

Disclaimer

These minutes reflect the actions taken by the Commission during its November 8, 2013 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 November 21, 2013.

PINELANDS COMMISSION MEETING¹

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

MINUTES

November 8, 2013

Commissioners Present

Bill Brown, Joe DiBello, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta, John Haas, Robert Jackson, Ed Lloyd, Ed McGlinchey, Richard Prickett, D'Arcy Rohan Green, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorney General (DAG) Kristen Heinzerling.

Commissioners Absent

Gary Quinn and Candace Ashmun.

Chairman Lohbauer called the meeting to order at 9:40 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum.

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 October 11, 2013 Commission meeting minutes. Commissioner Ficcaglia moved the adoption of the minutes. Commissioner Prickett seconded the motion.

The minutes of the October 11, 2013 Commission meeting were adopted by a vote of 13 to 0.

Committee Chairs' Reports

Personnel & Budget Committee

Commissioner Haas updated the Commission on action from the October 29, 2013 Personnel & Budget Committee meeting.

The Committee adopted the minutes from the October 1, 2013 meeting.

Chairperson Haas summarized a meeting that several Commissioners attended regarding personnel issues.

Staff provided a Pinelands Conservation Fund (PCF) overview by reviewing the history of the PCF program along with the current status. Chairperson Haas recommended that there be a comprehensive look at the PCF plan to see if there are options to replenish the land acquisition component.

Donna Connor provided an update of the FY2013 Financial Reports. She reported that the books for FY13 are closed.

Ms. Connor reviewed the status of Reserve Accounts. There was discussion concerning the painting of Fenwick Manor. The Committee confirmed that the painting of the building continues to be a priority.

Ms. Connor and Dawn Rago reviewed Insurance Renewals. The current estimates are slightly lower than the budgeted amount.

Financial Updates included the Check Register, Electronic Funds Transfers and Application Fees for October 2013. Ms. Connor reported that application fees are extremely low and will be closely monitored.

Mr. Larry Liggett briefed the Commissioners on a project in Woodbine regarding an evaluation of wastewater treatment options that is receiving funding from the U.S. Department of Agriculture- Rural Development. Following the discussion, the Committee

recommended Commission approval to provide \$20,000 in funding from the Community Planning and Design component of the PCF.

Plan Review Committee

Chairman Lohbauer updated the Commission on action from the October 11, 2013 Plan Review Committee Meeting:

The Committee approved the July 12, 2013 meeting minutes.

Staff provided an update regarding the progress of the Plan Review report and first-round rule proposal.

Staff reviewed the feedback provided by builders, environmentalists, Pinelands Development Credit (PDC) holders, and municipalities regarding the PDC use enhancement proposal.

The Committee discussed potential CMP amendments to consider regarding the organized off-road vehicle event application process.

The November 8, 2013 (today's) meeting of the Plan Review Committee has been canceled in order to allow staff to complete the draft of the Plan Review Progress Report.

Policy & Implementation Committee

Chairman Lohbauer updated the Commission on action from the October 23, 2013 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the September 27, 2013 meeting.

The Committee approved PCF allocation extension requests for two projects (the Clarke project in Cape May County and the Clayton project in Ocean County) until January 3, 2014.

The Committee recommended Commission approval of the proposed Sprint Spectrum amendment for wireless communications facilities.

Although not an agenda item, the Committee received comment from 30 members of the public regarding the proposed gas pipeline project to repower the B.L. England electric generating facility and provide redundancy in service to customers in Atlantic and Cape May counties.

Chairman Lohbauer advised his fellow Commissioners to direct questions or concerns about the pipeline project to the Commission's Executive Director Nancy Wittenberg. He said staff is drafting a Memorandum of Agreement (MOA) and evaluating alternate routes. Before the MOA comes before the full Commission, it will be discussed at a Policy and Implementation Committee meeting.

Executive Director's Reports

Ms. Wittenberg said that in lieu of her report today, Mr. Joel Mott of the Public Programs office will provide an overview of the Pinelands World Water Monitoring Challenge event, which was held at Batsto Lake on October 25, 2013.

Mr. Mott said that this year's World Water Monitoring Challenge was the highest attended event yet, with 345 students participating from seven schools. Mr. Mott said that 11 stations were set up around the lake with various monitoring and testing exhibits to help the students learn the importance of water and water quality. He said that the Commission's Science, Planning and Regulatory Programs offices contributed their knowledge, in addition to the New Jersey Department of Environmental Protection (DEP), Americorps New Jersey Watershed Ambassadors, Jacques Cousteau National Estuarine Research Reserve and Richard Stockton College of New Jersey.

Mr. Larry Liggett updated the Commission on the following:

- Mr. Liggett attended a meeting at the Highlands Council during which the New Jersey Builders were in attendance to discuss Transfer of Development Rights (TDR) Program.

