

Disclaimer

These minutes reflect the actions taken by the Commission during its April 12, 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 April 26, 2013.

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

MINUTES

April 12, 2013

Commissioners Present

Candace Ashmun, Bill Brown, Joe DiBello, Sean Earlen, Leslie Ficcaglia, Paul Galletta (by telephone), Gary Quinn, Ed Lloyd (by telephone), Ed McGlinchey, Richard Prickett, and Chairman Mark Lohbauer. Also present were Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

John Haas, Fran Witt, Robert Jackson and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:39 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Mr. Charles Horner, Director of Regulatory Programs, called the roll and announced the presence of a quorum.

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

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.

Minutes

Chairman Lohbauer presented the March 8, 2013 Commission meeting minutes. Commissioner Prickett moved the adoption of the minutes. Commissioner Ficaglia seconded the motion.

The minutes of the March 8, 2013 Commission meeting were adopted by a vote of 8 to 0, with Commissioner Earlen abstaining. *(Please note Commissioner Lloyd was on the phone for the vote of minutes, however Commissioner Galletta and Commissioner DiBello were not present at the time the vote took place.)*

Committee Chairs' Reports

Personnel & Budget Committee

Chairman Lohbauer updated the Commission on action from the April 2, 2013 Personnel & Budget Committee meeting:

The Committee adopted the minutes from the February 8, 2013 Committee meeting.

The Insurance Update focused on summarizing the different options available for reducing the duplication of the crime coverage between policies. Several quotes to increase coverage in the General Liability (GL) policy were explained by a representative from the Office of Risk Management. After discussion, the Committee agreed with staff to cancel the stand-alone crime policy and increase similar but broader coverage of the GL policy to \$250,000.

Staff informed the Committee that Beneficial Bank has begun charging service fees. Staff is working to minimize these fees but will need to prepare Request for Proposals to obtain quotes from other banks.

(Note: It was confirmed after the P&B meeting with Office of Management and Budget that banks are permitted to charge fees to governmental agencies.)

The Committee reviewed the Financial Updates, including the Check Register and Electronic Funds Transfers for February and March 2013. An update on application fees was also provided. It was also explained that a no-cost time extension was requested for the NPS Cooperative Agreement for Long Term Environmental and Economic Monitoring. A Pre-Audit Conference was held and the state auditors will begin at the Commission on April 15.

Confidential personnel matters were discussed in closed session.

Plan Review Committee

Commissioner Ashmun updated the Commission on action from the Committee's meeting on March 8th.

The Committee approved the January 11, 2013 Committee meeting minutes.

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

John Bunnell and Larry Liggett provided a presentation regarding the Ecological-integrity Assessment (EIA) and how the EIA results have been used to guide land use and policy decisions thus far.

The Committee reviewed its prior discussions of the public comment topics and identified certain action items for the staff to pursue as part of the Plan Review process.

The April 12, 2013 meeting of the Plan Review Committee has been canceled.

Commissioner Galletta joined the Commission meeting by telephone at approximately 9:45 a.m.

Policy & Implementation Committee

Chairman Lohbauer updated the Commission on action from the March 22, 2013 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the February 22, 2013 meeting.

In closed session, the Committee recommended the purchase of a contingency project in Cape May County using money from the Pinelands Conservation Fund (PCF). If the Commission approves that project, all PCF funds will have been allocated with the exception of those reserved for parcels related to the widening of the Garden State Parkway.

The Committee recommended that Chairman Lohbauer make appointments to fill five seats on the Pinelands Educational Advisory Council.

Mr. Liggett delivered a presentation on the results of the Kirkwood/Cohansey study noting the need to examine the impact of new water supply wells at both a local and regional level.

Commissioner DiBello joined the Commission meeting at approximately 9:49 a.m.

Ms. Roth said that she anticipated bringing two draft agreements to the Committee this Spring related to:

1. An MOA to enable development of a natural gas pipeline through the Forest Area to serve the Atlantic City Electric Company's B.L. England Generating Station in Cape May County; and
2. An agreement related to secondary impacts from the expansion to a full interchange of Exit #44 of the Garden State Parkway.

Executive Director's Reports

Mr. Horner updated the Commission on the following:

- Due to staff illness, the presentation on the Long Term Economic Monitoring Program will be postponed until next month's Commission Meeting.

Mr. Horner asked Paul Leakan to provide an update on the Pinelands Short Course.

Mr. Leakan said the Short Course was held on March 23 at Burlington County Community College. Approximately 500 participants attended, 33 presentations were made, two of which were delivered by Commission staff. Based on on-line surveys, the Pinelands Short Course received overwhelmingly positive feedback.

Mr. Horner continued to update the Commission on the following items:

- On March 13, 2013, staff met with representatives from South Jersey Transportation Authority on two road improvement projects for the Atlantic City Expressway
- On March 28, 2013, staff met with Hamilton Township representatives on a park project that was initiated about 20 years ago.

