

Disclaimer

These minutes reflect the actions taken by the Commission during its May 8, 2015 meeting. Although these minutes have been approved by the Commission, no action authorized by the Commission during this meeting, as reflected in these minutes, shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of these minutes has been delivered to the Governor for review, unless prior to expiration of the review period the governor approves same, in which case the action shall become effective upon such approval. These minutes were delivered to the Governor on May 19, 2015

PINELANDS COMMISSION MEETING
Richard J. Sullivan Center
Terrence D. Moore Conference Room
15 Springfield Road
New Lisbon, New Jersey

MINUTES

May 8, 2015

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, Bill Brown, Joe DiBello, Sean Earlen, Paul E. Galletta, Richard Prickett, Ed Lloyd, Gary Quinn, D'Arcy Rohan Green (via telephone), Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Amy Herbold and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Ed McGlinchey and Jane Jannarone.

Chairman Lohbauer called the meeting to order at 9:36 a.m.

DAG Sean Moriarty read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 13 Commissioners present.)

The Commission and public in attendance pledged allegiance to the Flag.

Minutes

Chairman Lohbauer presented the minutes from the April 10, 2015 Commission meeting (open and closed session). Commissioner Prickett moved the adoption of the minutes. Commissioner Barr seconded the motion.

The minutes of the April 10, 2015 Commission meeting were adopted by a vote of 11 to 0, with Commissioner Witt and Vice Chairman Avery abstaining.

Other

Chairman Lohbauer welcomed the Commission's new DAG Sean Moriarty.

Chairman Lohbauer presented Commission staff employee Betsy Piner with a plaque for her 20 years of committed service at the Commission.

Chairman Lohbauer presented Michelle Russell, Human Resources Specialist, and Paul Leakan, Communications Officer with plaques for their 10 years of dedicated service at the Commission.

Committee Chairs' Reports

MOA *ad hoc* Committee

Commissioner Ashmun provided an update on the April 24, 2015 *ad hoc* Committee meeting:

The Committee suggested topics to be considered regarding Memoranda of Agreement including:

- What entities are appropriate applicants for an MOA?
- What agencies provide the basic needs of a community?
- What is a compelling public need?
- What are the geographic limits of a public purpose for which an MOA is considered?
- The Commission should adopt a process for entering into MOAs
- What constitutes an equivalent level of protection?
- The Commission needs to be involved early in the process
- The 10-day hearing notice is inadequate (too short)
- Should the Commission be concerned with the cost of an alternative to an MOA?

The Committee will next convene with staff and without the public in attendance after the May 29, 2015 Policy & Implementation Committee meeting.

Following that meeting, an outline of the issues will be prepared and another public meeting will be held.

The Committee received public comment and requested that comments be submitted in writing.

Personnel & Budget Committee

Vice Chair Avery provided an update on the April 28, 2015 Personnel & Budget Committee meeting:

The Committee adopted the minutes from the February 3, 2015 meeting.

Nancy Wittenberg and Jessica Lynch reviewed the January, February, and March Check Registers, electronic disbursements and application fees. There was a discussion concerning different types of generators for a potential purchase to keep the Commission functioning during emergencies. Michelle Russell provided an update on employee actions. There were also discussions on dental insurance for employees, paving of the parking lot, painting Fenwick Manor, and notifying everyone that the auditors have begun the annual audit. Lastly, Commissioner Prickett recognized Ms. Wittenberg for going above and beyond the call of duty and feels that she does not get recognized for her efforts.

Commissioner Avery said he would like the record to reflect that he agrees with Commissioner Prickett's comment about the Executive Director.

The Committee met in Closed Session.

Chairman Lohbauer agreed that the Executive Director does a great job and is not recognized enough for her hard work.

Agriculture Committee

Commissioner Galletta provided an update on the May 1, 2015 Agriculture Committee meeting:

The Committee agreed that its initial focus should be on the development of a pilot program dealing with special events and other activities that occur on farms.

The Committee is not likely to meet monthly, rather periodically, as issues arise. However the next meeting will be in June in order to accommodate the staff schedule to update the Senate Economic Development Committee on progress towards a pilot program.

The next meeting has been scheduled for Tuesday, June 16th at 9:30 a.m.

Commissioner Ashmun suggested that Committee members and Commissioners review the pilot program rules in the Comprehensive Management Plan (CMP).

