOUR: I agree.

18 CHAIRMAN KICKLER: Okay. So I'm
19 hearing we need to have North Carolina in -- in the
20 name. Any other thoughts about the word Trust?

21 MR. VINES: I did not -- I didn't use
22 it either. I felt like it really didn't fit the case.
23 I was afraid, like I say, that people will think we
24 have lots of money to spend. So I didn't -- I didn't
25 go with Trust either.

1 MS. CAWOOD: And, Mr. Chairman, Greer
2 Cawood. Thinking about our mission, as I think about
3 the historic sites, my gut, based on the conversations
4 from the other Trustees of focusing in on 6, 14, and
5 16, is that 6, having the word Preservation would be
6 important as we think about our historic sites. So I
7 kind of lean towards 6 out of those.

8 And I agree with Trustee Vines of having
9 North Carolina Land and Water Preservation Fund would
10 work out well to explain our mission.

11 CHAIRMAN KICKLER: You think
12 Preservation encompasses the conservation?

13 MS. CAWOOD: Because both are
14 preserving the lands along with preserving the sites -
15 - or the land where the sites are.

16 CHAIRMAN KICKLER: Any other thoughts?

17 MR. DUFOUR: Well, then you can add
18 Trust between Preservation and Fund and then you get
19 my vote.

20 CHAIRMAN KICKLER: Preservation and
21 what?

22 MR. DUFOUR: Preservation Trust Fund,
23 number 6, North Carolina Land and Water Preservation
24 Trust Fund. I have no problem with the word Trust.

25 CHAIRMAN KICKLER: Okay. It seems like

1 we're all -- I'm getting the sense that we all want
2 the word North Carolina or N.C. in it. We're leaning
3 towards Land and Water Preservation Fund. The
4 question is do we want to include the word Trust in
5 it. And I've heard --

6 MR. GOSSAGE: And, Mr. Chairman --

7 CHAIRMAN KICKLER: -- two people
8 question it, maybe not strongly, but they've
9 questioned it. And, of course, I've expressed my
10 opinion on it and then Fred had his.

11 MR. GOSSAGE: Bryan Gossage. And there
12 is a technical distinction here in that a trust fund
13 specifically is a financial vehicle that allows the
14 money to kind of roll over and is not set to the
15 fiscal year that the Legislature is on.

16 So the monies that -- that come into the
17 trust fund stay in the trust fund and they don't go --
18 they don't revert back to the General Assembly, back
19 to the general fund at the end of the year. So
20 there's -- there's a reason for that technical
21 distinction from the outset.

22 CHAIRMAN KICKLER: So the --

23 MR. GOSSAGE: Still an option but just
24 adding that.

25 CHAIRMAN KICKLER: Yeah, I think if we

1 are going to suggest a name change we have -- well, it
2 seems like we're leaning -- we're headed in that
3 direction. We have one name suggestion instead of two
4 or three.

5 Is there -- is there any strong objection to
6 including the word Trust in the name suggestion?

7 MR. VINES: With the -- the explanation
8 that Bryan gave there, it probably does need to be in
9 there, then, because he -- he is correct. The money
10 doesn't go back to the state each year. It stays in
11 our -- in our fund. So I would -- I would be okay
12 with Trust.

13 CHAIRMAN KICKLER: Is there a motion,
14 then, that we recommend that the name change be North
15 Carolina Land and Water Preservation Trust Fund?

16 MS. KUMOR: Mr. Chairman, I make that
17 motion.

18 CHAIRMAN KICKLER: Thank you. Is there
19 a second?

20 MR. VINES: I'll second that motion,
21 Mr. Chairman.

22 CHAIRMAN KICKLER: Thank you, Mr.
23 Vines. Is there any more discussion?

24 (No response.)

25 CHAIRMAN KICKLER: Okay. All those in

1 favor of recommending that the name suggestion be
2 North Carolina Land and Water Preservation Trust Fund,
3 please say, "Aye."

4 BOARD MEMBERS: Aye.

5 CHAIRMAN KICKLER: Opposed?

6 (No response.)

7 CHAIRMAN KICKLER: The motion carries.

8 Well, thank you.

9 MR. GOSSAGE: Thank you all. We will
10 take that to the North Carolina General Assembly and
11 let you -- we'll keep you apprised as to how that
12 moves along.

13 CHAIRMAN KICKLER: Moving on to our
14 next item of Old Business, which is the Jordan/Falls
15 Lake Allocation. Ad hoc committee was formed and
16 committee members consisted of Bill Toole, Robin
17 Hackney, and Frank Bragg. Trustee Toole served as the
18 Chair, but he is not here today. As I mentioned
19 before, he had work obligations. He had to meet with
20 clients. And Robin hasn't joined us yet.

21 So, Frank, you are the only member of that
22 committee here, so I would turn the time over to you
23 before you turn it over to Larry and just ask if you
24 had any thoughts you wanted to share with the Board
25 about that ad hoc committee.

1 MR. BRAGG: Sure. Thank you, Mr.
2 Chairman. We did have a two-hour telephone
3 conversation, but I think it would take me a couple
4 minutes to summarize it.

5 If you'll look at your notes, you can see
6 that we generally thought that we would equally
7 apportion the money between the two lakes. There was
8 a lot of discussion about the land around the lakes
9 and what might be the source of water pollution around
10 the lakes. But with all that said, we pretty much
11 stayed on the theme that we would allocate it 50/50
12 between the two lakes.

13 The mitigation projects seemed to be more an
14 issue on Jordan Lake; is that right, Larry?

15 MR. HORTON: Yes.

16 MR. BRAGG: Jordan seems to have more
17 development upstream, so to speak, in the watershed
18 than does Falls Lake.

19 MR. HORTON: Yes. And the research
20 that I did showed that they were taking a bigger hit
21 with nutrients, but that's -- it was old information.
22 The only information that I could find with regard to
23 that was old information, but it did show that Jordan
24 was taking -- was getting much more pollution from
25 nutrients being phosphorous and nitrogen.

1 MR. BRAGG: I'll go back to you, Larry,
2 with any other information that you have since all I
3 have is what's written right here.

4 MR. HORTON: Okay. So we did -- as far
5 as the apportioning part, we did look at it several
6 different ways. And there was a good basis based on
7 the number of folks served and the volumes of water
8 and so forth to split it evenly. So that's how we
9 split that -- the committee to do that. But that's --
10 that's where the recommendation comes from.

11 CHAIRMAN KICKLER: Okay. Are there any
12 questions for Larry?

13 (No response.)

14 CHAIRMAN KICKLER: Is there a motion to
15 approve the ad hoc committee's recommendation?

16 MS. CAWOOD: So moved.

17 CHAIRMAN KICKLER: Okay. We have a
18 motion. Is there a second?

19 MS. KUMOR: Second.

20 CHAIRMAN KICKLER: Thank you. Is there
21 any more discussion or any more questions?

22 (No response.)

23 CHAIRMAN KICKLER: All those in favor,
24 say, "Aye."

25 BOARD MEMBERS: Aye.

1 CHAIRMAN KICKLER: All those opposed?

2 (No response.)

3 CHAIRMAN KICKLER: The motion is
4 carried. Move on to the Easement Amend -- the
5 Easement Amendment Policy which is Old Business 3.
6 I'll turn the time over to Will.

7 MR. SUMMER: Thank you very much. So
8 at the September board meeting, the Trustees reviewed
9 our Easement Amendment Policy and sent one portion of
10 it back to the Administrative Committee for review for
11 the next regular Board meeting, and the Admin
12 Committee, which is Trustees Cawood, Martin, and
13 Vines, met several times, three times, actually, to
14 review this policy and in doing so decided to look at
15 a few more things other than the sort of narrow scope
16 that the Board had charged them with. And I think
17 what's resulted is a much more thorough policy than we
18 had before.

19 I'll go through a few highlights and then
20 kind of briefly go through the policy and paraphrase
21 the paragraphs to give you all exactly what was
22 changed and what was -- what was similar in a fairly
23 efficient manner. The -- the committee did receive
24 input from the conservation community. They had me
25 pull together a policy from, I believe, four different

1 land trusts to review what -- what other folks were
2 doing with similar policies. And from that and many
3 hours of review from the Admin -- Administrative
4 Committee, we end up with the attached policy.

5 All right. So the first thing that was
6 added was kind of a preamble to talk a little bit
7 about the policy and the reason for the policy and
8 that's the first three paragraphs. The first
9 paragraph basically talks about the fact that in
10 addition to Clean Water Management Trust Fund Board
11 decisions, this also would be applicable to Natural
12 Heritage Trust Fund Board decisions, as they've been
13 dissolved and this Board has taken on their
14 responsibilities. So there's clarification there in
15 the first paragraph.

16 The second paragraph defines and broadens
17 the purpose of this to the conservation agreements.
18 The old policy just talked about conservation
19 easements, but, of course, any of your agreements that
20 go on state-held lands would have the dedication of a
21 nature preserve site as opposed to a conservation
22 easement which is a similar tool. And, in fact, in
23 September, this Board did review an easement -- or an
24 amendment request for a dedication. So we thought it
25 made more sense to go ahead and roll in those two

1 conservation-type agreements as well as any other
2 conservation agreements that the Board makes through
3 acts or future -- future decisions. So the second
4 paragraph basically just says any kind of conservation
5 agreement would be applicable to this policy.

6 The third paragraph in the preamble
7 basically covers three points, one that these projects
8 are all unique and that one -- the Board's decision
9 doesn't on one -- on one particular case doesn't set a
10 precedent that it must follow for future cases because
11 they are so different. The second point is that these
12 are extraordinary things. It's not a run-of-the-mill
13 thing to ask for an easement amendment or a
14 conservation agreement amendment, and the committee
15 wanted that to be clear.

16 And third, and maybe the most important, and
17 I'll just read this -- this sentence. Although this
18 amendment policy sets forth certain guidelines and
19 procedures, nothing herein shall deem to impair the
20 sole and absolute discretion of the Board of Trustees.
21 So everybody has agreed on the policy, but the Board,
22 in its wisdom, finds justification for a different
23 course and -- and this policy allows them to do so.

24 Now I'll move into the -- kind of the meat
25 of the document. Under minor amendments, this is a

1 new title for a section that was in the old policy
2 that the Board reviewed. But a minor amendment is
3 something that we'll define as the Board delegates the
4 staff the ability to change, and the first of those
5 would be amendments to language.