Mr. Larry Liggett updated the Commission on the following:

- FEMA is working across the east coast to document cultural resources. In doing so they have provided the Commission with an intern four days a week to help digitize and organize our cultural resource data. In the event a natural disaster occurs they will now have an easier means to determine if cultural resources would need to be addressed in the redevelopment.
- A meeting has been scheduled on May 3, 2013 with the New Jersey Builders Association to discuss the PDC program.
- Staff received the third draft of the Estell Manor landfill closure report. The consultant, along with staff, will be reviewing it very closely.
- New Jersey Future published an article regarding regional planning in the Pinelands that raised concerns by staff. They did not seek guidance from Commission staff when writing the article and there are some errors. Staff will be contacting NJ Future to discuss.

Public Development Projects and Other Permit Matters

Chairman Lohbauer asked for a motion to separate the Pemberton Township application (#1988-0473.003) into its own Resolution. Commissioner Ficcaglia moved the request to separate the Pemberton Township application, seconded by Commissioner Earlen. All were in favor.

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1981-1833.065, 1983-

5250.012, 1998-0487.001, 2009-0063.002 & 2012-0035.001) (See Resolution # PC4-13-10). Commissioner Quinn seconded the motion.

Commissioner Ashmun asked if Stockton College has any violations.

Mr. Horner said the Commission received reports of alleged violations at the College. Staff is currently investigating those reports. Staff had several meetings on-site with representatives of the College. Upon a final determination, a letter will be sent to the College asking them to address any violations.

Commissioner Prickett asked if the Forest Advisory Committee (FAC) had an opportunity to comment on this application.

Mr. Horner provided a brief history of the Committee and said one of the responsibilities of the FAC is to assist the Executive Director with review of public forestry applications. The concerned forestry application was submitted to the Forest Advisory Committee. No comments were received.

The Commission adopted the resolution by a vote of 11 to 0.

Chairman Lohbauer and Commissioner Prickett recused themselves and stepped out of the room.

Commissioner Ashmun requested a motion for action on the Pemberton Township Public Development application.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 1988-0473.003) (See Resolution # PC4-13-11). Commissioner Brown seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

Chairman Lohbauer and Commissioner Prickett returned to the meeting.

At 10:04 a.m., Commissioner Galletta and Commissioner Lloyd signed off and left the Commission meeting.

Commissioner Ashmun asked if secondary impacts would need to be addressed with road improvements associated with the Atlantic City Expressway.

Mr. Horner said no. In accordance with the CMP, secondary impacts only need to be addressed for road improvement related to the Garden State Parkway.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions a Request for a Waiver of Strict Compliance (Application Number 1985-0713.002) (See Resolution # PC4-13-12). Commissioner Ficaglia seconded the motion.

At the request of Commissioner Prickett, Mr. Horner gave a brief overview of how the Waiver of Strict Compliance application was meeting the minimum environmental standards of the CMP.

The Commission adopted the resolution by a vote of 9 to 0.

Executive Staff Reports were continued at this time.

Ms. Roth reminded Commissioners that Financial Disclosure Statements are due by May 15, 2013.

Ms. Roth provided an update concerning the litigation initiated by the Builder's League of South Jersey against Egg Harbor Township regarding the Township's affordable housing ordinance. The ordinance provided for a mandatory 25% PDC obligation for market rate units developed in the Township and no PDC obligation for the development of affordable units. Egg Harbor Township had third-partied the Commission into the suit. Following the Commission's filing of a motion to dismiss the Complaint and transfer the matter to the Appellate Division, Egg Harbor Township repealed the ordinance, which was at the center of the litigation, and the case was dismissed.

Ms. Grogan advised the Commission that staff will be meeting with representatives of Egg Harbor Township and the Builders League next Tuesday to discuss the Township's plans moving forward.

Ms. Grogan said staff met with officials from the State Agricultural Development Committee and representatives from both Burlington and Atlantic Counties Farmland Preservation Programs to discuss ways to work more efficiently and effectively together. She said overall it was a productive meeting, and each party learned a lot.

Ms. Roth said the Stockton MOA is currently on hold until Stockton addresses any potential violations raised from the public hearing.

Mr. Ernest Deman displayed the new version of the Public Development Report on the SMART Board. In a couple of months, there will no longer be a distinction between the reports for minor and major Public Development Applications. One format will be used for both types of Public Development applications.

Mr. Horner stated that the Commission has applied for a nine month, no-cost time extension (through 12/31/13) to the current cooperative agreement for the NPS Long Term Monitoring Program.

Public Comment on Agenda Items and Pending Public Development Applications

Dr. Emile DeVito, of the New Jersey Conservation Foundation (NJCF), commented on Recreation Permit # 1206 (*see submitted email correspondence and maps*). He said the motorcycle club submitted false information to the Commission. He said that the route utilized on the day of the event was a deviation from the route submitted to and approved by the Commission, (as depicted on submitted maps). Dr. DeVito indicated he has pictures to prove it.