Chairman Lohbauer noted that Commissioner Galletta was recognized by the Hammonton Lions Club as their Citizen of the Year at an event last night. He congratulated Commissioner Galletta.

Policy & Implementation Committee

Chairman Lohbauer provided an update on the April 24, 2015 Policy & Implementation Committee meeting:

The Committee adopted the minutes from the March 27, 2015 meeting.

The Committee asked staff to begin developing language for a rule proposal designed to provide greater protection to the Black Run watershed. The rule proposal would expand the Forest Area in Evesham Township by some 4,000 acres and authorize a new Off-Site Clustering Pilot Program that would allow sewer residential development in a designated development area (Regional Growth Area)) if lands in a designated conservation area (Forest Area) are protected.

The Committee discussed issues related to the Commission's hiring of consultants to perform threatened and endangered species surveys vs. having such consultants hired by the applicants.

Executive Director's Reports

Ms. Nancy Wittenberg updated the Commission on the following:

- Staff met with NJDEP's site remediation staff to discuss the Licensed Site Remediation Professionals (LSRP) program. She said that Commission staff had been experiencing problems since the implementation of the LSRP program.
- Staff has been meeting with various interested parties to discuss the pilot program. The Agriculture Committee will be provided with an update on those meetings.
- Ms. Wittenberg said she attended last night's dinner honoring Commissioner Galletta. She said it was a beautiful event, highlighting the many activities Commissioner Galletta is involved in.

Mr. Larry Liggett updated the Commission on the following:

- For many years, staff has been researching enhancements to the Pinelands Development Credit program. Plans have been made to meet with interested parties, and the New Jersey Builders Association will be the first group staff will meet with.
- In this month's press clips there is an article about the Cape May County Municipal Utilities Authority (CMCMUA) regarding the possibility of constructing a sewer interceptor from the county landfill to the treatment facility. He said the Commission provided CMCMUA with \$20,000 toward a feasibility study. At this time, the parties are working on the finer details of the project, and the Commission is not involved.
- Staff met with the Pemberton Township Board of Education about an elementary and middle school that is located in a Rural Development Area near Fort Dix and has its own wastewater treatment plant. The on-site wastewater facility is not functioning properly, and the Board of Education is looking for a solution. The Policy & Implementation Committee may be discussing this soon.

Mr. Chuck Horner provided an update on the following:

- Staff met with representatives from the Burlington County Engineers Department to discuss the widening of Taunton Lakes Road. The road is a two-lane county road that provides primary access to Kings Grant in Evesham Township. Wetlands are prohibiting the positioning of the stormwater management facilities that need to be addressed as part of the widening project. Staff identified two options to the County.
- Staff recently issued an amended inconsistent certificate of filing for the soccer activities at Tuckahoe Turf to include both Winslow and Waterford Townships.
- A meeting has been scheduled with Stafford Township to discuss the status of the Township's compelling public need waiver. The waiver would allow for the development of a stormwater basin on the south side of Route 72 to address flooding issues in the pre-Pinelands residential development in Ocean Acres.
- Shamong Township has been discussing a proposal to place a cellular tower on Township property with both the Planning and Regulatory Programs staff.

Commissioner Ashmun requested that the public development resolutions state if an application has been submitted to cure a violation.

Mr. Horner said that going forward, resolutions will include language identifying if a specific application is being submitted to resolve a violation.

Ms. Stacey Roth reminded Commissioners that the Financial Disclosure Statements May 15 deadline is approaching.

Public Development Projects and Other Permit Matters

Chairman Lohbauer presented a resolution recommending approval of two development applications, one for New Jersey State Forestry Services and the other for the Lenape Regional High School District.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1984-1062.004 & 1997-0045.009) (See Resolution # PC4-15-08). Commissioner Earlen seconded the motion.

Commissioner Prickett asked if the proposed addition would connect to Seneca High school's existing waste water treatment system.

Mr. Horner said yes.

The Commission adopted the resolution by a vote of 12 to 0, with Commissioner Witt abstaining.

Chairman Lohbauer said the next resolution on the agenda is for Buena Vista Township's tourist railroad.

Commissioner Avery moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2009-0089.001) (See Resolution # PC4-15-09). Commissioner Brown seconded the motion.