6 So the boundary on the ground doesn't
7 change. It's the same acreage, same boundaries, but
8 something in the easement language needs to be
9 changed. And what was decided, and this is consistent
10 with the previous policy, is that a -- something that
11 doesn't affect the conservation values or to amend a
12 technical error, something that staff can handle
13 without bringing -- bringing this to the Board's
14 attention. Again, that was consistent with what the
15 Board had previously seen. And then section 2 says
16 basically any other type of amendment goes to the full
17 Board for review. And that's discussed in the -- in
18 the next section.

19 Section B, Amendments to Boundary, so this
20 is a change. If it's a 20-acre easement, and for some
21 reason an acre or a portion needs to be carved off,
22 for instance, to make a 19-acre easement, that's what
23 this section covers. And just like the last -- the
24 last policy, there are staff-level -- there is staff-
25 level ability to change for small public works

1 projects which were defined as those that affect less
2 than 1 acre or 5 percent of the easement area,
3 whichever is smaller, again consistent with the
4 previous policy. Anything larger than that would go
5 to the full Board. But these things have been
6 reorganized but it's -- these sections are the same as
7 the previous policy.

8 On the next page under Section II, Major
9 Amendments, I do want to draw your attention to one of
10 the bigger changes that was made in this section. The
11 committee felt that to kind of further emphasize the
12 importance and the gravity of this sort of amendment
13 that they changed that these must be affirmed by a
14 two-thirds vote. The previous policy had a simple --
15 a simple majority. So that's one fairly significant
16 change.

17 Sections A and B covering public works
18 projects and public drinking water supply, this is the
19 same language from the previous policy. Section 3,
20 other circumstances, this did change quite a bit. The
21 old -- the old policy had three fairly drawn points
22 and this one now has seven. And these were based on
23 model policy from the Land Trust Alliance which is a
24 national conservation organization that puts together
25 and coordinates policies for all the land trusts and

1 all the folks dealing with conservation at the
2 national level. So there's now seven items. This is
3 under Other Circumstances. So if it's not a public
4 works project or not -- is not a public drinking water
5 supply, it needs to meet the bar set out in Section C
6 here.

7 The next section, Section III, Approved
8 Amendment Requirements, this gets into the part that
9 was actually -- the committee was charged with
10 specifically reviewing at the September meeting. And
11 I'll just read paragraph A 'cause it -- it pretty
12 succinctly sums up what was -- what was done there.

13 A, Compensation: The Clean Water Management
14 Trust Fund may be made whole -- must be made whole
15 from any loss of monetary or conservation value
16 resulting from an amendment. In the case of an
17 amendment required as a result of the State or a
18 municipalities' power to take private property for
19 public use, the Clean Water Management Trust Fund may
20 elect to be reimbursed, at a minimum, the current fair
21 market value, as determined by the State Property
22 Office, or pro-rated amount of the investment at the
23 time of the grant contract, whichever is greater.

24 In other cases where the approval of the
25 amendment is solely at the Board's discretion, i.e.,

1 not eminent domain or -- or not being taken, the terms
2 of compensation, whether mon -- whether monetary or by
3 land swap, should be generous -- should lean
4 generously to the favor of the Clean Water Management
5 Trust Fund and its conservation interests by a ratio
6 of at least 3 to 1. Any exchange of land shall
7 consist of land of equal or greater conservation
8 value.

9 So there was discussion about that ratio,
10 that it is the same ratio as -- as the old policy.
11 One of the important things that was done was the --
12 whether it was monetary compensation or land swap,
13 that ratio was -- was applied to both. In the old
14 policy it was just land swap that was 3 to 1.
15 Monetary compensation was not really specified one way
16 or another. And I think the Committee felt that it
17 was 3 to 1 whether -- the watching still -- still
18 bears the same.

19 The only time when that wouldn't apply is if
20 it is going to be taken for public benefit, like a
21 road widening. There's the option just to be
22 compensated at the actual 1-to-1 value of the
23 property.

24 I believe that's all the thoughts I have on
25 that one.

1 MR. BRAGG: Will?

2 MR. SUMMER: Yes, sir?

3 MR. BRAGG: I have a question about
4 this Section A with -- with regard to the state law
5 that was passed about four years ago and signed into
6 law. It has to do with condemnation -- conservation
7 easement properties for mixing the purpose that made
8 it more difficult for land on easement to be condemned
9 for a road or a landfill or a school, et cetera.

10 Was that taken into consideration when --
11 when this Section A was drawn or are there any
12 conflicts with that law?

13 MR. SUMMER: I don't believe that that
14 specific law was taken into consideration, but as I --
15 as I hear about it now, I don't believe there's any
16 conflicts because this is -- is allow -- this is
17 basically spelling out what you, as the Board, may do.
18 But in no way are you required to do anything of the
19 sort if -- if -- either by existing state law or by
20 your own discretion --

21 MR. BRAGG: Okay.

22 MR. SUMMER: -- you don't think it's in
23 the best interests. So we did not consider that, but
24 I think this gives you discretion.

25 MS. KUMOR: Will, I had -- Renee Kumor.

1 I had a question. Are we saying that we will accept
2 either a land swap or monetary reimbursement or we
3 can't mix them or receive some monetary compensation
4 or any investment?

5 MR. SUMMER: I believe you -- you have
6 discretion to do either/or or both. This is -- this
7 is really laying out kind of the base guideline of if
8 someone were to come to me, a staff, and say, "We have
9 this need. Where should we begin?" And this is where
10 I would start to -- the Board has, I believe, the
11 discretion to ask 10 to 1, or 1 to 1, or the
12 appropriate combination of either. I don't think this
13 binds you in any way to not mix and match.

14 MS. KUMOR: Excuse me, Shawn, is that -
15 - my interpretation is that we were just asking
16 either/or, but is Will explaining it a more -- a
17 broader way than I interpret it?

18 MR. MAIER: I'm not necessarily certain
19 that I interpret it the same way or that I understand
20 exactly where you're coming from, but I think he is
21 correct in that the Board here is laying out a policy.
22 And I think you just heard the -- the conversation
23 that you're not locked into -- if someone comes to you
24 with a 3-to-1 ratio, you're not locked into approving
25 that, but you're also not saying -- it's also not

1 saying the Board couldn't approve something less than
2 that or, as you've said, some combination of monetary
3 and land swap.

4 MS. KUMOR: And that was -- my biggest
5 concern was that we could take both monetary
6 compensation and land. And the ratio is fine. I'm
7 not arguing about the ratio, but I understand we can
8 change that. But I wanted to make certain we weren't
9 excluding one type of compensation over the other.
10 And that's --

11 MR. MAIER: And I don't believe this
12 forecloses that.

13 MS. KUMOR: Okay. Thank you.

14 MR. SUMMER: Any other questions on
15 this particular section before I continue?

16 (No response.)

17 MR. SUMMER: Section B, again, this
18 came from the previous -- previous language. It says
19 that other costs associated with a transaction are
20 paid by the party making the request.

21 Section IV, Amendment Request Requirements,
22 this -- again, this was from the previous document and
23 basically specifies and maintains that someone is to
24 provide to us, the staff, and you, the Board, when
25 they're making this request to specify exactly what it

1 is that they want.

2 Finally Section V, Notifications, this is a
3 new section. It basically states that when we are
4 considering any amendment we would contact the
5 original parties associated with the initial
6 conservation agreement as well as making note to the
7 general public and other interested parties.

8 MS. KUMOR: I just am concerned about
9 only two weeks. If we were -- for notification,
10 because if you're a local entity and you were doing
11 the zoning change, you get a lot more time than that.
12 And I look at changing any kind of policy with regard
13 to land is almost like a zoning change in that
14 neighborhood. And I think we need to be able to
15 notify people for a lot -- they need a bigger window
16 of opportunity to know what's happening.

17 MR. SUMMER: Okay. I'll leave it to
18 any Trustee to make a comment or note on that, or
19 staff if --

20 CHAIRMAN KICKLER: Yeah, what was the
21 logic, the reasoning of picking two weeks and not
22 three or one or odd days or --

23 MR. SUMMER: I think it was just
24 consistent with other -- two weeks is a kind of a
25 round number that we use in many of our other

1 documents. I don't think it would be a hardship for
2 us to expand it. I worry if we go too far then we
3 wouldn't be responsive to the urgent requests, but
4 I'll do whatever pleases the Board.

5 CHAIRMAN KICKLER: Other than my
6 question, if we extend it out -- I'm just thinking out
7 loud here -- three, four weeks, and there are urgent
8 requests, would that in any way negatively affect
9 those requests, or would those requests be so rare
10 that --

11 MR. SUMMER: I suspect they would be
12 rare, and with few exceptions, the Board is only gonna
13 meet once a quarter anyhow, so folks are gonna --
14 unless they come up with it unluckily at the last two
15 weeks before a Board meeting, we should be able to
16 have plenty of notice, generally speaking, more notice
17 on that.

18 MR. GOSSAGE: Could you do something
19 where you set the standard at 30 days, but then in --
20 in a situation that required quicker action give the
21 Chair the ability, at his discretion, to waive the 30-
22 day rule and put it out at not less than two weeks?
23 Would something like that be adequate?

24 MS. KUMOR: Well, Bryan, I just have a
25 hard time with cutting off public knowledge. And, you

1 know, I know, even at the Legislature, my -- my local
2 senator is working on an issue of transparency, and
3 I'm going from that point of view as to make certain
4 that we are as transparent as possible for all the
5 people in the state that we serve.

6 MR. BRAGG: Well, I -- I agree with
7 Renee. I think we ought to do 30 days unless the
8 Trustees meet, and we have all the information, and we
9 want to do it sooner. But let's put a minimum of 30
10 days.

11 CHAIRMAN KICKLER: Would the -- would a
12 member of the Administrative Committee like to chime
13 in?

14 MR. VINES: I -- Charles Vines. I have
15 no objection to 30 days, but I think we need to, you
16 know, keep in mind that if we do get an urgent request
17 we're gonna have to address it either way. But I -- I
18 think 30 days is not too far out that -- that it
19 couldn't be 30 days. I'm okay with that.

20 MS. CAWOOD: Mr. Chairman, Trustee
21 Cawood. I concur.

22 CHAIRMAN KICKLER: Okay. Thank you.
23 Are you finished with your presentation?

24 MR. SUMMER: Yes, sir.

25 CHAIRMAN KICKLER: Okay.

1 MS. CAWOOD: Mr. Chairman?

2 CHAIRMAN KICKLER: Yes?

3 MS. CAWOOD: If I can, as Chairman of
4 the Administrative Committee, I first wanted to thank
5 my other committee members, Charles and Johnny, for
6 their work on this. As Will had mentioned, we met
7 three times going on for the details of this and some
8 other issues that will be before the Board. But in
9 particular I also want to -- to shout out to Will for
10 the work and the additional research.