Mr. Chuck Horner updated the Commission on the following:

- Staff recently met with Tabernacle officials to discuss options for a new public works building/municipal building.
- A letter was sent to Maurice River Township officials to provide information on the feasibility of a recreational vehicle park.
- Mr. Horner said that at a recent enduro event, independent monitors with GPS units followed the route and confirmed that it was consistent with the approved itinerary.
- Staff recently provided comments to DEP regarding development activities at the Viking Yacht property in New Gretna, which is located in the Pinelands National Reserve (PNR). The Commission is required to provide comments to DEP when an application is in the Coastal Area Facilities Review Act (CAFRA) and PNR as depicted in an MOA between the two agencies.

Public Development Projects and Other Permit Matters

Commissioner Galletta moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 1985-0659.002) (See Resolution # PC4-13-39). Commissioner Jackson seconded the motion.

Commissioner McGlinchey recused himself and left the room.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1984-0314.015, 2003-0290.002, 2013-0130.001 & 2013-0131.001) (See Resolution # PC4-13-40). Commissioner Witt seconded the motion.

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

Resolutions Relating to Municipal Ordinances

Commissioner McGlinchey moved the adoption of a Resolution Issuing an Order to Approve the Amendment to the Comprehensive Plans for Cellular and Personal Communications Service (PCS) Facilities on behalf of Sprint Spectrum L.P. and its Affiliates for Wireless Communications Facilities in the Pinelands (See Resolution # PC4-13-41). Commissioner Jackson seconded the motion.

Mr. Paul Tyshchenko delivered a presentation on Sprint's Amendment to the Commission's Wireless Communications Plan. He provided a brief background of the cell tower plan and said today he would be discussing the fifth amendment to that plan. He said Sprint is proposing 74 total sites, 73 of which will be co-located on existing sites and the proposed development of only one new tower. The new tower is proposed in a Preservation Area District in Manchester Township. See presentation slides for additional information.

Mr. Tyshchenko answered questions raised by Commissioners.

Mr. Horner added that, before the tower could be built, the applicant would be required to submit a formal development application and requisite fee to the Regulatory Programs office.

Mr. Liggett said the Telecommunications Act requires full coverage of cellular service throughout the country. The Commission is not responsible for determining if there is a need for coverage. The Commission's role is to determine the best placement of the sites.

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

Public Comment on Agenda Items and Pending Public Development Applications

No public comment was offered.

Ordinances Not Requiring Commission Action

Chairman Lohbauer asked if any Commissioner had questions regarding the list of ordinances not requiring Commission action:

- Franklin Township 2013 Master Plan Reexamination Report and Amendment
- Pemberton Township Ordinance 17-2013
- Weymouth Township Ordinance 521-2013

No members of the Commission had questions.

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

Tamara Clements spoke on pipeline failure and mentioned two specific incidents of spills: one in North Dakota and the other in Wisconsin. She displayed a visual, which consisted of sheets of paper listing pipeline explosion between 2000 – 2013. She listed numerous reasons why these explosions happen and closed by asking Commissioner to consider a no-build pipeline rather than re-routing.

Nancy Klein said the Pinelands is the first national reserve in the nation and reminded Commissioners that they are here to preserve, protect and enhance the Pinelands, not weaken, destroy and override the Commission's rules.

Diane Marie, expressed dismay regarding the the status of the pipeline project. She said the public is not receiving the same open conversations South Jersey Gas is receiving from staff.

Hedy Bauer stated numerous important dates in Pinelands history. She said the CMP was enacted by Congress in 1981, and the Commission should enforce it and not make exceptions. She said the pipeline should be built out of the Pinelands.

Kenneth Anderson asked Commissioners to examine all of the alternatives and then make a decision on the pipeline.

Jim Rapp said he is vehemently opposed to any pipeline in the Pinelands. He spoke of the history of natural gas in the United States and questioned why as a nation we are developing it. He said solar is the nation's energy future. He challenged Commissioners to protect this great treasure.

Janet Tauro Clean Water Action/ NJ Environmental Federation, asked Commissioners to remember their mandate and not lose sight of their mission. She also said it is not the Commission's responsibility to facilitate the transportation of fracked gas.

Wendy Brophy, Tabernacle, NJ doesn't understand why the pipeline is even up for discussion. She asked Commissioners to have the courage to do their jobs.

Elizabeth Allen is disappointed that the MOA is in the drafting stage, and she believes the Commissioners have the power to stop the pipeline.

Bill Wolfe, NJ Peer, reminded the Commission that under the Pinelands Act the Commission is an independent Planning and Regulatory Agency not subject to the confines of the Administration. He noted that his Open Public Records Act (OPRA) request had been denied. He said the Pinelands lost thousands of acres due to the Southern Pine Beetle, which has been directly linked to climate change. He also said that he read the Atlantic City Electric MOA, which demonstrated need. He said the need has yet to be demonstrated with regards to repowering BL England.

