

Disclaimer

These minutes reflect the actions taken by the Commission during its March 9, 2018 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 March 23, 2018.

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

MINUTES

**March 9, 2018**

Commissioners participating in the meeting

Alan W. Avery Jr., Bob Barr, Giuseppe Chila, Paul E. Galletta, Jordan P. Howell, Ed Lloyd, Mark Lohbauer, William Pikolycky, Richard Prickett, and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Craig Ambrose and Deputy Attorney General (DAG) Bruce Velzy.

Commissioners Absent

Candace Ashmun, Jane Jannarone, Gary Quinn and D'Arcy Rohan Green.

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

DAG Velzy read the Open Public Meetings Act Statement.

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 10 Commissioners who participated at the meeting.)

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

Minutes

Chairman Earlen presented the minutes from the February 9, 2018 Commission meeting. Commissioner Barr moved the adoption of the minutes. Commissioner Avery seconded the motion.

The February 9, 2018 Commission meeting minutes were adopted by a vote of 9 to 0. Commissioner Chila abstained from the vote.

Committee Chairs' Reports

Chairman Earlen said the February Policy and Implementation Committee meeting was canceled. He said the next meeting is scheduled for March 23, 2018.

Commissioner Avery provided an update on the February 27, 2018 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the November 3, 2017 meeting.

Jessica Lynch reviewed the financials. She provided an update on the Edmunds accounting software. The application fees have reached 69% of the budgeted amount. The Executive Director said the recruiting process is underway for three positions: human resource specialist, programmer and a research scientist.

The Committee met in closed session.

Executive Director's Reports

ED Wittenberg said that the office was closed on Wednesday due to the storm and again on Thursday due to the loss of power. She said the Edmunds accounting software has been successfully installed and a Human Resource module has been purchased to replace the current timesheet database.

ED Wittenberg said she attended a microgrid meeting and explained that microgrids are small energy producing sources that are off the grid. She said the Board of Public Utilities is conducting feasibility studies of microgrids at a number of sites, including one in Galloway Township.

ED Wittenberg said a meeting was held with the New Jersey Department of Environmental Protection (NJDEP) regarding the Heritage Minerals site. She said she wanted to be sure that the Commission and the NJDEP were in agreement with moving forward. Representatives from the Attorney General's office were also present at the meeting. She said NJDEP has issued an incomplete letter for the development application.

Director Larry Liggett said Winslow Township is ready to move forward with a re-zoning project now that the Commission approved an amendment to a Memorandum of Understanding with Camden County Municipal Utilities Authority and Winslow Township regarding water supply.

Director Liggett said staff has made progress on the Long Term Economic Monitoring (LTEM) report. However, the key planner is currently serving on jury for a couple of weeks. He said the recently adopted CMP amendments went into effect on Monday, March 5<sup>th</sup>.

Director Charles Horner updated the Commission on the following items:

- Staff met with representatives from Waterford Township and Atco Raceway to discuss improvements that have occurred at the raceway, including land clearing. The raceway has a hired legal counsel and an engineer. Waterford Township is assisting the Commission in resolving the issues at the raceway.
- Staff is reviewing various approvals from Jackson Township after its recent rezoning in the Regional Growth Area. The Permit Extension Act and affordable housing requirements make the review process more complicated than usual.

Paul Leakan updated the Commission on the following items:

- The 29<sup>th</sup> Annual Pinelands Short Course will be held at Stockton University this Saturday.
- The Division of Property Management should be issuing a permit for the Visitor Center very soon.

Ms. Stacey Roth reminded Commissioners that they will be receiving an email about filing Financial Disclosure Statements. She said the deadline to file is May 15<sup>th</sup>.

#### Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending approval for the construction of a ground mounted solar facility in Egg Harbor Township.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1983-5837.062) (See Resolution # PC4-18-08). Commissioner Barr seconded the motion.

Commissioner Howell asked if the parcel was cleared and if it had a prior use.

Director Horner said the land is vacant and it's a maintained grass area.

Commissioner Lloyd asked if threatened and endangered species were a concern in the grassland habitat.

Director Horner said the Commission and the South Jersey Transportation Authority entered into a Memorandum of Agreement (MOA) in 2004 that designated a portion of land at the airport for bird habitat.