11 Since we didn't really know where this
12 document had originated, and, you know, so to speak,
13 we didn't have research knowledge on why some of the
14 determinations came to be in this original document.
15 Will went, you know, beyond the pale, I think, in
16 doing additional research to get us information on
17 what other entities do when they're dealing with
18 conservation easement changes. So, Will, I greatly
19 appreciate all your work.

20 I think we came up with a more
21 understandable document for the folks that we serve
22 and also a more thorough, and I think taking it to the
23 viewpoint that the Trustees had in the phone call that
24 we had in wanting to make it very, very clear that we
25 weren't asking for lots of conservation easement

1 changes. This is something that we don't want.

2 We want the -- the legal document to stand
3 as it does, but in times where there do need to be
4 changes, there need to be some good guidance for
5 those. So -- and, Charles, do you have any additional
6 input?

7 MR. VINES: No, just a thanks to Will.
8 And we might as well give a big shout out to Nancy
9 right now, too, because without both of them we -- we
10 -- I know we beat them to death for four or five
11 different days working on this, but they -- they
12 stepped up and provided the information and good
13 guidance on some of these areas.

14 But this one was a difficult one 'cause we
15 couldn't find anything from the -- from originally.
16 But I think -- I think it's a good document. And
17 again, the 30-day -- giving 30-days' notice, I'm okay
18 with that. They've done a great job, the staff has.

19 CHAIRMAN KICKLER: Thank you. Is there
20 a motion to amend the Easement Amendment Policy
21 Section V, titled Notifications, to change it from,
22 "For any major amendments, the following parties will
23 be notified at least two weeks before a Board decision
24 is scheduled," to change it to, "For any amendments,
25 the following parties will be notified at least 30

1 days before a Board decision is scheduled"? Is there
2 a motion to make that amendment?

3 MS. KUMOR: Mr. Chairman, Renee Kumor.
4 I make that motion.

5 CHAIRMAN KICKLER: Okay. Is there a
6 second?

7 MR. BRAGG: Second.

8 CHAIRMAN KICKLER: Thank you. Any more
9 discussion?

10 (No response.)

11 CHAIRMAN KICKLER: All those in favor
12 of adopting the conservation -- or the Easement
13 Amendment Policy as amended, will you say, "Aye"?

14 BOARD MEMBERS: Aye.

15 CHAIRMAN KICKLER: All those opposed?

16 (No response.)

17 CHAIRMAN KICKLER: The motion carries.
18 Thank you.

19 And I wanted to take this time, since it
20 seems appropriate, but the members of the
21 Administrative Committee were Greer Cawood, Johnny
22 Martin, and Charles Vines. I know the past year
23 they've done -- they've met frequently, done a lot of
24 work, especially as the mission of Natural Heritage
25 Trust Fund has been incorporated into Clean Water, so

1 that in and of itself required work.

2 But then also they've done a lot of work at
3 clarifying documents so when an interested person from
4 the public picks up that document they have enough
5 information that they can understand what's going on.
6 So that's -- that's a part of transparency as well.
7 So I wanted to thank them for taking time out to meet.

8 And then also, of course, as Charles
9 mentioned, they are supported by staff, and I know
10 that the Administrative Committee has asked many
11 questions of staff over the past year and especially
12 during the past two, three, four -- four months when
13 there were meetings over the holiday season, et
14 cetera.

15 MR. GOSSAGE: Mr. Chairman, if I may?

16 CHAIRMAN KICKLER: Yes.

17 MR. GOSSAGE: Bryan Gossage. And I
18 also want to thank the members of the Administrative
19 Committee, and -- and Trustee Cawood who is probably
20 the hardest working Trustee that I've experienced,
21 coming from Winston-Salem for just about every
22 meeting.

23 But the -- the changes that you make in
24 these policies make our lives easier and make our work
25 easier. So it's important work, and it just helps to

1 clarify things, make things more consistent and
2 predictive and reliable. And so it's really
3 important, the work that you do, and we really
4 appreciate it on the staff side, so thank you.

5 CHAIRMAN KICKLER: We can move on.
6 We've finished the Old Business. We'll move on to New
7 Business. And we have a few more -- quite a few more
8 recommendations from the Administrative Committee.
9 And like I've mentioned before, they've met
10 frequently. I don't think anybody was logging the
11 hours, but I would be interested to know how many
12 hours were put into these meetings because I know some
13 would last four hours at the time as I've mentioned
14 several times. So a lot of thought has gone in --
15 into these recommendations.

16 And I know when I talked to Trustee Bill
17 Toole about -- going back to Old Business -- just
18 telling me about how their committee had some good
19 discussion and made an informed decision on their
20 recommendation which was earlier approved.

21 What we have to talk about are some
22 revisions to the bylaws of policies concerning land
23 acquisition and policies concerning infrastructure
24 programs. I hoped that we could talk about these in
25 sections as presented and then we could make

1 amendments, adopt, vote on Section A, Section B, and
2 Section C. It's a hope but we'll see where our
3 discussion takes us.

4 All of these recommendations came out of the
5 Administrative Committee, again, consisting of Greer
6 Cawood, Johnny Martin, and Charles Vines. And before
7 I turn the time over to Shawn, I wanted to ask if the
8 Chair of the Administrative Committee, Greer Cawood,
9 if she had any preparatory remarks she'd like to make.

10 MS. CAWOOD: Be happy to, Mr. Chairman.
11 Greer Cawood. And to give you a little bit of
12 background as to why we're looking at the bylaws. And
13 I'm sorry Mary is not here today 'cause I wanted to
14 thank her for bringing it to our attention that there
15 were some issues based on how our committees are
16 structured that we needed to look at the bylaws.

17 And as you've heard about my very fine
18 members of the Administrative Committee, we don't just
19 look at something in one part. We want to look at the
20 full policy and make sure that the document that Clean
21 Water Management Trust Fund is using is encompassing,
22 you know, the -- the best that -- that it can be and
23 the clearest and the most thorough.

24 So we went through -- and it was an
25 exhaustive meeting -- thank you, Charles and Johnny --

1 to go through the bylaws and truly look at each one
2 and see was it really serving the best case and was it
3 explaining what we needed to, as a trust fund.

4 So on that, Shawn, you are nice to be here
5 in Mary's stead to walk us through this. And the two
6 people besides Nancy and Larry, I don't want to leave
7 out Bill and his lots of really, really good thoughts
8 as we went through the bylaws that he added on these.
9 So thank you, Bill. Shawn, turn it over to you.

10 MR. MAIER: Shawn Maier. And the
11 Administrative Committee has turned out with the
12 fairly simple task of updating committee names in your
13 bylaws, and you now have a completely new set of
14 bylaws in front of you. So as Trustee Cawood has
15 said, they took a very thorough view of this.

16 And it was certainly due. These were last
17 updated in May of 2000. I will note that that was
18 before I graduated high school. So some things have
19 changed, and it was worth taking a fresh look at this.
20 I'm gonna walk everyone through. I'm gonna use the
21 red line version 'cause I think that gives you the
22 best idea of what was there to begin with and what has
23 changed, what's new, and those sorts of things.

24 So without any further ado, the first thing
25 you'll note is the Administrative Committee added some

1 article numbers. This was a nice, helpful touch
2 because it means that you can navigate very quickly to
3 a certain provision in the bylaws, and so there are a
4 number of changes in here that are designed to make
5 the document more user friendly.

6 The second -- and certainly, if you've got
7 questions about anything in here, please stop me. And
8 I would encourage any member of the Administrative
9 Committee to jump in as they think that I may have
10 misstated something. I sort of jumped in on the very
11 end of this process, and Mary had been with everyone
12 through the entire part of it, so I will do my best.

13 So Article II is new. That's simply a
14 reference to the general statutes that give this group
15 its authority, its jurisdiction, and makes a very
16 clean reference to the source for everything that you
17 do.

18 Under Article III, a couple of changes in
19 here, largely to make clear what the requirements are
20 for open meetings, especially to make clear that the
21 Open Meetings Law applies not only to meetings of the
22 Board as a whole but also the Committee's as well and
23 also the sorts of notice provisions that go along with
24 each type of meeting.

25 You've got your regularly scheduled

1 meetings. Today, I think, is actually a special
2 meeting because you had to cancel your regularly
3 scheduled meeting and replace that on your calendars.
4 So this is technically a special meeting and that is
5 something that is covered in your new bylaws.

6 It was covered in your old ones, but one of
7 the things I will highlight is that notice for this
8 was not -- or no longer under these bylaws would have
9 to be posted on the principal bulletin board. Things
10 have been updated a bit now, so these go out by e-
11 mail, you know, just sort of bringing things up to
12 what is now 2015.

13 Count down to Article IV, the agenda. This
14 sort of collapsed the agenda in the order of business,
15 and it reflects the way that your agenda is typically
16 laid out now. Some things have obviously changed in
17 15 years, and so this now, I think, better
18 incorporates and captures the way your business is
19 laid out in your agenda and also notes that the agenda
20 will be posted on the website seven days in advance.
21 So again, no central bulletin board. It's pretty much
22 using modern technology.

23 Jumping down to Article V, this is a --
24 there are a couple of small tweaks to this, just sort
25 of in the language of how the Board will take public

1 comments, clarifying that public comments are to be
2 related to things within the Board's jurisdiction, so
3 nothing sort of outside or beyond your control and
4 also to make sure that you don't have comments coming
5 before you for -- in support of projects that are
6 being considered at that meeting. So there won't be
7 lobbying for a particular project in the same meeting
8 that you are considering funding or not funding it.

9 Let's see. Record of meetings, which is
10 now, I -- I guess that's Article VI. It just
11 clarifies that this is -- your meetings are recorded.
12 Not a whole lot more to add to that.

13 Article VII, the big change here is that the
14 Chair will have the authority to appoint a Vice Chair.
15 In your original bylaws the Chair had the authority to
16 appoint someone to cover a particular meeting that
17 they knew they weren't going to be present for. This
18 would allow a Vice Chair to serve should the situation
19 arise where you don't have sort of advanced warning
20 that you're not gonna be available.

21 So the big thing there is that the Chair
22 will appoint the Vice Chair. And this has also been
23 revised slightly to reflect the current practice of
24 deferring parliamentary procedure questions to your
25 attorney and not necessarily to the Chair. So just

1 sort of a reflection of your current practice and a
2 little bit of an update.

