

## MINUTES

### OHIO SOIL AND WATER CONSERVATION COMMISSION FEBRUARY 19, 2009 – 10:00 AM ODNR Fountain Square I-1 Conference Room

Chairman Mott called the meeting to order at 10:10 a.m. and the attendees recited the Pledge of Allegiance.

Chairman Mott asked Tracy Bleim to give a roll call of the members. The following members were present:

Tom Price  
Kent Stuckey  
Randy Mott  
Fred Cash (arrived 10:30 am)  
Susan Reeves  
Jerry Bigham (arrived 10:15 am)  
Kevin Elder not present

Others present included: David Hanselmann, Executive Secretary, Tracy Bleim, Fred Hammon, John Kessler, Jill Evans, John Mathews, Martin Joyce, Clark Hutson, Dorothy Farris, Ed Crawford, Ed Everman, Chad Amos, Neil Martin, and Steve Hawkins, ODNR Division of Soil and Water Conservation; Mindy Bankey, OFSWCD; Terry Cosby, NRCS; and Jeff Mitchell, FSA.

#### **APPROVAL OF AGENDA**

Chairman Mott asked for a motion to approve the agenda as mailed.

Tom Price moved to approve the agenda.  
Susan Reeves seconded the motion. Motion carried.

#### **APPROVAL OF NOVEMBER 6, 2008 MEETING MINUTES**

Chairman Mott asked if there were any corrections to the November 6, 2008 minutes as mailed.

Chairman Mott asked for approval of the November 6, 2008 minutes as mailed.

Tom Price moved to approve the November 6, 2008 minutes as mailed.  
Susan Reeves seconded the motion. Motion passed.

#### **AUDIENCE TO VISITORS**

Chairman Mott asked if any visitors would like to address the Commission and invited them to participate in the discussions.

Chairman Mott noted that there was a yellow sheet in the OSWCC member packets outlining the ethics training sessions being offered for 2009 for those OSWCC members who are obligated to attend training this year since it is required every two years. Mott added that the Financial Disclosure Statements should have been mailed to your homes and those forms are due April 15 to the Ohio Ethics Commission.

(Jerry Bigham arrived 10:15 a.m.)

Chairman Mott asked for the Executive Secretary Report since Fred Cash had not arrived yet.

#### **EXECUTIVE SECRETARY REPORT** **ELECTION RESULTS**

Hanselmann reported that DSWC received 44 election result forms from the SWCDs since the last meeting which brings the total to all 88 received.

**REORGANIZATIONS**

Hanselmann reported that DSWC received 82 reorganization forms from the SWCDs. Hanselmann added that several SWCDs had to postpone their January Board Meetings due to inclement weather so there was a little more delay in receiving those forms as opposed to previous years. Hanselmann added that Tracy Bleim sent the Roster over to the copy center for printing even though we had not received all of the reorganization forms yet so that it could be distributed at the All Employees Meeting in March which would save postage costs.

**SUPERVISOR APPOINTMENTS**

Hanselmann reported that there are six board member appointments to approve. Hanselmann stated that Highland SWCD board of supervisors has unanimously recommended that Kyle Mustard replace his father David Mustard after his unexpected death. Hanselmann said that in Marion County, there are two supervisors to approve. Steven McKinniss has been recommended to replace H. Warren Zachman and Wes Roberts has been recommended to replace Don Loudenslager. In Harrison County, Donald Zitko passed away and the board has recommended Damian Chrisman to fill his term. Chester Grooms has been recommended to replace John Newman in Adams County and Don Lecklider has been recommended to replace Keith Arnett in Darke County.

Chairman Mott asked if there was a motion to approve the six appointments for supervisor.

Kent Stuckey moved to approve the appointments of the recommended supervisors.  
Susan Reeves seconded the motion. Motion carried.

**OSWCC ACTION AND DISCUSSION ITEMS**

**REVIEW OF FY '09 BUDGET AND FY '10-11 BIENNIUM BUDGET PROPOSAL**

Hanselmann referred to several handouts in the OSWCC member's packets discussing the budget. Hanselmann stated that the third budget cut for this FY '09 occurred in late December and the "Critical Remaining Obligations for FY 2009" handout summarizes how our division came up with that 5.75% cut that amounted to \$522,403. The reductions came from the entire allocation of the agricultural pollution abatement program for this fiscal year which came to \$321,500, the elimination of the nonpoint source mini-grant program of \$10,000, \$10,000 was debited from the SWIMS budget which was in the 502 account, \$149,000 from the watershed coordinator program, \$16,906 from the Lake Erie CREP, and \$14,997 from the DSWC equipment budget. Hanselmann added that the \$149,000 reduction in the watershed coordinator program came from deferring payments for the watershed coordinator grants until after July 1<sup>st</sup> which would put it into the next fiscal year. Hanselmann said that the Office of Coastal Management was able to provide \$60,000 for watershed projects in the Lake Erie Watershed.