Ms. Roth added that the MOA created specific "development areas" and the solar project is being constructed in an area where an offset was previously provided.

Mr. Ernest Deman further added that the solar energy facility was not identified in the MOA therefore the project required a formal application to the Commission.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution recommending approval for the realignment of the Beckerville Road and Route 70 Intersection.

Commissioner Avery moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2008-0301.001) (See Resolution # PC4-18-09). Commissioner Galletta seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution recommending the approval of a Waiver of Strict Compliance for the development of a single family dwelling.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 2001-0477.001) (See Resolution # PC4-18-10). Commissioner Lloyd seconded the motion.

Commissioner Howell asked for an explanation of the waiver process.

Director Horner said there are two types of waivers defined in the Comprehensive Management Plan (CMP): extraordinary hardship and compelling public need. He said that compelling public need waivers are rare and the applicant must demonstrate that there is a need and that there is no feasible alternative. He said on today's agenda we are dealing with a extraordinary hardship waiver for the development of a single family dwelling. He said the waiver process is designed so all property owners can be given the minimum beneficial use. He explained the number of conditions that must exist for an applicant to be granted a waiver. He added that all waivers must be approved by the Commission.

In response to a question raised by Commissioner Howell, Director Horner said staff works with the applicant to determine the placement of the dwelling that will have the least negative impacts to wetlands.

ED Wittenberg added that sometimes the Commission must approve waiver denials. She said in these instances the property cannot meet the standards and the owners want to relinquish the parcel. She said once the Commission takes action on the waiver denial applications, it is sent to the New Jersey Department of Environmental Protection's Limited Practical Use Program for acquisition.

Director Horner said that when a waiver for a single family dwelling is approved, the applicant has an obligation to purchase a 0.25 Pinelands Development Credit.

The Commission adopted the resolution by a vote of 10 to 0.

Public Comment on Public Development Applications and Items where the record is open

No one from the public spoke.

Ordinances Not Requiring Commission Action

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

- Buena Vista Township Planning Board Resolution 02-2018
- Buena Vista Township Ordinance 1-2012
- Jackson Township Ordinance 23-17
- Manchester Township Ordinance 18-004
- Manchester Township 2017 Open Space and Recreation Plan Update
- Monroe Township Ordinances O:43-2017 and O:44-2017
- Pemberton Township Ordinance 27-2017

No members of the Commission had questions.

ED Wittenberg said at the next Commission meeting Chief Planner Susan Grogan will be providing a brief overview of the conformance process.

General Public Comment

No one from the public spoke.

Other

Director Horner said the regulations in the CMP define a specific process for private development applications. He said when a private development application is deemed complete a Certificate of Filing (CF) is issued, which is a staff action. He said the CF allows the applicant to proceed with local approvals. He said it is rare for the Commission to vote on private development applications other than waivers.

He said public development applications require Commission action. He said public development applications are typically submitted by state agencies, county government or municipalities who wish to pursue development in the Pinelands. He said once an application is deemed complete, it is updated on the website and the public is given an opportunity to comment on the application. He said after the comment period has closed, a public development report is drafted. He said at a subsequent meeting the Commission votes on the public development application. He added that staff works with the public entity to find alternatives when a project doesn't meet the rules.

He said the commander of a military base can make a determination that a project is for national security and not apply to the Commission. Ms. Roth noted that there is no process in the CMP to make a federal entity apply to the Commission when claiming sovereign immunity.

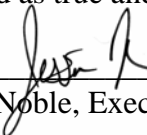
Director Horner said there are a number of applications that that Commission does not take action on because they are covered under existing streamlining Memorandum of Agreements (MOA). He said these applications are mostly for minor development projects. He said if any development occurs relating to the MOA, a memo is included in the Commission packet.

Ms. Roth added that if the Commission does not agree with a public development approval and votes to deny the application, the matter is sent to the Office of Administrative Law where there is a hearing on the matter.

Adjournment

Commissioner Barr moved to adjourn the meeting. Commissioner Lloyd seconded the motion. The Commission agreed to adjourn at 10:37 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: March 19, 2018