3 Article VIII, this now has -- this is the
4 whole reason they started out on this process, and
5 this is a current reflection of your standing
6 committees.

7 Article IX are your special committees, ones
8 sort of one off ad hoc committees, and the Chair will
9 make appointments to these committees. And also the
10 Chair will either designate -- oh, will designate a
11 Chair and shall be an ex officio member of all
12 committees, so lots of extra work for the Chair.

13 Article X, just a clarification that a
14 quorum is a simple majority and that it also removes
15 reference to a quorum for public hearings because you
16 don't hold public hearings.

17 Article XI, voting, and the only thing
18 different here in your new bylaws, your votes are
19 going to be recorded. That's your general practice.
20 It doesn't -- there's language in here that would
21 require a member to request that the votes be
22 recorded, which in this matter, of course, your voice
23 -- votes are going to be recorded without anyone
24 having to make that request.

25 And finally, Article XII, just a reference

1 to Robert's Rules of Order and anything that is not
2 covered in your bylaws will fall to Robert's Rules of
3 Order.

4 MS. KUMOR: Shawn?

5 MR. MAIER: Sure.

6 MS. KUMOR: Renee Kumor. When we talk
7 about voting, do we have to make any acknowledgement
8 of voting over the phone or we can do that or if we
9 vote by e-mail or something else? Just help us to
10 understand.

11 MR. MAIER: I will first say no voting
12 by e-mail.

13 MS. KUMOR: Okay.

14 MR. MAIER: That -- that presents --
15 that's a -- in turn, that makes me a little bit
16 concerned because you're not debating that in -- in
17 the public meeting as we should. But certainly I
18 think if someone were participating by phone that we
19 would want to be able to record and that that vote
20 should be recorded.

21 MS. KUMOR: And what I'm asking you,
22 should that be acknowledged in our bylaws or is that
23 just we make the -- we presume that if you're here by
24 phone you're here?

25 MR. MAIER: I think that's the

1 presumption is that if you're participating by phone
2 you are participating whether present or not.

3 MS. KUMOR: Okay.

4 CHAIRMAN KICKLER: Are there any other
5 questions?

6 MR. BRAGG: I had a question on Section
7 5 -- excuse me, Section 2 about public comments.
8 Occasionally we'll have a particular project, and
9 we'll have seated in the audience some people that we
10 need to ask for questions. I mean, is that
11 permissible?

12 MR. MAIER: Yeah. The -- and feel free
13 to jump in. This is for the -- the period of the
14 agenda that is addressed as public comments so --

15 MR. BRAGG: So the open comments?

16 MR. MAIER: Right.

17 MR. BRAGG: But we -- we could ask a
18 question?

19 MR. MAIER: This -- yeah, as far as I
20 am --

21 MS. CAWOOD: Uh-huh. We didn't want to
22 --

23 MR. BRAGG: Right. Well, I mean, we --
24 we rarely ever had anyone comment unless we ask but it
25 said that it was open for public comments. So it's

1 the same as it was, so to speak?

2 MS. CAWOOD: That's -- that was the
3 intention of the Committee.

4 MR. BRAGG: All right.

5 CHAIRMAN KICKLER: Are there any other
6 questions?

7 (No response.)

8 CHAIRMAN KICKLER: Oh, yeah, we brought
9 to my attention one minor detail, the very last page,
10 and it was probably overlooked because of that. We'll
11 have to change the date to March 2015 when it was
12 revised.

13 MR. VINES: Mr. Chairman, Charles
14 Vines. I'd like to make one comment.

15 CHAIRMAN KICKLER: Okay.

16 MR. VINES: How long -- how long do you
17 think it's going to take us for them to confirm our
18 new -- new name, North Carolina name, the Water
19 Preservation -- because I think we need to -- I don't
20 think we need to kill this tree here to make these now
21 if we have to change it two weeks down the road. If
22 it's gonna take a lengthy time, then we should go
23 ahead and publish them but --

24 MR. GOSSAGE: Can -- can they approve
25 these changes here with a -- the modification to

1 reflect any -- any future name change?

2 MR. MAIER: And that's -- I don't think
3 that a name change would be a substantive change to --

4 MR. GOSSAGE: Right. So the ability to
5 make that type of correction to reflect a change in
6 the name, if you can include that in any motion, Mr.
7 Chairman.

8 CHAIRMAN KICKLER: Is there a motion to
9 have an amendment to reflect the correct date change,
10 the March 2015, and to make sure that the internal
11 operating procedures are updated if there is a name
12 change?

13 MR. BRAGG: So moved.

14 CHAIRMAN KICKLER: Thank you. Is there
15 a second?

16 MS. KUMOR: Second.

17 CHAIRMAN KICKLER: Thank you. Any more
18 discussion about the amendments?

19 (No response.)

20 CHAIRMAN KICKLER: All those in favor
21 of the amendments, please say, "Aye."

22 BOARD MEMBERS: Aye.

23 CHAIRMAN KICKLER: All those opposed?

24 (No response.)

25 CHAIRMAN KICKLER: Thank you. The

1 motion for the amendments has carried.

2 Is there any more discussion in general
3 about particular articles in the suggested internal
4 operating procedures?

5 (No response.)

6 CHAIRMAN KICKLER: Is there a motion to
7 accept the internal operating procedures as amended?

8 MR. VINES: I make that motion, Mr.
9 Chairman.

10 CHAIRMAN KICKLER: Thank you, Mr.
11 Vines. Is there a second?

12 MR. BRAGG: Second.

13 CHAIRMAN KICKLER: Thank you, Mr.
14 Bragg. Is there any more discussion about the
15 internal operating procedures?

16 (No response.)

17 CHAIRMAN KICKLER: If there is none,
18 all those in favor, please say, "Aye."

19 BOARD MEMBERS: Aye.

20 CHAIRMAN KICKLER: All those opposed?

21 (No response.)

22 CHAIRMAN KICKLER: The motion is
23 carried. Thank you.

24 Moving right along to New Business 1b,
25 policies concerning land acquisition program. I

1 didn't know if you wanted to say a few words here,
2 Trustee Cawood, or if you just want to turn the time
3 over to Nancy.

4 MS. CAWOOD: Mr. Chairman, just to --
5 my note again to thank my hardworking group. And we
6 had numerous revisions to this as we went through our
7 meeting since the last board meeting and great work
8 from Nancy in getting our thoughts to make sure that
9 we were always this careful with this so that it could
10 guide staff as they explain things to our customers,
11 so to speak.

12 So with that, Nancy, I'll -- I'll turn it
13 over to you, and this is the recommendation of the
14 committee.

15 MS. GUTHRIE: Thank you. The
16 Administrative Committee did have a lot of thoughtful
17 discussion on income from lands where there is a clean
18 water easement on that land. And a little bit of
19 background for you.

20 The Clean Water Trust Fund easements had
21 always allowed for the owners to enter into hunting
22 leases, maybe receive some small revenue from timber
23 when there was a restoration project involved. The
24 Natural Heritage Trust Fund properties typically went
25 to state agencies which could include state parks,

1 charging a small entrance fee. But again, that money
2 was put back into the management of the parks.

3 So those incidental income, the small amount
4 of income that was consistent with why the property
5 was being protected, did not raise many issues. And,
6 you know, it was my understanding that the committee
7 was comfortable with still allowing small amounts of
8 revenue to the landowners as long as the conservation
9 values were not impacted in any way.

10 At the same time that discussion was
11 occurring, the possibility of property with a Clean
12 Water easement on it being used for mitigation
13 activities came into the discussion, and the
14 mitigation potential really raised two major issues
15 with the committee. One is, of course, with
16 mitigation, that means that there is a loss in
17 environmental value, in conservation land, or in water
18 quality in another area that needs to be mitigated.

19 The other issue, and why it's tied in with
20 this policy, is in a lot of instances the owner may be
21 able to then enter into a market and receive
22 additional income from being -- from participating in
23 mitigation. Now, there is prohibition of the trust
24 fund's projects for being used for mitigation with
25 stream restoration but that is very specific in the

1 statute. So it does leave a lot of areas, and some of
2 these are emerging issues in areas where there is this
3 potential request to have mitigation activity on
4 property with a Clean Water easement.

5 Again, the committee wrestled a lot with
6 this and put a lot of thought into both the fact that
7 there would be a loss of environmental quality
8 somewhere else as well as this trust fund -- the
9 state, through the trust fund, has paid the owner and
10 then the potential then to receive more money and to
11 almost allow that person to get into a private market
12 raised some concerns.

13 And the outcome of the committee discussions
14 is really a two-part policy. The first part allows
15 for the continuation of those incidental income as
16 long as, again, it's consistent with the purpose for
17 which the property was protected. The second part of
18 the policy is that Clean Water will not authorize a
19 conservation agreement to be recorded that allows
20 mitigation activity or credits, nor be recorded where
21 such an easement already exists except holding some
22 flexibility for when mitigation might benefit a
23 purpose of Clean Water Trust Fund but not allow any
24 financial benefit to any parties.

25 So a couple pieces there, but this is trying

1 to, you know, acknowledge that there may be situations
2 where mitigation may make some sense on some property
3 which Clean Water is interested in but do not want a
4 private financial benefit to result from that.

5 MR. BRAGG: To either Clean Water or to
6 a landowner? No --

7 MS. GUTHRIE: That is the way that it's
8 stated now, to none of the parties.

9 MR. BRAGG: Thank you.

10 MS. GUTHRIE: Any other questions?

11 MS. CAWOOD: Trustee Cawood. Nancy,
12 thank you, because there was a lot of information, as
13 y'all can imagine, going into this, and as Bryan had
14 mentioned, to provide some guidance to staff when
15 these issues arise.

16 So please, as everybody takes it all in, I
17 think it's good to think it through because we as a
18 committee met a few times to get it to sink in and
19 make sure that the policy that we were putting forth
20 is precisely what it needs to be to protect the trust
21 fund. So any questions, and Charles and I'll be happy
22 to --

23 MR. VINES: Trustee Vines. This was a
24 difficult one to put down on paper. The explanation
25 that Nancy just gave is a whole lot better.

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(Laughter)

MR. VINES: I know this was a -- this was a tricky one to all of us and we kept -- between John and I and -- and Greer, we just kept asking -- asking more and more questions till I think it just kind of hit us all at one time, and Nancy was able to put that in -- into words for us and that -- that made a lot of sense.

MS. GUTHRIE: And I would add that Nancy had some help from other staff members in our discussions.