Hanselmann said that DSWC was able to come up with the targeted amount that the Department needed from our division and DSWC was able to do it without asking SWCDs to send back any state match funds. The cushion that our division had is largely gone though.

Hanselmann referred to the Budget History handout and pointed out the yellow highlighted section and stated that just below that section is the original appropriations for FY '09. The first number is the 502 account which came out to \$12,895,791 which were general revenue funds. The CD&D income would be in addition to that. There is \$1 million for the Lake Erie CREP and our division operating had just over \$4 million. Before the fiscal year even began, there was a reduction for FY '09 and another reduction in September. Hopefully, the final reduction was in December. Hanselmann noted that the yellow section shows what we are left with after those reductions. There are zero funds left for the Lake Erie CREP and the ag pollution abatement program. Hanselmann said that DSWC will need to spend down every last dime of the tipping fee income to cover the four legislative earmarks. The Conservation Action Project came out of our general revenue fund and the other three (Heidelberg Water Quality Lab, Indian Lake, and Grand Lake St. Marys) came out of the CD&D account. Hanselmann said that we will be making those payments to them late this fiscal year.

The revenue projections for this fiscal year were adjusted in December and the January revenues were 3.2% below those estimates revised just a month earlier.

Hanselmann stated that if we transition to the FY 10-11 budget, we have a handout concerning the revenue coming in from the Construction and Demolition Debris Fee Fund. Evans analyzed our deposits on a monthly basis from when that fund was first available to our division and SWCDs. When we added up the funds for calendar year 2008 it came out to just over \$1.2 million. Back when this program started in FY 06, we were projecting \$1.8 million. The budget in the Governor's Blue Book has proposed to raise the CD&D fee for our division from the current \$.25/ton to \$2.50/ton. Hanselmann referred to the handout that showed the revenue projections for FY '10 and FY '11. There are some increases in these same fees that will provide revenue to Ohio EPA and six of the regional planning organizations such as the Miami Valley Regional Planning Commission. Ohio EPA and our department are preparing an explanation of those fees and the basis for them. They are also showing a comparison to other states for example.

DSWC asked Ohio EPA to thoroughly look at the CD&D fee for the tonnage estimates for next year. The tonnage estimates for next year were lowered significantly and we had anticipated that. In the case of the CD&D revenue, the projection would be for \$1,050,000 for each \$.25. Hopefully, that is a fairly conservative estimate of revenue. For both of these waste fees, our department doesn't actually receive the revenue until three months after the operator is obligated to pay them to county health departments then a portion is transmitted to Ohio EPA. The portion that is transmitted to Ohio EPA is then deposited into the ODNR accounts. The FY '10 numbers are lower for those two fees, but there is \$4 million in general revenue funds proposed as transition money to recognize that deficit. Hanselmann stated that DSWC's estimate for FY '10 would be \$14,475,000 total.

(Fred Cash arrived 10:30 a.m.)

Hanselmann referred to the handout with the list of districts and the estimated figures for 2009 funding levels. Hanselmann said that when we add the estimates up, it is about 5% lower than last year. If we use the estimated amounts and look at the expenses for SWCD Match/Programs on the other handout, DSWC is hoping to use that carryover to help fund the watershed coordinators, urban grants, education grants, ag cost share, SWIMS, and Enterprise GIS which totals \$575,000.

Director Logan and others are anxious to restore funding to the CREP program and the ag pollution abatement program. Hanselmann added that Director Logan will have a conference call with the SWCDs tomorrow and the OFSWCD has a legislative day scheduled next Wednesday. John Kessler and Mike Shelton, Chief of Legislative Affairs is at a meeting downtown for the Ohio EPA Solid Waste Advisory Council today. Quite a number of members are representatives of the industry that would be paying these fees.

Price asked if the minutes of that Solid Waste Advisory Council meeting are available?

Hanselmann thought that they were posted on the Ohio EPA website.

Hanselmann stated that in regards to the Division Operating Budget, DSWC avoided a cut in December but it forced OBM to adjust the biennium budget proposal 10% for FY '10 and '11 for our division operating budget which is another \$291,000 reduction below our current funding levels. That size cut will be problematic for us and we are engaging our ODNR leadership and they are committed to avoiding layoffs. There is a chance some of the federal stimulus money could have a benefit to our division.

Hanselmann said that the other issue concerns cash flow because DSWC will only have half of the money in by December and the rest of the money will come in after December each month which will create a serious cash flow issue for almost half of the districts. Most districts will have little or no carryover by a year from now. Hanselmann noted that two years ago, this OSWCC tried to create a carryover of \$1.5 million which is a small amount of carryover compared to \$13 million dollars distributed. Hanselmann didn't want to suggest reducing match down from the 1:1 to create the carryover because he thought

districts would prefer figuring out their cash flow issue compared to a reduction right now in state match funds.