Mr. Horner displayed a map depicting the development area (see attached slide). The parcel where the development will take place is outlined in yellow. He said this project was done in violation and the majority of the development has already occurred. He said this application is intended to resolve the violation. He said a stormwater management basin has yet to be built and will be constructed in the southern portion of the parcel. He added that another much small stormwater basin would be constructed adjacent to Route 40 to resolve another violation concerning sidewalks along Route 40.

Mr. Horner said the majority of the project is located in a Pinelands Village. He said the center line of the railroad right-of-way is the management area boundary. Staff noticed that the location of the railroad siding which allows for the train to enter the track is located in a Pinelands Forest Management Area. This type of development is permitted in the Forest Area as an accessory use. An amended public development report dated April 8, 2015 was mailed to the applicant to include the Pinelands Forest Area in the application.

Mr. Horner said that an appeal request was received for this application.

Ms. Roth said that she reviewed the appeal request, along with the Attorney General's Office. She said the appeal was submitted by a property owner who lives adjacent to the railroad right-of-way. She said it was determined the property owner did not raise either a statutory right or property right sufficient to warrant a hearing and the appeal was denied.

Mr. Horner said that he spoke with a Buena Vista Township resident named Jaime Giordano. He said Ms. Giordano advised him that she submitted an appeal request. Mr. Horner said the Commission has no record of receiving that appeal. Ms. Giordano submitted another appeal request but it was not received in the appropriate time frame.

Commissioner Ashmun requested clarification that the applicant has met all the conditions of the report.

Mr. Horner said future reports dealing with violations will outline the conditions in a different manner.

Commissioner Avery said that the split between the Village and Forest Area seemed strange.

Ms. Susan Grogan said that many Pinelands management area boundaries are set by roads and divided by the center line of those roads. She said the boundary of the Pinelands Area includes the entire right-of-way, an example of this would be the Garden State Parkway. In response to Commissioner Avery's question, Ms. Grogan said the municipality (in this case, Buena Vista) could request Commission approval of a zoning change involving the boundary between the Pinelands Village and Forest Area.

Chairman Lohbauer requested that the Policy & Implementation Committee have a discussion in the near future about public agencies undertaking development in the Pinelands without filing an application with the Commission.

The Commission adopted the resolution by a vote of 12 to 0, with Commissioner Witt abstaining.

Resolutions Relating to Municipal Ordinances

There were no resolutions on this month's agenda

Public Comment on Agenda Items and Pending Public Development Applications

No members of the public offered comment.

Other Resolutions

Commissioner Ashmun moved the resolution Expressing the Commission's appreciation to Robert Jackson for his service as a member of the Commission between June 2008 and March 2015 (See Resolution # PC4-15-10). Commissioner Lloyd seconded the motion.

Chairman Lohbauer read the resolution into the record.

Commissioner Prickett said that Commissioner Jackson was always open to conversation and he hopes Bob continues attending meetings.

Commissioner Galletta said that Mr. Jackson was always interested in everyone opinions, even those he did not agree with.

Chairman Lohbauer said that when Commissioner Jackson engaged in a debate all the issues were covered and in a thoughtful and thorough manner.

The Commission adopted the resolution by a vote of 13 to 0.

Mr. Jackson addressed his past colleagues. He said that although he is sitting in the audience now, he urged Commissioners not to take offense to his comments at meetings.

Ordinances Not Requiring Commission Action

Chairman Lohbauer asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Little Egg Harbor Township Ordinances 2013-4 and 2014-16
- Medford Lakes Borough Ordinance 509
- South Toms River Borough Ordinance 2-15

- Stafford Township Planning Board Resolution 2015-11

No members of the Commission had questions.

Presentation

Chairman Lohbauer said this past week the Commission unveiled its new website.

Mr. Leakan said the last time the Commission's website was redesigned was 10 years ago. He said last May a survey was conducted to gain information on ways the public, Commissioners and staff would like to see the website improved. He thanked the Office of Information Technology and members of the Website Design Committee who assisted on this project.

He said the new site provides easier maneuverability and more organized information. He said one of the goals of the redesign was to make the site more interesting and showcase how special the Pinelands are. He said the new website displays pictures of each Commissioner, something the old site did not have. He said there is a place to house Commission presentations and an image and video page. He demonstrated the new functions and capabilities of the website, such as the application fee calculator and the various ways to contact the Commission.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Mark Demitroff of Buena Vista Township distributed two handouts. He said prior to becoming a scientist, he was a certified tree expert. He said the oldest tree in Buena Vista Township has died as a result of urbanization and people pressures. (See picture in handout). He spoke about a failing basin in town that he said is flooding resident Jaime Giordano's property. He said that he has reviewed historic railroad mapping. He said the Commission has redeveloped Richland Village, including his property. He said his basic rights as a property owner have been violated.