(Laughter)

MR. BRAGG: I do have to raise a question about why -- why you wanted not to accept any payment from a -- say, he was doing a project on a creek where you held an easement, and the landowner owned the land, and it was a three-mile creek restoration project, and, say, Clean Water had 1,000 feet. And it may be a project with great merit. I'll have to say that. I'm familiar with one just like that.

So what -- what was your thinking -- I mean, maybe it might kill that whole project is what I'm thinking. So I'm not quite clear on what your thinking was with not allowing any financial

1 compensation from EEP in this case for the -- the
2 mitigation project.

3 MS. GUTHRIE: I think in the particular
4 case with EEP, we would be prohibited with the stream
5 restoration. I don't know, Greer, if you have other
6 thoughts on, you know, some of the more emerging
7 issues and some of the concerns of the committee.

8 MS. CAWOOD: Well, I think that one of
9 the areas where other states have -- have been
10 involved with is looking at the mitigation tax credits
11 and the fact of trading lands as it relates to that
12 and then another entity kind of -- I mean, to put it
13 in the plans where we start, as committee, is we
14 didn't want other people making money off state land
15 that had been protected and that we put state monies
16 into was kind of the -- the nucleus that we -- we
17 started this discussion with. So that's kind of what
18 started growing into -- into needing that.

19 I don't know, Charles, if you had anything
20 else to add.

21 MR. BRAGG: If you want clarification,
22 no monies would be paid to the state either but for
23 the land -- landowner. Is that -- is that correct?
24 That was what I understood. So -- so no monies would
25 go to Clean Water or to the landowner if a mitigation

1 project was going on?

2 MS. GUTHRIE: That's correct.

3 CHAIRMAN KICKLER: Are there any other
4 questions for Nancy?

5 (No response.)

6 CHAIRMAN KICKLER: Again, I was hoping
7 to vote on all of these policies in New Business 1b at
8 one time, so if there aren't any questions we'll move
9 on to New Business 1b.ii, Policy Concerning
10 Administrative Costs and Caps.

11 I don't know, Greer, if you want to have a
12 few words or just turn it over to Nancy.

13 MS. CAWOOD: Go ahead.

14 MS. GUTHRIE: Thank you. This policy
15 has been in effect at Clean Water for some time now,
16 and it recognizes that organizations will incur costs
17 because they are implementing a project kind of on
18 behalf of Clean Water Management Trust Fund. But we
19 needed some perimeters on what we would reimburse as
20 administrative costs, and this policy does exactly
21 that.

22 And this is particularly helpful to Larry
23 and me as we're evaluating requests for reimbursement
24 and we are trying to stay as fair and consistent and
25 not paying someone's rent and not -- while denying it

1 to someone else. So this policy we didn't ask for any
2 changes in this from previous. Excuse me.

3 I will say Section 1 and 2 applied both to
4 the acquisition and infrastructure programs and then
5 number 3 is specific to the acquisition program where
6 we have an overall cap on administrative costs that's
7 based on a calculation from the transaction costs.

8 MS. CAWOOD: And, Nancy, Trustee
9 Cawood. This was approved by the Board previously,
10 number 3.

11 MS. GUTHRIE: Yes.

12 MS. CAWOOD: So that's not new
13 information.

14 MS. GUTHRIE: Correct.

15 CHAIRMAN KICKLER: Are there any
16 questions?

17 (No response.)

18 CHAIRMAN KICKLER: All right. Having
19 heard none, then we will move on to New Business
20 1b.iii, Policy for Use of Funds for Acquisition of
21 Real Property Interest.

22 MS. GUTHRIE: This is Nancy Guthrie
23 again. This policy rolls a lot of previous Board
24 decisions into one, and there has been some
25 modification to reflect the merger of Clean Water and

1 Natural Heritage Trust Funds. But otherwise, a lot of
2 this policy has also been in effect for a number of
3 years at this point.

4 As you know, Clean Water has specific
5 purposes to use the funds, and the first section of
6 this policy helps clarify where applicants, where
7 recipients should be focused on spending the Clean
8 Water funding. It should be on some of the resources
9 for which the fund was established. And it gives a
10 guideline for targeting those specific areas of the
11 land and then suggesting where it's appropriate to use
12 match on additional portions of the property.

13 Section 2 and 3 clarify that the trust
14 fund's interest is in the land. It's not primarily in
15 the structure. The structures may be considered on a
16 case-by-case basis, particularly with a historic
17 interest, and that the funds are not to be used to
18 clean up debris or demolish buildings but really
19 should again be focused on the protection of the land.

20 Sections 4 and 5 address the issue of offers
21 greater than an appraised value. Sometimes the
22 landowners may request slightly more. In the case of
23 local governments, there is a cap on the amount, but
24 the trust fund can still participate in some -- in
25 some situations if the owner is asking a price greater

1 than the appraised value. But with the nonprofits, it
2 has been held that Clean Water Trust Fund will not
3 participate or reimburse any amount if the payment to
4 the owner is greater than the appraised value.

5 Section 6 addresses the issue of local
6 governments that might be considering eminent domain.
7 And this is tied somewhat with -- with Section 5. But
8 in this situation it was felt that if paying \$5,000
9 over the appraised value, a small amount, would
10 satisfy the landowner and remove the issue of eminent
11 domain, that the Board previously was willing to go
12 that step and that way, help resolve a potential
13 issue.

14 And the last section here clarifies that the
15 easements for stream restoration projects must be
16 donated as match to the projects. So I gave them all
17 to you, and I can take questions on individual
18 sections if you'd like.

19 CHAIRMAN KICKLER: Any questions?

20 (No response.)

21 CHAIRMAN KICKLER: Okay. Hearing none,
22 we'll move on to New Business 1b.iv, which is Policy
23 for Determining Acquisition Value. And I'll turn the
24 time over to Nancy for a short presentation.

25 MS. GUTHRIE: Okay. Again, this is a

1 policy that has been in effect for some time, and we
2 want to ensure that Clean Water Trust Fund is not
3 paying greater than a fair market value for the -- any
4 purchases that we make. So we have all appraisals
5 reviewed by the State Property Office, and staff
6 members there work with me and the land -- and the
7 grant recipients to get appraisals that can be
8 approved.

9 This policy clarifies when the appraisals
10 are needed, when they are required, how many are
11 required, with values of the -- the -- either the fee
12 simple or the easement value of the purchase, and also
13 the fact that State Property can require additional
14 appraisals or any additional information that they
15 need to really make a good determination of the value
16 that the State is getting in each purchase. I'll turn
17 it back to Trustee Cawood.

18 MS. CAWOOD: And, Mr. Chairman, this
19 is, just so the Board knows, it seems like the
20 Administrative Committee, when we get our hands on
21 something, we make a lot of changes. But this is
22 actually something that Clean Water Management Trust
23 Fund has been using for some time. So we didn't make
24 any changes to this.

25 CHAIRMAN KICKLER: Okay. Thank you.

1 Are there any questions for Nancy or any discussion
2 about items of New Business b.i through New Business
3 b.iv?

4 (No response.)

5 CHAIRMAN KICKLER: If there are no
6 questions, no discussion, is there a motion to accept
7 the Administrative Committee recommendations, policies
8 concerning land acquisition, which is listed on the
9 agenda as New Business item 1b.i, item 1b.ii, item
10 1b.iii, and item 1b.iv? Is there a motion to adopt
11 those policies?

12 MR. BRAGG: So moved.

13 CHAIRMAN KICKLER: Is there a second?

14 MS. KUMOR: Second.

15 CHAIRMAN KICKLER: Thank you. All
16 those in favor, say, "Aye."

17 BOARD MEMBERS: Aye.

18 CHAIRMAN KICKLER: All those opposed?

19 (No response.)

20 CHAIRMAN KICKLER: The motion carries.

21 Moving -- moving along to New Business item 1c,
22 Policies Concerning Infrastructure Programs. We have
23 a few policy recommendations here coming out of the
24 Administrative Committee. I'll turn the time over to
25 Greer, if you have a few preparatory remarks about

1 this.

2 MS. CAWOOD: Greer, Trustee Cawood. I
3 wanted to thank Larry for his work at looking at this.
4 The Administrative Committee was a little easier on
5 Larry than we were on Nancy as it relates to these
6 documents. As we had previously stated, the
7 Administrative Committee is looking at all of the
8 policies of the trust fund to make sure that they are
9 relevant in 2015 and are going by the wishes of the
10 Board.

11 So on these three policies that you'll be
12 looking at, we don't have any changes from the
13 Administrative Committee. These are policies that the
14 staff is currently using, and we understand are
15 working well. So, Larry?

16 MR. HORTON: Thank you. Larry Horton.
17 So the first one is -- and as Trustee Cawood
18 mentioned, they were much easier on me than they were
19 on Nancy. These were all policies that are in place
20 and are policies that we are currently using.

21 The first one is a policy concerning use of
22 eminent domain, and I think Nancy covered a little bit
23 of something that's relevant to that before. So
24 Section 113A-256 includes language that says that
25 nothing in this section shall allow the Trustees to

1 acquire land under the right of eminent domain.

2 So this policy is really about -- it's not
3 about the trust fund acquiring land but rather than
4 how the trust fund relates to grant recipients that
5 may need to do that. And some projects that are
6 funded by the trust fund, wastewater construction
7 projects and green -- greenway projects, local
8 governments often are opposed to using eminent domain
9 to acquire all necessary parcels.

10 We don't fund wastewater infrastructure
11 projects anymore. There's only one wastewater project
12 that is not under construction yet, and it may -- I
13 mean, it's -- it's a possibility that it may need some
14 eminent domain work there. So in an effort to assist
15 local governments with these types of projects, the
16 Board has allowed local government to use their own
17 resources to pursue eminent domain but only rarely and
18 by exception has trust fund funds been used to
19 facilitate eminent domain.

20 So there's a long history, as you'll see. I
21 won't go through that, but I talk about some points in
22 that history that -- that talk about the eminent
23 domain. Our current policy is the current language --
24 the current language that are in our local government
25 contracts. I'll read that.

1 The Clean Water Management Trust Fund grant
2 funds may not be used for any eminent domain
3 litigation or any action or expenditure related to
4 eminent domain unless approved by the Board of
5 Trustees of the Clean Water Management Trust Fund in
6 writing prior to the action. The Board of Trustees
7 shall review requests to use funds for eminent domain
8 on a case-by-case basis. Requests shall be provided
9 in writing by the grant recipient.

10 CHAIRMAN KICKLER: Any questions for
11 Larry?

12 (No response.)

13 CHAIRMAN KICKLER: So the Board is
14 being asked to approve that staff continue its
15 practices of incorporating this language in the
16 contract, correct?