Price asked if the earmarked line items amount to 25% of that tipping fee account?

Hanselmann said no, the tipping fee account would amount to \$13.6 million for FY '11. For FY '10, DSWC would receive \$4 million from GRF and \$10.5 million from the tipping fee account.

The earmarks were not much less than the \$575,000.

Price asked if the earmarks took part in these reductions?

Evans said that the earmarks took the 4.75% reduction voluntarily, but we couldn't ask them to take the 5.75% reduction.

Hanselmann said that Heidelberg is seeking an increase in the next biennium budget to make up for that cut and they are asking for a \$250,000/year earmark from the waste disposal fees.

Mott asked Evans how this will change how funds are distributed to the districts?

Evans thought that we were be distributing match checks in the third quarter and maybe even the fourth quarter this first year which will cause a cash flow issue for some districts.

Mott asked if this would be brought up to the districts at the upcoming All Employees Meeting?

Hanselmann thought that the departmental leadership wants to try to find a solution so Hanselmann didn't want to make it a crisis quite yet.

Hanselmann added that the envisioned the match checks going out monthly. DSWC sent out six match checks this year and thought that maybe 11 or 12 checks would go out in the future.

Price asked at what point do we go back and feel that it is important to have a carryover within the department and decide to go ahead and create a carryover instead of having a 1:1 state match? At one time we thought the reasoning was there, and now we don't feel that the reasoning is there?

Hanselmann said that it is a challenging judgment call, but if we can't come up with a meaningful solution that we try to keep match at close to 1:1 as possible and also keep the Program Assistance Grants as well. Hanselmann added that if we do that for two years and try to limp along, in hopes that in FY '12-13 the tipping fee revenue goes back up and then at that time, we take the action that you are sort of contemplating to not provide as much match as possible and balancing the match, pollution abatement funding, CREP money, and to set aside carryover funding. Hanselmann added that with the district's budgets being slashed, he would have a hard time supporting lowering the match rate.

Mott asked if there were four districts that were going to be zeroed out according to their estimates? Is that trend increasing?

Hanselmann wasn't sure if more would be zeroed out, but thought that county budgets would be even more stressed a year from now than what they are now.

Hanselmann commented that DSWC will try to firm these SWCD estimates of match rate a little better and at the April OSWCC meeting, DSWC will work on if any adjustments in the procedures for the Program Assistance Grants be addressed at that meeting.

Bigham asked how Adams County could up with such an increase?

Hanselmann thought that the board of supervisors worked closely with the county commissioners to achieve that increase.

Hawkins added that Adams County received additional funding for a GIS position and staff increases, but they are a poor county in comparison to most counties so in reality they are getting about the same amount of money as other districts.

Crawford commented that Allen County lost \$121,625 so they are laying off 5 people in an 8 person staff.

Mott asked if any of the staff would like to comment on Harrison, Morrow, or Paulding SWCDs being zeroed out?

Crawford said that Paulding SWCD had a levy fail 3 times so they lost all of the funding. Currently, Paulding SWCD has enough money this year, but it will be exhausted by next year. Paulding SWCD wants to know what level the OSWCC will provide as a safety net?

Hutson said that Morrow SWCD was able to get \$2500 from the county commissioners so that they weren't completely off the books. They have a sizeable district fund from a robust drill rental program among other things. The county commissioners knew that since they have a county commissioner who regularly attends monthly board meetings. Hutson thought that they had enough funds to operate for another four years at their current level probably.

Amos stated that Harrison SWCD is in the situation where 2 out of the 3 county commissioners were former supervisors, but there county has no money. The entire county budget is \$2.9 million so it is rough. They ran a levy three different times, but it failed every time. Harrison SWCD was a recipient of the Program Assistance Grant last year and they do not have a district fund to fall back on.

#### **REVIEW AGRICULTURAL POLLUTION ABATEMENT ADVISORY COMMITTEE RECOMMENDATIONS**

Hanselmann noted that the pink handout refers to the fourteen recommendations and added that Rob Hamilton is at ODA right now. Hanselmann highlighted recommendation #1 to develop a streamlined state approved nutrient planning and site assessment tool that will meet the requirements of an operation and management plan as defined in Ohio's Agricultural Pollution Abatement Rules and Standards. Hanselmann also highlighted recommendation #14 to start in 2009 working with the livestock industry, SWCDs, and OSU Extension to get new medium sized and significantly expanding medium sized operations to utilize the Nutrient Management Workbook and OSU Site Assessment on a voluntary basis. Knowledge gained by the SWCDs and DSWC, along with feedback provided by the participating livestock operations, industry organizations and other groups will be analyzed and discussed to determine the value in requiring these tools for new or significantly expanding medium sized operations in the future. DSWC will collect this information throughout 2009 and provide it in a report to the committee.

