

Disclaimer

These minutes reflect the actions taken by the Commission during its December 12, 2014 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 December 23, 2014.

PINELANDS COMMISSION MEETING¹
Richard J. Sullivan Center
Terrence D. Moore Conference Room
15 Springfield Road
New Lisbon, New Jersey

MINUTES

December 12, 2014

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bill Brown, Sean Earlen, Ed Lloyd, Paul E. Galletta, Richard Prickett, Robert Jackson, Ed McGlinchey, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Amy Herbold and Deputy Attorney General Kristen Heinzerling and Assistant Attorney General David Apy.

Commissioners Absent

Joe DiBello, Jane Jannarone, Gary Quinn and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:34 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 11 Commissioners present.)

¹ Please note that all attachments are maintained with the original minutes, but are not attached to copies. For information about attachments, please contact the office.

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

Minutes

Chairman Lohbauer presented the minutes (open and closed session) from the November 14, 2014 Commission meeting. Commissioner Jackson moved the adoption of the minutes. Commissioner Prickett seconded the motion.

The minutes of the November 14, 2014 Commission meeting were adopted by a vote of 11 to 0.

Other

Chairman Lohbauer presented Dawn Rago with a certificate for 10 years of service. Ms. Rago works as a Purchasing Specialist at the Commission.

Chairman Lohbauer said an Open Public Records Act request filed by the Pinelands Preservation Alliance revealed a series of emails related to the proposed Board of Public Utilities Memoranda of Agreement (MOA) that were issued by Commission staff. He said that he felt the emails revealed a part of the process that he was not familiar with. He suggested that the Policy and Implementation Committee look at the policy behind the practice of entering into MOAs and create a guidance document for staff to utilize when reviewing future MOAs.

Commissioner Ashmun said one of the many recommendations of Plan Review was to look at the MOA processes and standards.

Committee Chairs' Reports

Personnel & Budget Committee

Vice Chairman Avery updated the Commission on the December 2, 2014 Personnel and Budget (P&B) Committee meeting.

The Committee adopted the minutes from the August 26, 2014 meeting.

Nancy Wittenberg and Jessica Lynch reviewed the financial statements and the September and October Check Registers, electronic disbursements and application fees. Michelle Russell provided an update on employee actions. The draft P&B meeting schedule for 2015 was distributed. It was proposed to hold a meeting every other month instead of monthly since many meetings have light agendas or are canceled. There was agreement that Commissioners be given the Check Register on a monthly basis.

The Committee and staff discussed options for filling a vacant position. They also discussed the potential purchase of a generator to provide additional power in the event of an emergency.

The Committee met in Closed Session.

Policy & Implementation Committee

Chairman Lohbauer said the Policy and Implementation Committee meeting scheduled for November 21, 2014 was canceled.

Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- At the November Pinelands Municipal Council meeting, Ed Wengrowski presented the Rapid Landfill Assessment results. Many of the municipalities in attendance were interested in the study results and found the presentation helpful.
- Meetings continue with the New Jersey Department of Environmental (NJDEP) Protection to resolve any misunderstandings regarding forestry application requirements. Currently, the Commission is reviewing a forestry stewardship plan at Double Trouble State Park.
- Paul Leakan continues to work on the Commission's new website initiative. Archived minutes and resolutions from 2012 through 2014 were uploaded to the website.

Mr. Larry Liggett provided an update on the following:

- The Water Supply Advisory Committee has contracted Dr. Dan Van Abs to conduct a study that will look at water demand in the year 2014. Staff will sit in on a discussion group meeting next week.
- Litigation continues on the Council on Affordable Housing's (COAH) latest regulations. There is new legislation proposing to eliminate COAH and let the responsibility of affordable housing fall on the municipalities.

Mr. Chuck Horner provided an update on the following:

- A private application has been submitted for a proposed commercial development on a site. An existing landfill on the site was recently capped with a "permeable cap." The CMP typically requires an "impermeable cap." The staff is working to address and resolve this matter.
- Two sand mines in Lacey Township are ceasing operation. The owner of the two mines is in discussion with the State to acquire the sites as additions to Double Trouble State Park. The mining areas must be restored in accordance with the Township land use ordinance and the CMP.
- Staff attended a site meeting at the request of Southampton municipal officials. The issues stemmed from a property owner who cleared wetlands and wetland buffers on their residential lot.

Commissioner Ashmun requested a copy of the Landfill study that Mr. Wengrowski presented to the Pinelands Municipal Council.

Commissioner Ashmun asked what agency issues water allocation permits.

Mr. Horner said NJDEP grants water allocation permits. He said if it is in the Pinelands Area and the applicant is a public entity such as a municipality, the Commission would issue a Public Development approval for the water allocation permit.

A short discussion took place on whether or not water allocation permits expire. It was noted that private water allocation permits are reviewed by the Regulatory Programs staff who then issue Certificates of Filing. The Commission does not directly approve private applications.

Public Development Projects and Other Permit Matters

Chairman Lohbauer said there are two resolutions approving an assortment of Public Development applications.