17 MR. HORTON: That is correct, as I
18 understand it.

19 CHAIRMAN KICKLER: Okay.

20 MR. DUFOUR: Help me with being
21 involved in the eminent domain. I mean, because it's
22 coming in front of us, then why do we say yes to that
23 one and not to that one? So I think we should just
24 get rid of it altogether and then we don't have to
25 deal with that at all. I don't think it's our job to

1 do that, to fund that section of -- of the grant.

2 MR. HORTON: I'm sorry. Could you --

3 MR. DUFOUR: The -- the way it reads in
4 the current contract, I don't think we should fund the
5 eminent domain for the grant recipient.

6 MS. CAWOOD: Larry, based on -- Trustee
7 Cawood. Have we funded, Clean Water Management Trust
8 Fund funded any in the past?

9 MR. HORTON: I don't believe we have
10 funded eminent domain, per se. We have funded -- we
11 have a -- we have funded projects that had to use
12 eminent domain, but the -- the details of the history
13 and all are -- are in this -- in the agenda.

14 We do allow Trenton (phonetic) to use
15 eminent domain to acquire property for a land
16 application site, but the -- our funds could not be
17 used for any of the action of the condemnation,
18 including a deposit or condemnation proceedings.

19 MS. CAWOOD: Which I think is the -- is
20 the point.

21 MR. DUFOUR: Yes, I want to be sure
22 that when somebody come and ask for money, a grant, I
23 want to make sure that the money that we give them
24 that doesn't go to financing the domain action of it,
25 the legal aspect or --

1 MR. HORTON: And I think the way the
2 policy is now, the way it's worded now, is that it's
3 on a case-by-case basis. So the Board would have --
4 would have the option of making -- the way it's worded
5 now, the Board would have the option of making that
6 decision or affirming the Board's will after the
7 request was made from the grant recipient.

8 So if you -- if you don't want to do it that
9 way, then you would need to change that policy.

10 MR. DUFOUR: But my question is how can
11 we say yes to one and no to the other? How can we
12 differentiate both of them?

13 MR. HORTON: Again, it --

14 MR. DUFOUR: It went from a gray area
15 where people can say you're being nicer to that one
16 than to that one. That's what I don't want.

17 MR. HORTON: That's really up to the
18 Trustees to make that sort of decision. This -- this
19 -- the way -- I will comment that the way this policy
20 is worded it gives you some flexibility.

21 And I -- my assumption is that that is why
22 the policy was written this way. It gives you -- it
23 does give you some flexibility in case there's some
24 extreme case or there's something that had not been
25 anticipated, it would give you some more flexibility

1 to -- to make another decision. But -- but the Board
2 -- if y'all want to change that, make it more black
3 and white, as it were --

4 MR. BRAGG: So my question, Mr.
5 Chairman, would be the policy as -- as it's stated
6 here, this last paragraph, is that gonna be the
7 current policy going forward?

8 MR. HORTON: If those are the will of
9 the Board, yes, it will be.

10 MR. BRAGG: I don't -- well, I don't --
11 I mean, Fred, I agree. Eminent domain always
12 frightens me 'cause as private land-- landowners we
13 sure don't like it.

14 But at the same time, if Renee is doing a
15 project at RiverLink in Buncombe County which is a
16 trail system, eminent domain sometimes is something
17 that needs to be done for a piece of property, and
18 it's part of a larger project. So I -- I can see why
19 we need that discretion and that's why this paragraph
20 makes me pretty comfortable that, as Trustees, we will
21 look at it and make a decision as part of a whole
22 project that might make sense. So I'm -- I personally
23 am comfortable with this policy.

24 CHAIRMAN KICKLER: But we, as a Board,
25 do not have the authority to --

1 MR. BRAGG: Correct.

2 CHAIRMAN KICKLER: If we don't --

3 MR. BRAGG: We're --

4 CHAIRMAN KICKLER: -- a question --

5 MR. DUFOUR: And that's --

6 CHAIRMAN KICKLER: -- don't want to be
7 associated.

8 MR. DUFOUR: And I don't want to be.

9 MR. BRAGG: But our monies are not a
10 direct -- we are going out and exercising eminent
11 domain. That's not --

12 MR. DUFOUR: Oh, I know that, but do we
13 want --

14 MR. BRAGG: -- what it says.

15 MR. DUFOUR: Do we want to be
16 associated to that or not? And I think my feeling is
17 no, we should not.

18 MR. BRAGG: Exactly. But that's not
19 what it says. It says that our monies can be used in
20 a project where eminent domain is being used, but
21 we're not the ones who are pulling the trigger on
22 eminent domain. At least that's how I understand it.
23 Is that correct, Larry?

24 MR. HORTON: I believe -- the way I
25 read this is it says the Board of Trustees shall

1 review requests to use funds for eminent domain action
2 on a case-by-case basis.

3 MR. BRAGG: Yeah.

4 MR. HORTON: And I would assume that
5 that -- when it says eminent domain action, that would
6 mean as far as administrative costs or litigation or
7 whatever.

8 MR. BRAGG: But, Larry, so somebody
9 else is taking that action.

10 MR. HORTON: That is correct but --

11 MR. BRAGG: We're not.

12 MR. HORTON: -- or whatever. I don't
13 think it has to do with purchasing land.

14 MS. CAWOOD: Mr. Chairman, Trustee
15 Cawood. I think this is a very important conversation
16 for us to have in the record as to the intention of
17 our Board. To Trustee Bragg's point, I think having
18 the flexibility there but with the very real intention
19 of how this Board feels about eminent domain is a
20 really important part of the record. But I recommend
21 that we keep the policy as it's written but duly noted
22 as to the feelings of the Board, which I completely
23 concur with both of the Trustees' comments.

24 MS. KUMOR: May I ask a question? In
25 listening -- Renee Kumor. Listening to this

1 discussion, do we want to be more clear by saying
2 Clean Water Management Trust Fund grant funds may not
3 be used by the grantee for any eminent domain? That's
4 -- then it's really clear that it's not us going for
5 eminent domain. If I understood part -- I mean, that
6 was part of the discussion, who's asking for eminent
7 domain.

8 MR. BRAGG: Renee, can you say that
9 again, please?

10 MS. KUMOR: Clean Water Management
11 Trust Fund grant funds may not be used by the grantee
12 for any eminent domain litigation or any action or
13 expenditure related to eminent domain unless approved
14 by the Board of Trustees.

15 MR. BRAGG: Well, my opinion there is
16 that -- is we are becoming more directly involved with
17 an eminent domain project by putting that in there.
18 We're -- we're controlling that grantee which
19 indirectly we want the project to move forward and we
20 want to be a participant. And whether the grantee
21 needs to exercise eminent domain is their problem, and
22 we will not directly -- Clean Water will not be
23 exercising eminent domain. And -- and I think that's
24 very clear.

25 The question is do we want to put by the

1 grantee in there because that sounds like we're
2 controlling whether they use eminent domain or not,
3 does it not? I'm not a lawyer but --

4 CHAIRMAN KICKLER: I'm not either. Are
5 you asking the -- so what -- what -- what was your
6 question with --

7 MR. BRAGG: Well, do we -- we need to
8 be specific and add the language that Renee says
9 which, in essence, is a control of the grantee of what
10 they do with the money. It's not -- help me out here,
11 Greer.

12 MS. CAWOOD: Trustee Bragg, I think
13 from Trustee Dufour's comments also, we've made it
14 very clear that we don't want to take anyone's land by
15 eminent domain.

16 MR. DUFOUR: No.

17 MS. CAWOOD: So I think by specifying,
18 which Trustee Bragg is saying, is looking like we have
19 more control in this than we do.

20 MR. DUFOUR: Well, I mean, first, what
21 I think would be nice is if the community -- the
22 municipality would just do -- get that in their name,
23 when it's all clear and they go out, then they come to
24 us asking for a grant and then that's a whole
25 different story.

1 I don't want for any municipality or, I
2 mean, government entity to say, well, put that in
3 their -- in their grant request. I don't want to
4 encourage them to go with eminent domain and get some
5 money and have -- from Clean Water Trust Fund. I want
6 us to do it on our own when the land is acquired
7 through eminent domain, and then they can turn to us
8 and say, you know, to go forward with a project we
9 need your help, but we have the land.

10 MS. CAWOOD: Trustee Kumor, are you
11 comfortable with the discussion?

12 MS. KUMOR: I'm -- now I understand
13 better what Frederick is talking about which is that
14 he -- in his opinion or his goals are that to really
15 stay away from eminent domain is that we're not even
16 part of the discussion. It has taken place in some
17 other room before somebody comes to us for funding.
18 Is that --

19 MR. DUFOUR: Exactly. That's exactly
20 right.

21 MS. KUMOR: And that -- that I don't
22 know. Now you're asking me a chicken-or-an-egg
23 question.

24 MS. CAWOOD: Oh, no.

25 MS. KUMOR: Do I -- do I -- do you want

1 to claim eminent domain before you come to ask for a
2 project when, in fact, you might not get the project
3 and then you -- here you are with some piece or parcel
4 or right-of-way that you can't use because we chose
5 not to grant you the money. So that's my chicken-or-
6 my-egg concern.

7 MR. DUFOUR: That's fine in the future
8 and right now we're -- we're over fund. But, you
9 know, in 10 or 15 years, I don't think any of us would
10 be on that board. And, you know, I'm worried about
11 down the road.

12 MR. BRAGG: Well, what -- what we don't
13 want to do is we don't want to exercise -- Clean Water
14 does not want to exercise eminent domain. The
15 question is do we want to be involved in projects
16 where the grantee may be exercising some eminent
17 domain. Is that -- is that not the question?

18 MS. KUMOR: Right.

19 MR. BRAGG: Then I think at the
20 discretion of the Clean Water Management Trust Fund we
21 have to make that decision when the project comes
22 along.

23 Back to the example, if you've got a 10-mile
24 trail, and there's a quarter of a mile of it eminent
25 domain by the grantee, not us, is part of the project,

1 then we've got to decide whether we want to
2 participate or not in the overall project. And I
3 think in a case like that that I would be saying,
4 yeah, if they exercise eminent domain then that
5 doesn't really have anything to do with us, so to
6 speak. We're just participating in the overall five-
7 mile project. Am I right?

8 So I'm -- I'm comfortable with the way it's
9 written on the -- the last paragraph on the policy of
10 this whatever the section, 1c.ii. Is this 1c.ii?