Hanselmann added that this will require a law change that we will need industry support for, as well as SWCD support, but perhaps a year from now or hopefully a little less we will have a consensus that everyone can support going to legislature. Hanselmann said that his advice to the industry has been that if we come up with a producer friendly tool -- it is good to have it required in the sense that the producer can then pull up this plan that they developed and it has been reviewed and approved by the SWCD and it shows their commitment to being a good manager. Without the requirement and review and approval, the producer can't take advantage of it. The producer may have a plan that he is going to follow, but the neighbors and SWCDs don't know it. This puts the SWCDs at a disadvantage when a concerned citizen raises concerns and the SWCD may or may not already be working with that producer and there is no obligation for the producer to follow a plan.

Hanselmann thought that this tool may create the basis that it is viewed as a win-win by the ag industry and producers that it is a meaningful tool that will help them manage their operation and it has marketing and other good neighbor advantages. Hanselmann said that we won't know the full effect until we start to use it over the next year to get some reaction from it.

This type of requirement would be different from the current ODA or federal permitting requirement. For owners, there would be no public hearings, for example.

Hanselmann asked if Tom Price had any comments since he was a representative on the advisory committee.

Price stated that this site assessment tool is a great tool to begin using and thought that it should be required right out of the gate. It lets producers know that this is a high risk site and that they are too close to Alum Creek or Big Darby or whatever. As far as the requirements, we are going to be there one way or the other whether we are mandated to do it or begin to do it ourselves. Price added that there was a lot of conflict between the commodity groups of the requirements and Price thought that he would be surprised if the commodity groups engaged that requirement before they are forced to. Price thought that this new administration has made this one of their goals to bring in line some operations that are not fully aware of the environmental requirements.

Hanselmann thought that this tool would help producers by showing how to save money on fertilizer costs and ways to protect the environment and this was a big part of what our strategy was. Hopefully, this will open the door for more outreach and discussion with producers.

Mott asked how this would move forward?

Hanselmann said that over the next two months we will perfect this tool and work with producers to test it, and then seek some support from Ohio EPA with the cost of printing this. Hanselmann added that it seemed like everyone felt that this should be available online for producers that want to do it online and maintain it and do the updates. Hanselmann thought that OSU wasn't sure that they had the wherewithal to do that quickly and we are tentatively thinking that we could build it into the conservation GIS system. Hanselmann thought that it may be a nice additional module to build into that and we may have some money to cover the cost to develop that.

Price brought up that several operations were still applying manure on frozen and/or snow covered ground and we dance around the issue. Price thought that the tool should be required to address the issue because it can't be addressed through a chief's order because there are too many operations to cover.

### **URBAN PROGRAM INITIATIVES**

Mathews distributed a handout describing the current grant that the Stormwater and Stream Section was beginning to work on for 2009 with the Ohio Water Development Authority (OWDA). OWDA has a category of funds available that are focused on research and development and DSWC used those funds to update our standards for the Rainwater and Land Development Manual and to provide trainings on the stream rehabilitation practices. There are four primary issues that we are working on in this current grant and the first issue is trying to get in front of the ball when it comes to stormwater management. Stormwater designs are still just kind of curbing peak flows. We still get increased flooding and stream erosion even when following water quality practices. Mathews said that we would be looking at new development sites and the ability of those sites to infiltrate water and what kinds of practices could be put out there (maybe landscape services) before development and maintaining it after development.

Mathews said that the second issue dealt with Ohio's settling pond standards. Mathews added that across the nation, the settling pond standards have doubled in size. Ohio offers a compromise between the old and the new, but a lot of states require 134 cubic yards for a settling pond. In the last stormwater permit and in the last Rainwater and Land Development Manual, we went into a moderate increase of those standards because we were not seeing good implementation of the low standard that we had before so it didn't seem like it made sense to just up your standard without looking at the industry and their way of design. Mathews said that DSWC looked at settling time and the use of skimmers and we put that information in the Rainwater and Land Development Manual. Now, the federal guidelines are proposing to implement effluent guidelines and they have the potential to mandate that doubling in size for a pond in Ohio as well. DSWC wants to find out what is the predicted performance of what we have now versus other states?

Ohio has some things that other states don't have such as the required draw down time where you have to hold that water for 48 hours for example. DSWC wants to evaluate that using a proper modeling program.

Mathews stated that the third item deals with stormwater practices and what resources are available to evaluate their performance. In Ohio, there are very few folks studying this. Across the nation, there are several people studying this evaluation and they are putting all of their information into a database. If you go to that database and look at Ohio entries, most of the information entered into the database is for highway jobs because they have money to do research. The goal of this objective for our grant is to assess what is out there such as what can universities do and what can we do and what is the cost and what are the resources that local communities can use. Mathews added that we also hope to demonstrate a specific monitoring practice on a stormwater pond.