Chairman Lohbauer advised that he appreciated the information and staff is looking into the matter.

Ms. Jaclyn Rhoads, of the Pinelands Preservation Alliance, said that Dr. DeVito's presentation highlights the need to change the CMP with regard to enforcement. She said she was happy to see the reference in the Recreation Permit that there would be consequences from deviations of the submitted route. She hopes in the future there will be a mechanism for the riders to pay for damage they cause.

Commissioner Ficcaglia asked Ms. Roth about the possibility of creating an escrow account for Recreation Permits.

Commissioner Prickett suggested the possibility of requiring one of the bikes to be outfitted with a GPS unit.

Ms. Theresa Lettman, of the Pinelands Preservation Alliance, provided comments on application #1997-0257.006 (Garden State Parkway/Exit 44). She said she reviewed the Commission application file earlier in the week and felt that a lot of her questions remained unanswered because of lack on information in the file and because of that she feels she cannot comment on the application adequately. Ms. Lettman questioned whether Atlantic County would be acquiring land or freezing the zoning to avoid secondary impacts. She also questioned where the money would be coming from. She referenced an Atlantic County resolution that references expenditures of funds to be in compliance with the New Jersey Open Space Trust fund. Ms. Lettman said that in her opinion this suggests to her that funding would come from the NJ Open Space Trust Fund. She said PPA opposes using Open Space money for mitigation of development.

Chairman Lohbauer advised Ms. Lettman that the Commissioners have not seen the agreement regarding the secondary impacts of interchange 44 because it has yet to be drafted.

Ms. Roth responded to Ms. Lettman's comments and said the precedent for addressing secondary impacts was established with the Garden State Parkway widening project Memorandum of Agreement and that the same method would be used with Exit 44.

Ms. Roth explained that secondary impacts can be addressed via the freezing or memorializing of the current zoning, not just the acquisition of land. Freezing of zoning

could be accomplished by acquisition of less than a fee simple interest in the land, such as a conservation easement. She stated that it was up to the applicant to decide how it wanted to address secondary impacts. She said the applicant, which is the New Jersey Turnpike Authority, has required Atlantic County to address secondary impacts. Unlike the Garden State Parkway widening project where a secondary impact study was undertaken, the County has chosen to address secondary impacts without a study. The reason the agreement is not in the file is because it pertains to land acquisition and conservation easements. If disclosed, it could have a negative impact on negotiations.

Commissioner Brown left the meeting at approximately 11:00 a.m.

Mr. Fred Akers, of the Great Egg Harbor Watershed Association, provided comments on secondary impacts of development in general. He said when the Commission talks about upzoning the Villages he will talk more about the secondary impacts from changing septic systems to sewers.

Dr. DeVito, of the NJCF, said recreation permits require extensive review and the Commission should require clubs to create escrow accounts. He said that while the legislation never envisioned that Open Space Trust Funds (OSTF) would be used to fund development projects, funds are being diverted from land preservation to promote development. The Commission should find a way to ensure that funding sources other than OSTF are used for projects mitigation.

Tony O'Donnell, Plumsted Township resident, said he attended today's meeting to hear the Long Term Economic Monitoring report. He asked that the report be posted to the website for review prior to next month's presentation.

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

No one offered comment.

Closed Session Resolution

DAG Heinzerling read a resolution to retire into closed session to discuss acquisition matters.

Commissioner Ficaglia moved to retire into closed session. Commissioner Prickett seconded the motion. The Commission agreed to retire into closed session by a vote of 8 to 0.

Commissioner Earlen advised that he would recuse himself from closed session.

Commissioner Lloyd joined the meeting again by telephone.

The Commission met in closed session, starting at 11:07 a.m.

Return to Open Session

Chairman Lohbauer reopened the public portion of the meeting at 11:16 a.m.

Other Resolutions

Ms. Grogan gave an overview of the discussion that took place in closed session. (See slide).

Commissioner Prickett moved the adoption of a Resolution To Award Pinelands Conservation Fund Monies for the Acquisition of Land in Upper Township Located Outside the Pre-Approved Acquisition Locations *with a deadline of May 31, 2013*. (See Resolution # PC4-13-13). Commissioner Ashmun seconded the motion. The resolution passed by a vote of 8 to 0.

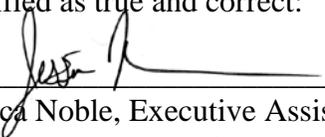
Other

Chairman Lohbauer announced that tonight at Laurita Winery, Earthshare is recognizing Commissioner Ashmun for the 2013 Environmental Stewardship Award.

Adjournment

Commissioner Ashmun moved to adjourn the meeting. Commissioner Ficaglia seconded the motion. The Commission agreed to adjourn at 11:20 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: ___April 23, 2013___