Virginia Tamets, Mays Landing, NJ raised concerns about the groundwater quality and the need to protect it. She said no company is immune to error. Should a mishap arise with the pipeline, it would be devastating.

Georgina Shanley, Ocean City, NJ, displayed a sign opposing the pipeline made by Stockton College students and spoke of the growing number of signatures to the petitions against the pipeline. She asked for evidence of the need to repower BL England. She asked why the Commission doesn't allow for an outside expert.

Chairman Lohbauer said if there is a need for an expert, the Commission will retain one.

She asked where she could find a manual on the equivalent protection standards and an emergency fire plan.

Richard Fellows, Tuckahoe, NJ, said he lives on Reading Avenue and the pipeline will be constructed in front of his house. He shares all the environmental concerns raised by the other commenters but his main concern is the safety. He said this pipeline will fail; it is just a matter of time. He urged Commissioners to vote no.

John Bryans, Shamong, NJ, said he was an editor and publisher for Howard P. Boyd. He said he is here today because Howard cannot be. He spoke on fragmentation, which is a major threat to the ecosystem. He urged everyone to read "The Ecological Pine Barrens of New Jersey" by Howard P. Boyd. He asked Commissioners to deny the MOA.

Fred Akers, Great Egg Harbor Watershed Association, provided comments on regional market planning, existing infrastructure and redundancy. He also displayed a map of what he believes is the more appropriate route for the pipeline to traverse.

Blanche Krubner said she felt personal outrage and betrayal when the Chairman advised staff to move forward with drafting the MOA. She said she felt the decision was made in haste. She said this pipeline is a violation of the CMP and Commissioners should vote no. She said regardless if the Governor has the power to veto our minutes it behooves each Commissioner to do their job.

Fran Brooks, Tabernacle, NJ, requested that Commissioners not use the 2004 MOA, which the Commission and the Board of Public Utilities entered into for the Atlantic City Electric Company transmission line, as precedent.

Marilyn Miller, said she felt like she was in an arena of we against them, when we should all be in unison. She said the pipeline should not even be up for consideration.

Doug O'Malley, Director of Environment New Jersey, said his membership is outraged that the Commission would even consider putting a pipeline through the Pinelands. He said the MOA process is deficient because there has been no independent expert, no demonstrated need and no analysis of climate change. He said the Commission should not stand in for

PJM. He urged the Commission to enforce the CMP and not succumb to Governor Christie's fossil fuel agenda.

Margo Pellegrino, Medford Lakes, suggested a moratorium on development in the Pinelands until climate change can be discussed. She said power usage is down, so why is the pipeline being proposed?

Tom Mahedy, spoke on behalf of Turtle Island in Canada which is advocating for no pipelines (reclaimturtleisland.com). He asked Commissioners to reconsider the MOA and be courageous.

David Pringle, NJ Environmental Federation, said the public is frustrated with the process because they do not know what is going on with the pipeline application. He said when the process is not transparent, it leads to distrust. He urged the Commission to reject the MOA.

Richard O'Hara, Wrightstown NJ, said if you have a lot of pushback now, just imagine if this project gets approved.

Sandra Folzer said she was disheartened that individual rights don't matter but money and business do. She said that, in 2012, there were 750 spills and leaks and there is no mechanism to monitor them. She asked Commissioners to reject the pipeline application. She said the future and our environment deserve better.

Jaelyn Rhoads, Pinelands Preservation Alliance, spoke of her experience with land use waivers in Pennsylvania. She said if you bend the rules once, you will see the cumulative impacts for years to come. She asked Commissioners not to violate their standards. She encouraged everyone to read the section of the CMP which cover standards for MOAs. She pointed out that the Commission can only enter into an MOA with a public entity.

Bill Wolfe requested multiple public hearings if an MOA is drafted.

Chairman Lohbauer said 15 Commissioners have an obligation and they will review and consider all the public comment that has been received for this application.

Commissioner McGlinchey asked the public to please refrain from making accusatory statements regarding staff members.

Chairman Lohbauer agreed, and he requested the public show courtesy to staff.

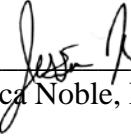
Commissioner Prickett commended the Chairman for his efforts to maintain order during the public comment section of the meeting.

Commissioner Lloyd said he understands the frustration the public feels about the process. He said this has been the most public comment an application has received since he has been a Commissioner.

Adjournment

Commissioner Prickett moved to adjourn the meeting. Commissioner Witt seconded the motion. The Commission agreed to adjourn at 12:34 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: __November 18, 2013__