Mathews noted that the last item would look at stream mitigation and do an assessment of projects in Ohio. What we have done over the last several years in our stream morphology program is we tried to emphasize what we think are kind of the foundational attributes that you have to get right on stream rehabilitation jobs. Sometimes people start with the window dressing and then work down to the foundation and if you have not got the foundation right, those stream mitigation proposals fall apart when they are implemented so you can visit stream mitigation sites in Ohio that are eroding or down cutting. DSWC has chosen a subset of sites that are within the last five years and we are going to evaluate those sites for vertical stability, floodplain form, etc. We are sort of re-providing the services that natural channels do and then we look at habitat as the last element in the design. Mathews commented that Laura Fay is helping DSWC to do this project.

Mathews commented that when you think about the amount of money that goes into stream mitigation, it is sometimes \$150/foot and other times \$500/foot and so you have to question are we getting what we want out of those jobs or are we just doing something for the reviewers and regulators?

Cash noted that Mathews highlighted under one bullet to encourage developers to take advantage of a crediting system. How would you encourage communities to do that?

Mathews said that there are two ways and one is at the state level with the state permits and the other way is to demonstrate BMPs. For example, if you could make your stormwater pond smaller by using open swales instead of curb and gutter you will save money on the infrastructure. A developer can chart out the savings that he gets with those options. Some states such as Maryland, Pennsylvania, Wisconsin and Washington are starting to do that, so really it is the difficulty of trying to put units on it.

Price asked how long the grant was for?

Mathews stated that it is a 3 year grant for \$360,000 and we are getting half of that amount from the OWDA.

Hanselmann said that this builds on a previous grant from the OWDA.

Mathews added that in the last grant we updated some portions of the Rainwater and Land Development Manual and we looked at watershed modeling from two perspectives. One perspective was what if we manage the stream system differently and increase the amounts of floodplain along small channels and you get more treatment out of that system. Another perspective is looking at the practices that rehabilitate the entrenched channels.

Cash commented that the Rainwater and Land Development Manual has been an excellent tool for communities.

Hanselmann added that DSWC is trying to work on cost effective alternatives for developers for stream issues, such as having wide channel options that will allow them to maximize the site for development purposes and still maintain environmental protection, but in a more flexible manner than perhaps Ohio EPA and others allowed for in the past.

**PROVIDE UPDATE ON OHIO CONSERVATION GIS PROJECT AGREEMENT WITH DEPARTMENT OF ADMINISTRATIVE SERVICES**

Hanselmann reported that DSWC has signed the agreement with the Department of Administrative Services State GIS Support Center and they will sign it any day now. GIS Support Center staff have already begun some work on this project regardless. Justin Reinhart is filling in as project manager for Aaron Lantz since Aaron has been hospitalized with leukemia since the beginning of November. Hanselmann introduced Neil Martin who is now the administrator of the soils program since Tim Gerber's retirement. Justin Reinhart and Greg Nageotte hosted two informational meetings on December 16 to update partners on the OCGIS project and explore any potential collaboration. A morning session was held with representatives of the ODNR Divisions. A second session was held with representatives of the Ohio Water Resource Council (Ohio Departments of Health, EPA, and Development; as well as NRCS, USGS, PUCO, Lake Erie Commission, and Ohio University) to make them aware that there is plenty of opportunity to partner with us on this project. The initial project cost was for \$166,500 and our grant from the Ohio Water Development Authority is for \$200,000 that we need to match with another \$100,000 that we have set aside. Hanselmann thought that we would have the base project available to test within the local level within six months or so.

Cash asked if there was better information out there on this project?

Hanselmann said that we have the workplan available that lays out this project with the state GIS Support Center and we could provide that to you.

Mott commented that the presentation that Aaron Lantz put together back in November was very informative and really quite exciting when you look at what the capabilities are for this.

Bigham asked if Missouri was involved in this?

Hanselmann thought that the CARES Center in Missouri could be a vendor that could help build this center for us. We knew that we would have to do a request for proposals and they might bid on it, but at the same time we were engaging some discussions here in Ohio to try to find out if anyone would be interested in being a bidder. The state GIS Support Center is guided by OGRIP (Ohio Geographically Referenced Information Provider) which is a consortium of state and local agencies and users that guide the overall umbrella for the state GIS efforts.

Hanselmann said that DSWC will own the system and the servers will be here at ODNR, but this state GIS Support Center will actually build the system and maintain it. DSWC had worries that an out-of-state vendor would do a good job of building it, but what if that center disappeared for financial or other reasons? Hanselmann added that with the tight budget, hiring any out-of-state vendors is problematic and we thought that it would be in our best interest to use someone local to build it and the department already interacted with. Hanselmann said that DSWC may still sub-contract with the Missouri CARES Center for help on building certain modules if we need to.