Commissioner Earlen moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1983-5837.057, 1984-0314.016, 2010-0047.002 & 2014-0112.001) (See Resolution # PC4-40). Commissioner Galletta seconded the motion.

Commissioner Ashmun noted that the Egg Harbor Township application (# 1984-0314.016) was to resolve a violation.

The Commission adopted the resolution by a vote of 11 to 0. All voted in favor.

Commissioner Avery moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1985-0252.004 & 1987-1159.055) (See Resolution # PC4-41). Commissioner Earlen seconded the motion.

Commissioner Ashmun noted that the creation of the wetlands mitigation area (# 1985-0252.004) was also a violation, because it was done without application to the Commission.

Commissioner Prickett asked if fiber logs are permitted under the CMP.

Mr. Horner explained that the fiber logs are a type of material used to help with siltation and are not addressed in the CMP. However, the fiber logs are a permitted material for the development activity.

Ms. Rhonda Ward added that the actual name is coir fiber logs.

Commissioner Ashmun asked who is permitted to do mitigation in the Pinelands.

Mr. Horner said that there is a misconception of the Commission's rules with regard to mitigation not being permitted. He said mitigation activities are permitted in all upland areas greater than 300 feet from wetlands.

He said a number of years ago the Commission's rules were amended to include two additional provisions for mitigation: wetland areas where invasive species are present and/or in a fallow farm field.

Commissioner Ashmun asked if mitigation is permitted in the Pinelands for development that takes place outside of the Pinelands.

Mr. Horner said it is permitted.

Ms. Wittenberg said the Commission permits the mitigation but NJDEP approves and accepts the location of the mitigation site.

Ms. Roth briefly described the wetlands mitigation regulations. She said the rules regulate where the mitigation can occur, and that first preference is onsite. She said the next best scenario is adjacent to the site and it goes from there until a preferred site is found.

Commissioner Prickett asked if there will be reporting provided to the Commission to confirm whether or not the mitigation has been successful.

Mr. Horner said condition #6 in the public development report requires monitoring of the mitigation site.

The Commission adopted the resolution by a vote of 11 to 0. All voted in favor.

Public Comment on Agenda Items and Pending Public Development Applications

No one from the public offered comment.

Commissioner Ashmun asked if application #1982-2787.002 which will be acted on at the January 16, 2014 meeting, complies with the Commission's cell tower plan.

Mr. Horner said that the proposed tower location is in a Regional Growth Area, which allows for communications towers, exceeding 35 feet in height without the need for a plan.

Mr. Liggett added that this particular site was not part of the recently approved Comprehensive Public Safety Tower Plan.

Ordinances Not Requiring Commission Action

Chairman Lohbauer said there were no ordinances to report on this month.

Other Resolutions

Chairman Lohbauer presented a resolution to adopt the 2015 meeting schedule.

Commissioner Jackson moved the adoption of a resolution Setting Pinelands Commission Meeting Dates for 2015 (See Resolution # PC4-14-42). Commissioner Galletta seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0. All voted in favor.

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

Cidnie Richards said she has been a resident of Tabernacle since 1978 and started attending meetings at the Commission in October 2013. She expressed her appreciation of the staff and Commissioner's work. She said she passed out a handout on the PennEast gas pipeline (Attached). She said she wanted to inform the Commissioner of the PennEast pipeline because New Jersey is a fully-integrated state and this is a bipartisan issue. She said the main goal is to protect the pristine nature of the Pines and volume and quality of New Jersey's water.

Closed Session Resolution

DAG Heinzerling read a resolution to retire into closed session to discuss potential litigation regarding Tuckahoe Turf Farms and the status of collective bargaining.

Commissioner Lloyd moved to retire into closed session. Commissioner Prickett seconded the motion. The Commission agreed to retire into closed session by a vote of 11 to 0, beginning at 10:15 a.m.

Return to Open Session

Commissioner Jackson made a motion to return to open session. Commissioner Lloyd seconded the motion. The meeting resumed at 11:29 a.m. Commissioner Witt and Commissioner Earlen left the meeting.

DAG Heinzerling said the collective bargaining agreement and potential litigation regarding Tuckahoe Turf Farms were discussed in closed session.

She said no formal action was taken on any matters.

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

Dave Pringle said he agrees that soccer should not be happening at Tuckahoe Turf Farms and he is opposing the legislation. He said he was pleased that the South Jersey Gas documents that PPA requested via OPRA had been brought to the Commissioner's attention. He said the documents displayed inappropriate coordination between the Commission staff and South Jersey Gas on the pipeline matter.

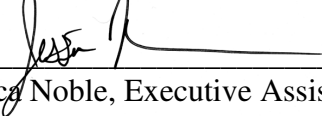
Commissioner McGlinchey said he reviewed the documents that PPA requested through OPRA, he asked if it was possible to see the un-redacted version of the emails.

Adjournment

Chairman Lohbauer wished everyone a happy holiday. He said the Policy and Implementation Committee will meet on January 6, 2015.

Commissioner Avery moved to adjourn the meeting. Commissioner Prickett seconded the motion. The Commission agreed to adjourn at 11:35 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: December 19, 2014