11 CHAIRMAN KICKLER: 1c.i.

12 MR. BRAGG: 1C.i, okay.

13 CHAIRMAN KICKLER: Is it -- question
14 for the staff. Is it urgent that the full Board take
15 action on this today?

16 MR. HORTON: It's not urgent for me. I
17 don't know if Nancy has any greenway projects or
18 anything but as far --

19 MS. GUTHRIE: It would not change any
20 contracts or decisions that Larry may have, as I
21 understand, if you don't take action today. We would
22 expect this language to stay in the current contracts.

23 You will not be funding any additional
24 wastewater projects where this could be a question,
25 and as far as I know, there are -- this question is

1 not coming up in any of the greenway projects that I
2 have currently.

3 So I see if you -- the way I see it is if
4 you don't take action today, it doesn't impact the
5 wastewater projects that are already on their way, and
6 on greenways, you would have time to consider over the
7 next few months before we get into new contracts if
8 you wanted to change any of the thinking on eminent
9 domain.

10 CHAIRMAN KICKLER: Okay. So there's no
11 sense of urgency about this. Well, I ask that
12 question because I understand Frank's concerns, and I
13 understand Fred's concerns. And -- and when I was
14 reading this I was wondering if there should be
15 further investigation into it because the history will
16 not be dealing with some of these projects, these
17 wastewater projects as you mentioned, Nancy.

18 So I was wondering if the Board would have a
19 problem -- forgive me, Administrative Committee --
20 with sending this back to the Administrative Committee
21 to explore further because in some ways we do have a
22 policy it seems like, and in some ways we -- we -- we
23 don't.

24 UNIDENTIFIED SPEAKER: (Inaudible)

25 CHAIRMAN KICKLER: Yes, yes. But --

1 but would the full Board -- I understand that this is
2 our policy but I can -- I can also understand how the
3 policy can be read possibly no policy.

4 But would the full Board have a problem
5 sending this back to the Administrative Committee for
6 further investigation? What -- what are your thoughts
7 about that?

8 MS. CAWOOD: The -- Trustee Cawood.
9 The Administrative Committee always is happy to look
10 at policies and to get the input from the Board and
11 their knowledge and expertise 'cause that's why I
12 think this Board works so well is having the different
13 viewpoints and thoughts. And if you'd like for us to
14 -- to look at this a little bit more closely and get
15 some more examples, the Administrative Committee would
16 be happy to do that.

17 CHAIRMAN KICKLER: Are there any other
18 thoughts?

19 (No response.)

20 CHAIRMAN KICKLER: Is there a motion,
21 then? Since there doesn't seem to be a sense of
22 urgency about this particular agenda item, is there a
23 motion from someone on the Board to send item 1 -- New
24 Business 1c.i, Policy Concerning use of Eminent
25 Domain, back to the Administrative Committee to

1 investigate further and make a recommendation in -- in
2 the next or a subsequent full Board? Is there a
3 motion?

4 MR. DUFOUR: Would make that motion.

5 CHAIRMAN KICKLER: Thank you. Is there
6 a second?

7 MS. KUMOR: Second.

8 CHAIRMAN KICKLER: Okay. Any more
9 discussion?

10 MR. VINES: I'd like to make a comment.
11 In -- in the perimeters of what we have here, we're
12 stating at the top up there the language of 113A-
13 256(d) that includes language, nothing in this section
14 shall allow the Trustees to acquire land under the
15 right of eminent domain. That tells us right there
16 we're not involved in this.

17 Too, in some projects funded by the Clean
18 Water Management Trust Fund, wastewater infrastructure
19 and greenway projects, local governments often are
20 faced with using eminent domain to acquire all the
21 necessary parcels. In an effort to assist local
22 governments with these type projects, the Board has
23 allowed the local government to use their own
24 resources to pursue eminent domain, but only rarely
25 and by exception has the Clean Water Management Trust

1 Fund been used to facilitate eminent domain.

2 Is that not what we're trying to say? Is
3 that what you were trying to say also?

4 MR. DUFOUR: Yes, but that's -- that
5 way in the current policy which is it's just done by
6 eminent domain and get rid of everything else. Well,
7 this --

8 MR. VINES: Well, this states --

9 MR. DUFOUR: -- only --

10 MR. VINES: The statute already says
11 the Trustees can't be involved in eminent domain. To
12 me, I -- I think that clears up the -- the situation,
13 the fact that the statute says that we cannot be
14 involved in acquiring land under the rights of eminent
15 domain.

16 To me -- and then as you go on, it tells me
17 then at that point local government has to be the one
18 to do eminent domain. So we may be under the force of
19 a project that they -- that they have based on them
20 acquiring property or parcels under eminent domain,
21 but we're not funding any of the costs there unless
22 the Board -- unless we want to remove the -- the
23 paragraph above that talks about -- paragraph 2 in the
24 preamble there and take out the last part of -- but
25 only rarely and by exception has the Clean Water

1 Management Trust Fund funds been used to facilitate
2 eminent domain.

3 MS. CAWOOD: And Trustee Vines, you
4 bring up a good point that that is our current policy
5 and this is something that -- that we are not -- we
6 are not looking to do.

7 MR. VINES: If we don't want to be
8 involved in it at all, then we need to pull paragraph
9 3 out of the preamble to -- to this policy where the
10 Board has allowed local government to use their own
11 resources to pursue it but only rarely and by
12 exception funds may be used to facilitate eminent
13 domain. If we took that out, that would -- would
14 clear it all up.

15 MR. DUFOUR: In the current place if
16 you stop after to eminent domain and then it -- which
17 really scares me.

18 CHAIRMAN KICKLER: Are there any other
19 comments? Discussions?

20 (No response.)

21 CHAIRMAN KICKLER: Well, we do have a
22 motion and a second, which means we have to vote on
23 it. Are there any other comments?

24 MR. BRAGG: So we're voting to send it
25 back to --

1 CHAIRMAN KICKLER: To -- to -- a motion
2 -- a motion has been made to send this particular
3 agenda item, Policy Concerning use of Eminent Domain,
4 back to the Administrative Committee for further
5 investigation or for language clarification.

6 MR. VINES: Yeah, let's let it come
7 back to the Board to rework it.

8 CHAIRMAN KICKLER: All right. If
9 there's no more discussion, all those in favor of the
10 motion say, "Aye."

11 BOARD MEMBERS: Aye.

12 CHAIRMAN KICKLER: All those opposed?
13 (No response.)

14 CHAIRMAN KICKLER: The motion carries.
15 This particular agenda item, Policy Concerning use of
16 Eminent Domain, has been sent back to the
17 Administrative Committee for further investigation,
18 information, and possibly language clarification.

19 All right. Moving on to New Business, a
20 recommendation coming from the Administrative
21 Committee, recommendation item new business 1c.ii.

22 MR. HORTON: Larry Horton again. This
23 is a policy concerning construction bids and award
24 reductions. Just a little background about this -- a
25 little bit more background about it.

1 This is something that we put in place
2 during the economic downturn when we had lost -- lost
3 a lot of our grant funding as set forth. As a way of
4 trying to recover funds quickly and put them in play
5 for projects that had basically been defunded because
6 we had lost our grant funding at that point, the
7 governor had taken that away from us to use for other
8 -- other needs.

9 So we were -- we have always recovered funds
10 that weren't spent if the -- if the project funding
11 was more than the construction costs but that was --
12 we have recovered them at the end of the project. So
13 this is something that staff saw that another agency
14 is doing as part of their way of using funds more
15 efficiently, and we decided to implement that also.
16 So this is -- this is something that we're doing now.
17 This is a policy that we have now.

18 It's not been used as much lately because
19 again, when we were -- did put this in place there was
20 an economic downturn. So the estimates had been made
21 in one construction climate, and the grants were
22 actually made in a different construction climate when
23 bid prices were much less, and we saw projects coming
24 in at 25 to 40 percent less than what the estimates
25 were made when the folks had applied for a grant.

1 So this -- the policy wording itself, what
2 is in our grant contracts right now, it talks about
3 the nuts and the bolts and the specifics of how it's
4 implemented so that we can recover funds immediately
5 if they're available. Again, lately that hasn't been
6 the case. Folks have either been very close with
7 their estimate or actually under, and they had to find
8 additional funding somewhere else.

9 So that's all I have right now unless you
10 want me to read this. I'll be glad to answer
11 questions.

12 CHAIRMAN KICKLER: Are there any
13 questions for Larry concerning this particular agenda
14 item?

15 (No response.)

16 CHAIRMAN KICKLER: If not, we'll move
17 on to business 1c.iii, Policy Concerning Construction
18 Contingency Funds. I want to remind everybody that
19 again the Policy Concerning use of Eminent Domain has
20 been referred back to the Administrative Committee, so
21 when we vote here in the near future, it will not be
22 pertaining to that particular agenda item. I think we
23 understand that, but I just want to remind everybody.

24 Okay, moving on to the next agenda item.

25 MR. HORTON: Okay. So this is the

1 policy -- Larry Horton again. This is the Policy
2 Concerning Construction Contingency Funds.
3 Construction contingency funds allow the project to
4 cover unanticipated costs often resulting from
5 unexpected conditions encountered during construction.
6 Those funds are intended for use only for construction
7 and the policy -- I'll just read the policy. It's
8 fairly short.

9 Construction contingency funds will be
10 disbursed only after the grant recipient has
11 demonstrated to the fund that it has expended 100
12 percent of funds in construction line items, 100
13 percent of local matching funds, and at least 90
14 percent of all other matching funds, including
15 matching grant and/or loan funds.

16 And the -- the construction contingency
17 funds are generally a line item in the budget if there
18 -- if there are -- if the applicant has decided to do
19 that. So that's not part of the policy but that's
20 just an additional note.

21 CHAIRMAN KICKLER: Okay. Any questions
22 pertaining to this particular policy?

23 (No response.)

24 CHAIRMAN KICKLER: Hearing none, no
25 comments, we'll move on to New Business 1c.iv, Policy

1 Concerning Option Agreements for Infrastructure
2 Projects.

3 MR. HORTON: Okay. Larry Horton again.
4 This is the Policy Concerning Option Agreements for
5 Infrastructure Projects. So we're requiring grant
6 recipients to have restoration easements recorded for
7 all buffer properties before receiving any
8 reimbursement for -- for restoration construction
9 costs. Also, some of the restoration grant contracts
10 include recordation of restoration easements in a
11 scope of work for preparing for construction at a
12 later time with new funding and do not include funding
13 construction.