Bigham questioned whether if somewhere along the line an assessment was done to make sure Ohio could handle this?

Hanselmann said yes and added that it would also be at a reduced cost.

**REVIEW DRAFT RECOMMENDATIONS FROM SWCD BOARD MEMBER ELECTION LAW/RULE REVIEW COMMITTEE**

Hammon reported that DSWC put together a task force to look at the election process and the task force consists of Kent Stuckey, Jay Raush of Union SWCD, Jim Kiracofe of Licking SWCD, Liz Cline, Mindy Bankey, and Clark Sheets. The group met in early December and as we discussed the election process we found some issues that we would like the OSWCC to address. A workshop was held at the Annual Meeting to discuss this with the SWCDs also. Hammon reviewed the handout that he distributed. Hammon pointed out that in Section 1515.02 Section D it states "adopt appropriate rules governing the conduct of elections provided for in this chapter, subject to Chapter 119 of the Revised Code, provided that

only owners and occupiers of lands situated within the boundaries of the districts or proposed districts to which the elections apply shall be eligible to vote in the elections”. Hammon added that in Section 1515.05 it states that “eligible voters and candidates for supervisor shall be at least eighteen years of age by the day of election. Candidates shall reside in the district in which they are running for office”. In the administrative rules that the OSWCC has, in Section 1515-3-02 it states that “eligible voters in elections of successors shall be at least eighteen years of age at the time of the official election and own or occupy land within the boundaries of the district wherein such election is conducted. Voters shall register by placing their name, address, and additional information as deemed appropriate by the Ohio Soil and Water Conservation Commission on the prescribed registration forms.” Hammon stated that in the Ohio Revised Code Section 1515.01 it defines “landowner” or “owner” as meaning an owner of record as shown by the records in the office of the county recorder and “land occupier” or “occupier of land” as any person, firm, or corporation that controls the use of land whether as landowner, lessee, renter, or tenant.

Hammon said that the challenge came with the Hamilton SWCD Supervisor Election because both the home builders association and the sierra club wanted to have a representative on the board. The home builders association wanted to have several of their members vote and DSWC advised that there is only one vote per corporation and the home builders association lawyers asked where that was stated in our rules. DSWC was unable to show them that because our rules don’t spell out how many votes a corporation can get.

The task force felt that the real challenge was not just the corporation’s question, but the definition that “land occupier” or “occupier of land” means any person, firm, or corporation that controls the use of land whether as landowner, lessee, renter, or tenant. That definition expands not just owning land, but leasing or renting land.

Hammon reviewed the green handout which describes two options that the task force recommends as changes to the election process. The task force recommends Option A over Option B, but provides both options for the OSWCC to review. Option A states that “the qualified voter is any U.S. citizen eighteen years of age or older, who has resided in the county at least 30 days preceding the election”. Option B states that “the qualified voter is: 1) any U.S. citizen eighteen years of age or older who has resided in the district or, 2) has been a landowner at least 30 days preceding the election”. Hammon stated that Option B would require some additional rules in place. One would be to allow only one vote per person, firm, or corporation, even when two or more parcels of land that are owned by a person, firm, or corporation. Another requirement would be if a non-county resident, firm, or corporation wishes to vote in a district election in which they own land, the person, firm, or corporation must file with that district 45 days preceding the election an affidavit expressing the desire to vote, identifying and establishing land ownership, and identifying the name of the individual casting the vote. The last rule that the task force came up with was when casting a ballot for a non-county resident, firm, or corporation, and individual may only represent and vote for only one person, firm, or corporation.

Hammon said that at the Annual Meeting, one question they were asked was if the districts would have an opportunity to weigh in before the OSWCC made a decision. The task force recommends polling the SWCD boards in March and having them report their vote to the OSWCC before the April meeting. Hammon didn’t think that we would be able to push through a rule change before the next election cycle. We may be able to work with a legislator if the commission makes a decision at the April meeting and then work with that legislator to insert language changes in the budget bill or something like that. If we are not successful with that procedure, the task force is recommending the OSWCC to try to use this policy in the 2009 elections. DSWC would change some of our forms and put in policy directions for whatever option the OSWCC decides to go.

Bigham asked if in Option B the wording should be changed so that a foreign landowner could not vote and to specify that it must be a U.S. citizen?

Hammon said that when looking at the general election they used that language and we wanted to use language that was similar to what the general election uses.

Mott asked if the OSWCC wanted to poll the SWCDs or do we want to make a decision today?

Cash thought that the OSWCC would benefit from polling the SWCDs.

Susan Reeves moved to poll the SWCDs on the two options.  
Fred Cash seconded the motion.

Mott asked Hammon how DSWC proposed to send this to the SWCDs?