He said there is an upcoming hearing on sewer service zoning and a map he was given shows that his property is in a sewer service area. He asked who made the map.

Ms. Wittenberg said that the map Mr. Demitroff is talking about was created by NJDEP for presentation purposes only. She said she spoke with the Assistant Commissioner of Water Resources at NJDEP, Mr. Dan Kennedy, and said he assured her that the shape file map showing the actual sewer service area would be available at the hearing.

Mr. Demitroff requested that he speak at the Policy & Implementation Committee about the problems with Richland Village and the Commission staff.

Chairman Lohbauer said the matter was voted on today.

Marilyn Miller of Toms River said she was appalled at what she just heard. She said she liked the new website design. She encouraged everyone to go explore the Pinelands.

Marianne Clemente of Barnegat Township said she enjoyed the conversation at the last P&I Meeting about threatened and endangered species consultants. She said applicants should not be able to choose their own consultants. She suggested that the Commission draft a resolution requesting Great Adventure install solar panels over their parking lot rather than clear cutting a forest. She said the new website looks great.

Chairman Lohbauer said that Great Adventure is not in the Pinelands Area.

Margit Meissner Jackson, Sierra Club, Ocean County, commended the Commissioners for doing a great job at protecting the Pines. She said Great Adventure is in the Barnegat Bay estuary and everything they put in the water makes its way to the bay. She said she was involved in a sea level rise projection study done by Rutgers. She said someday everything east of Route 9 could be underwater. She said it is important to remain active in environmental concerns or we could lose the state.

Fran Brooks thanked staff for the work on the new website. She asked how many groups have staff met with thus far regarding the pilot program and which groups.

Ms. Wittenberg said staff has met with the Pinelands Preservation Association, New Jersey Conservation Foundation, the Farm Bureau and a couple of County Farmland Preservation offices. There are a couple of remaining organizations that staff plan to meet with.

Lena Smith, Food and Water Watch, said that New Jersey Natural Gas has filed an application to construct the Southern Reliability Link- a natural gas pipeline- and some portions of the route will go through the Pinelands. She said she wanted to remind Commissioners of the risks pipelines pose to the public and that they need to preserve and protect the Pinelands.

Robert Jackson said it was an honor to serve on the Commission. He asked if the Commission would be considering permeable asphalt if the paving project is approved.

Commissioner Avery said that the P&B Committee brought up the idea and it needs to be researched.

Mr. Jackson said it is evident that something needs to be done about public agencies failing to apply to the Commission. He said the Commission should think about imposing some sort of negative consequence to future violators. He closed by thanking the Chairman for displaying such patience and openness with the public.

Commissioner Ashmun asked about the status of wastewater planning.

Ms. Wittenberg said that NJDEP will hold a hearing at the Commission on Wednesday, May 13, 2015 on the sewer service mapping.

Ms. Grogan said the hearing is at 10:00 am on the revised corrected sewer service area maps for the seven Pinelands counties. She said after the hearing NJDEP will have to go through the adoption process.

Closed Session Resolution

Ms. Roth read a resolution to retire into closed session to discuss collective bargaining.

Commissioner Avery moved to retire into closed session. Commissioner Prickett seconded the motion. The Commission agreed to retire into closed session by a vote of 13 to 0, beginning at 11:23 a.m.

Return to Open Session

Commissioner Avery made a motion to return to open session. Commissioner Lloyd seconded the motion. The meeting resumed at 11:46 a.m.

Other

Commissioner Ashmun moved the resolution To Authorize the Executive Director to Enter into Agreements with the Communications Workers of America, Local 1040 and to Revise the FY 2015 Operating Budget (See Resolution # PC4-15-11). Commissioner Avery seconded the motion.

The Commission adopted the resolution by a vote of 13 to 0.

Commissioner Prickett said he attended the most recent Pinelands Research Series that highlighted the two rattlesnake populations that have developed on either side of Route 206. He highly recommends attending future Pinelands Research Series presentations.

Adjournment

Commissioner Lloyd moved to adjourn the meeting. Commissioner Brown seconded the motion. The Commission agreed to adjourn at 11:50 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: May 15, 2015