14 So this policy was put in place for special
15 cases to allow us a little bit more flexibility and
16 allow the grant recipient a little bit more
17 flexibility. Case one would allow grant recipients
18 and riparian property owners to commit to encumbering
19 their properties only if funding for constructing the
20 restoration project is made available before a date
21 specified in the option agreement, a sunset date,
22 and/or the second case would allow grant recipients
23 and riparian property owners to defer committing to
24 exact streambank and easement locations until after
25 the restoration construction has been completed.

1 So the policy is very short. The trust fund
2 will allow option agreements as -- as an optional
3 intermediate step toward recording -- for recording
4 easements on stream restoration projects.

5 CHAIRMAN KICKLER: Any questions?

6 (No response.)

7 CHAIRMAN KICKLER: Okay. Hearing none,
8 we'll move on to the next item. I know it's a little
9 bit past noon, but we're almost finished, so I just
10 think we should keep -- keep plowing on and do the
11 remainder of the work.

12 Moving on to the next item, which is New
13 Business 1c.v, Policy Concerning Operation and
14 Maintenance Plans for Infrastructure Projects.

15 MR. HORTON: So I will -- I'll just
16 read the policy. It's fairly short.

17 A stormwater BMP operation and maintenance
18 agreement may be used in place of a conservation
19 easement. O&M plans for infrastructure project --
20 projects apply only to best management practice
21 projects for which the grant recipient is a local
22 government and funds from the trust fund are used for
23 BMP construction. Easements are no longer required
24 and the grant recipient agrees to maintain the BMP for
25 10 years and prepare a BMP O&M plan.

1 For most applicable projects, this is
2 accomplished via a stormwater BMP O&M plan submitted
3 as a deliverable under the grant agreement, consistent
4 with the grant agreement requirement to maintain the
5 BMP for 10 years. This agreement is standard for
6 applicable projects beginning with projects resulting
7 from 2010 grant awards. The arrangement was used
8 select -- selectively on projects awarded before 2009
9 via grant agreement amendments.

10 Beginning with the 2010 grant applications,
11 projects that are eligible to use a stormwater BMP O&M
12 plan should not propose to use a conservation easement
13 to protect the land of the BMP and should not include
14 the value of a donated easement in the project's
15 matching funds budget.

16 CHAIRMAN KICKLER: Any questions?

17 (No response.)

18 CHAIRMAN KICKLER: Any comments?

19 (No response.)

20 CHAIRMAN KICKLER: Any discussion
21 regarding agenda items New Business 1c.ii through
22 1c.v?

23 (No response.)

24 CHAIRMAN KICKLER: If there's no
25 further comment or discussion, is there a motion to

1 accept the Administrative Committee's recommendations
2 for item 1c.ii, Policy Concerning Construction Bids
3 and Award Reductions, New Business 1c.iii, Policy
4 Concerning Construction Contingency Fund, New Business
5 1c.iv, Policy Concerning Option Agreements for
6 Infrastructure Projects, and New Business 1c.v, Policy
7 Concerning Operation and Maintenance Plans for
8 Infrastructure Projects?

9 Is there a motion to accept those four
10 recommendations coming out of the Administrative
11 Committee?

12 MR. BRAGG: So moved.

13 CHAIRMAN KICKLER: Thank you. Is there
14 a second?

15 MR. DUFOUR: Second.

16 CHAIRMAN KICKLER: Thank you. Any
17 further discussion?

18 MR. VINES: Can we include the name
19 change when we do these, all of our acronym references
20 in these to include the name change?

21 MR. GOSSAGE: Yeah, it -- it will --
22 when we get a name change we'll go through everything
23 and update it all.

24 MR. VINES: Okay.

25 CHAIRMAN KICKLER: If there's no -- did

1 we get a second? Yes, we did. Okay.

2 If there's no further discussion, all those
3 in favor of accepting the policy recommendations and
4 agenda items New Business 1c.ii through 1c.v please
5 say, "Aye."

6 BOARD MEMBERS: Aye.

7 CHAIRMAN KICKLER: All those opposed?
8 (No response.)

9 CHAIRMAN KICKLER: The motion carries.
10 Now we will move on to the next agenda item which is
11 New Business 2, Review of Conservation Tools for Clean
12 Water Management Trust Fund projects, or currently
13 named Clean Water Management Trust Fund projects. And
14 I think that's you, Bryan.

15 MR. GOSSAGE: It is.

16 CHAIRMAN KICKLER: Okay. Turn the time
17 over to Bryan.

18 MR. GOSSAGE: So not unlike the genesis
19 for the name change, there is also the -- the
20 conversation here to be had as far as the tools that
21 you have at your availability for preserving land.
22 And the name change came from the expanded -- the
23 request for a name change came from the expanded
24 mission, and so likewise, our -- as the potential to
25 increase the tools in your tool box, if you will.

1 The Clean Water Management Trust Fund began
2 with its initial charge to protect and preserve
3 streams and -- and do land acquisition had a somewhat
4 limited toolbox, and the tools that you use right now
5 are pretty much limited to permanent conservation
6 easements, restricted covenants, and some dedication
7 registry.

8 There are a lot of other tools out there to
9 protect and preserve land, current contracts,
10 temporary easements and so on. And so what staff
11 requests is for the Board or a subset of the Board to
12 consider and in coordination with staff, to consider
13 some of these other tools and through a process of
14 learning about them and understanding what they are
15 and how they might be used, perhaps come back to the
16 Board in the future -- in June would be ideal -- with
17 some thoughts and some suggestions on expanding the --
18 the tools in your toolbox to protect and preserve
19 property.

20 CHAIRMAN KICKLER: Are there any
21 questions for Bryan?

22 (No response.)

23 CHAIRMAN KICKLER: While I was looking
24 over this, it would be difficult for us to make an
25 informed decision today on this particular agenda

1 item.

2 So after the brief presentation, I wanted to
3 form an ad hoc committee to investigate these various
4 tools, as Bryan has referred to them, and then we can
5 present -- the ad hoc committee can present an
6 informed recommendation, working with staff, later
7 present an informed recommendation to the full Board.

8 So in my capacity as Chair, I want to form
9 an ad hoc committee to look into this agenda item
10 named Review of Conservation Tools for Clean Water
11 Management Trust Fund projects. And thinking about
12 the skill set of the current Board members I've
13 decided on three which includes myself as a Board
14 member, Fred Dufour, and Bill Toole. I'll be the
15 Chair. There --

16 MR. GOSSAGE: I think, Mr. Chairman, we
17 will get up with those individual members and
18 communicate a committee meeting schedule and then work
19 toward presenting something to the full Board at the
20 June meeting.

21 CHAIRMAN KICKLER: Thank you.

22 MR. BRAGG: Mr. Chairman, I have a
23 question about -- about this committee. Have -- have
24 we had requests from the land trusts for changes? I
25 mean, temporary easements are -- have been around

1 forever. The problem with them is there are no tax
2 deductions for temporary easements, so the land trust,
3 from my perspective, my experience, has been that
4 they're considered from time to time, but they're
5 never used or rarely ever used. I can think of one
6 instance in the area around Charlotte it was used.

7 But anyway, I'm just curious to know of a
8 land trust or asking you for new ideas and products or
9 what specifically is it?

10 MR. GOSSAGE: I don't know that -- that
11 I've heard it from a land trust in particular. And
12 frankly, I don't recall exactly who I heard it from,
13 but I know that this is -- has been part of
14 conversations that I have had with our -- our many
15 customers in terms of the limits that the Board has on
16 the tools that it has in the expanded mission and how
17 there's a mismatch there.

18 CHAIRMAN KICKLER: Any other comments?

19 (No response.)

20 CHAIRMAN KICKLER: We're at the next
21 item on the agenda which is the public comments. At
22 this time, the public is invited to make comments to
23 the full Board. You're allowed -- allotted three
24 minutes per person, and I will be keeping track of
25 time. And unfortunately, I don't want to be rude, but

1 when the three minutes expire I'll let you know that
2 the three minutes have expired. Is there anyone that
3 would like to make a public comment?

4 (No response.)

5 CHAIRMAN KICKLER: Okay. No one from
6 the public has indicated that they would like to make
7 a public comment, so we will proceed on to the next
8 item in the agenda.

9 Is there any other discussion or any other
10 comment a Trustee would like to make at this time
11 before we think about adjourning?

12 MR. BRAGG: I'd like to make one
13 comment, and it's a very favorable comment about the
14 work that we do. I was thinking when I was listening
15 to Larry's and Nancy's and Greer's great work, we're
16 one of the -- maybe the only, but we're one of the
17 only government agencies, if we call ourselves an
18 agency, that has no cost overruns.

19 When the staff brings in a project, and we
20 see it has merit, and we vote it, it goes out, and
21 they don't come back and say you didn't give us -- you
22 didn't give us enough money. And I think that's
23 commendable to think that -- you know, we were talking
24 about we -- are we getting money back if it's not
25 used. They don't come back and say, you know, that

1 road cost more money than we thought. That bridge is
2 three thousand more expensive.

3 So Clean Water operates very efficiently, I
4 think, and we -- our money is used correctly because
5 up front we're sure -- we're sure that a project has
6 merit, and there's no cost overrun. I think that's
7 commendable.

8 CHAIRMAN KICKLER: Thank you. Any
9 other comments from any other Trustees?

10 MR. VINES: Charles Vines. Got a great
11 staff. They do a great job for us, and they're gonna
12 keep us out of trouble, so that's good to know.

13 CHAIRMAN KICKLER: If there are no
14 other comments, I'll entertain a motion to adjourn.

15 MS. CAWOOD: So moved.

16 CHAIRMAN KICKLER: Is there a second?

17 MR. VINES: Second.

18 CHAIRMAN KICKLER: Thank you. If
19 there's no more discussion on that, all those in favor
20 to adjourn, please say, "Aye."

21 BOARD MEMBERS: Aye.

22 CHAIRMAN KICKLER: All those opposed?

23 (No response.)

24 CHAIRMAN KICKLER: We are adjourned.

25 *(The meeting concluded at 12:19 p.m.)*

CERTIFICATE OF NOTARY - COURT REPORTER

STATE OF NORTH CAROLINA)
COUNTY OF LEE)

I, BETH A. LEWIS, Certified Verbatim Reporter, Notary Public in and for the above county and state, do hereby certify that the foregoing proceedings were taken before me at the time and place hereinbefore and was duly recorded by me by means of voice recording; which is reduced to written form under my direction and supervision, and that this is, to the best of my knowledge and belief, a true and correct transcript of the proceedings.

I further certify that I am neither of counsel to this agency or interested in the event of this agency on this 22nd day of March, 2015.

Beth A. Lewis, CVR-M
Notary Public, Lee County,
North Carolina
Notary Number: 1993500027