Hammon said that he would provide a brief background with Option A and Option B and would send it out to the districts soon.

Mott noted that there was motion on the floor to have the SWCDs weigh in on the two options and asked if there was any further discussion.

Motion carried.

Mott stated that we will go ahead with FSA's report since we are having a problem with time today.

### **FSA**

Jeff Mitchell reported that since the beginning of the fiscal year which is October 1, we have enrolled 4,533 acres back into CRP since there were several acres lost because of 2008 contract expirations. The Lake Erie CREP is up to 34,728 acres enrolled now. We have gained over 1,600 acres this year in Lake Erie CREP. The Scioto River Watershed CREP is at 61,078 acres enrolled with a goal of 70,000 acres enrolled. The Upper Big Walnut CREP isn't getting much interest so we are looking at placing it under the Scioto River Watershed CREP rules. In regards to the CP33, there are 13,919 acres enrolled with a goal of 20,000 acres. Mitchell stated that SAFE signup began in November and there are 572 acres being offered so far.

Mitchell referred to the yellow handout that he provided and noted that at the bottom, FSA has a goal of 6,240 acres to be enrolled for buffer practices according to what the national office expects Ohio to achieve. Mitchell said that Ohio has 3,760 acres enrolled this year. That goal is the highest in any state in the nation. For wetlands, we have a goal of 1,300 acres and we have 450 acres enrolled so far.

Mitchell said that the Little Miami River CREP application that Rick Shamblin and Dennis TenWolde have drafted and will be reviewed before it is submitted.

FSA has updated the cost list for cost share and added the requirement for CRP seed mixes.

Mitchell provided a memo regarding the Freedom of Information Act (FOIA) which describes what we are allowed to share and what we can't share.

Mott asked how the funding for CREP looked in the future?

Mitchell thought that we had enough money in the Lake Erie CREP and the Scioto CREP.

Hanselmann said that we never had state money in the Scioto CREP.

Mott said that his concern was with starting a new CREP project with the Little Miami River Partnership?

Hanselmann said that the LMRP CREP is largely based on funding from the Ohio EPA, and other payments from local wastewater utilities.

### **UPDATE ON SOLID WASTE ADVISORY COUNCIL MEETING**

Kessler reported that he attended a meeting this morning for the Solid Waste Advisory Council that oversees Ohio EPA activities for municipal waste and construction debris. One piece that they discussed was the legislative update and the budget proposal for the CD&D fee increases. Ohio EPA staff explained

the combined package that funds ODNR and Ohio EPA programs. Kessler commented that a few folks complimented the SWCDs for their stormwater program.

Hawkins asked what their projections for revenue was since they could shift sending their waste to Kentucky or wherever?

Kessler thought that Ohio was still cheaper than other states, but we will have to look at a reduction in funding because CD&D numbers are lower since 1 ½ years ago they were at an all time high.

Hawkins asked if Ohio EPA was looking at using the funds for staffing or grants?

Kessler thought that Ohio EPA was using the funds for staffing, but couldn't speak for its funding structure.

### **SWIMS 2008 PROGRESS REPORT**

Martin Joyce reported that in 2008 the OSWCC asked all 88 SWCDs to use SWIMS and meet certain requirements. Joyce said that most of the districts used the program as they were requested to do so and we were able to provide some useful information to the legislators because of their input. Joyce said that there are seven counties that are missing some information when entering the data into SWIMS, but those counties were still using the program.

Joyce is requesting that the OSWCC send a letter to all 88 SWCDs reaffirming their commitment and thanking them for their use of the program and for those seven counties that need to tweak their system just a little bit we would have some information in there that would show how to get the information that we are looking for.

Joyce distributed some folders that contained samples of information of what SWIMS could provide to the legislators or anyone who would like to see what types of programs the SWCDs provide. Joyce reviewed those handouts for the OSWCC members.

Joyce stated that NRCS and DSWC are having discussions regarding sharing SWIMS information and whether it is in violation of Freedom of Information Act (FOIA ). Joyce distributed some semantic maps for the OSWCC members to pass around since this is what NRCS is concerned about. In talking with Terry Cosby and his staff, we are not releasing maps like this right now and we have talked with the districts so that they do not release these maps either, even though the districts don't have the capability to produce a map like this right now.

Joyce said that we will be discussing this issue more on Friday, March 13 at a meeting with NRCS.

Hammon commented that in talking with managers, they are using SWIMS as a management tool. DSWC can still improve SWIMS, but we are really pleased with the information it is able to provide.

Mott asked if Joyce had seen any trends in the seven districts that were needing to tweak their system?

Joyce didn't think that there was anything common between the seven districts.

Cash asked if in regards to the seven counties that needed to tweak their system, are they achieving the required actions that the OSWCC had asked them to?

Joyce said that they are utilizing the modules that the OSWCC asked them to do, but in particular, in the Land and Water Module, it seems that they are falling short just a little. For example, the semantic map that was passed around earlier is formed by a staff member going into the GIS in SWIMS and locating where a practice or service was provided. The mapping is where we consistently saw the seven counties falling short. The semantic map is not the say all, do all in terms of a report for SWIMS, but it is a great tool and visual snapshot of a district's program.

Mot asked if DSWC has developed criteria on how we are going to share the info?

Joyce said that so far, the release of SWIMS info has followed the public records laws and the federal laws so we have operated under those broad perimeters. After the March 13 meeting, we will have more information on what we can release and what we can't release which will probably lead to more guidelines.

Mott thought that the OFSWCD would have an interest in the info and it is an invaluable tool and could be shared with the legislation.

Hammon added that we have done work on inter-agency documents to determine these guidelines. DSWCD will have to be careful to not print out a bunch of queries, but we should have more guidelines soon.

### **REVIEW STATUS OF OHIO EPA DRAFT WATER QUALITY RULES PARTICULARLY RULES THAT RELATE TO THE RURAL DRAINAGE PROGRAM**

Kessler reviewed a handout distributed to the OSWCC members. DSWC has been engaged in the Rural Drainage Stakeholder group for a few years now and DSWC conducted drainage reviews in five counties in Ohio on petition ditch and CWI projects. DSWC reviewed 203 projects to get a sense if we had applied that rule package, what would that mean for those specific projects for the landowners and us? DSWC came to the conclusion that roughly 60 of those projects would have something trigger extra consultation with the Ohio EPA or maybe the Army Corps of Engineers.

Kessler pointed out that if we look at the slope, most people think that if you have more slope than 0.3% grade, then you will have enough energy in your system to probably promote some biological activity. Some things that we use to measure water quality will be higher. Does that need protected or does societal costs outweigh that? DSWC wants to maintain drainage and support agricultural and then help the landowner improve the ecology.

Kessler said that the information was summarized and it is being put into draft comments for a technical report.

### **AGENCY AND SWCD REPORTS**

#### **OSU**

Bigham reported that OSU Extension is being hit hard by the budget. Bigham added that the budget seems to be what management has been almost entirely focused on the last six months, which is a sad statement.

#### **NRCS**

Cosby reported that he has been working on the stimulus package the last few weeks because we don't have projects that are shovel ready which is what the package is designed for. NRCS is working fast to get some projects shovel ready. One of the questions that we are being asked is how many jobs these projects will create and that is hard to do. Cosby said that we will see what we qualify for.

As of yesterday, NRCS is in a deficit state. We will be scaling back a lot on travel, purchases, etc. We are basically paying salary and that is about it.

NRCS is still making CSP payments, but there are a lot of issues because people signed up for CSP and then they also signed up for CRP on those same acres so those people are getting double payments which wasn't caught. NRCS is having to ask for money back and we are trying to come up with an agreement with FSA on how we are going to do this. Cosby noted that he would like to determine what agency signed them up last and then that agency would ask for the money back from the landowner. This problem is nationwide. Ohio has an 11% cancellation rate which is highest in the country. Ohio will be reducing the number of contracts.

Cosby stated that the Obama Administration pulled the rules back for the 2008 Farm Bill and they are reviewing them. There could be some rule changes for the Farm Bill. Cosby noted that there is money in the NRCS account since last November, but can't do anything with it until the administration okays it.

This year, NRCS received a huge increase in WRP. Normally we had been receiving \$1 million and this year we got \$8 million. The process has changed and we have geographic caps out there right now. Ohio has about \$10 million in EQIP. With all of the contract cancellations, that money goes back and we can't use it so if anyone has anything in an old contract that needs to be paid for now, we have to take current funds to pay for the previous year's practices.

Cash asked if terms of shovel ready meant 60 days or 30 days?

Cosby said that when he gets the money in, they have to start working on the project. Cosby added that we have the Salt Fork Project. There are three bridges to raise and we asked for \$30 million, but that is probably all that we will get funding for.

**OFSWCD**

Mindy Bankey reported that the OFSWCD had a successful Annual Meeting held January 20-21 and the legislative session and visit was held Wednesday afternoon and the feedback was good from that. We are in the process of addressing the budget situation and we are holding a Legislative Day on Wednesday, February 25.

**Future 2009 OSWCC Meeting Dates**

Wednesday, April 8, 2009 at Fountain Square

Tuesday and Wednesday, July 7-8, 2009 will be in Northeast Ohio

November 11, 2009 will need to be changed because of Veterans Day

With no further business to come before the Commission at 2:20 p.m.,

Susan Reeves moved to adjourn the meeting.

Jerry Bigham seconded the motion. Motion carried.

Respectfully submitted,

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Randy Mott, Chairman

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David Hanselmann, Executive Secretary