

Disclaimer

These minutes reflect the actions taken by the Commission during its April 10, 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 April 24, 2015

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

MINUTES

April 10, 2015

Commissioners Present

Candace Ashmun, Bob Barr, Bill Brown, Joe DiBello, Sean Earlen, Paul E. Galletta, Jane Jannarone, Richard Prickett, Ed Lloyd, D'Arcy Rohan Green, and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Amy Herbold and Deputy Attorney General Helene Chudzik.

Commissioners Absent

Alan W. Avery Jr., Ed McGlinchey, Gary Quinn and Fran Witt.

Chairman Lohbauer called the meeting to order at 9:32 a.m.

DAG Chudzik read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 10 Commissioners present.)

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

DAG Chudzik administered the Oath of Office to Mr. Bob Barr.

Commissioner Barr thanked Commissioners, staff and members of the public for the warm welcome. He said it was an honor to be here. He thanked the Governor for the nomination and those who helped the nomination through. He said he has no preconceived notions or ill will for those who did not support his nomination. He said he looks forward to working with everyone.

Minutes

Chairman Lohbauer presented the minutes from the March 13, 2015 Commission meeting (open and closed session). He thanked Vice Chairman Avery for chairing that meeting. Commissioner Ashmun moved the adoption of the minutes. Commissioner Earlen seconded the motion.

The minutes of the March 13, 2015 Commission meeting were adopted by a vote of 10 to 0.

Commissioner Jannarone joined the meeting at 10:38 a.m.

Committee Chairs' Reports

Commissioner Ashmun said that the *ad hoc* Committee to review the Memorandum of Agreement process will meet after the April 24, 2015 Policy & Implementation Committee meeting.

Policy & Implementation Committee

Chairman Lohbauer provided an update on the March 27, 2015 Policy & Implementation Committee meeting.

The Committee adopted the minutes (open and closed sessions) of the January 30, 2015 meeting.

Chairman Lohbauer created an *ad hoc* Committee to evaluate policy related to Memoranda of Agreement, and he initiated discussion of the creation of an Agriculture Committee.

The Committee recommended that the Commission conditionally approve Franklin Township Ordinance O-6-14, a comprehensive sign ordinance. The conditions require that changeable message signs/light emitting diode signs be prohibited in the Pinelands Area portion of the Township, which includes only Rural Development and Agricultural Production Areas.

The Committee received a presentation on the Black Run watershed, an environmentally sensitive area in the Rural Development Area of Evesham Township. Protection of this area was addressed in the 2006 report A Sub-regional Resource Protection Plan for

Southern Medford/Evesham Townships and included in the Fourth Progress Report on Plan Implementation. Among the options included in the 2006 report are a rule proposal that would re-designate a 4,000-acre Forest Area in Evesham and Medford townships and an off-site clustering pilot program to direct development away from these ecologically valuable lands. A follow up discussion will be held at the next P&I Committee meeting.

The Committee reviewed a schedule for a pilot program for special events and expanded economic opportunities in the Agricultural Production Area. Ms. Wittenberg will be providing an update on these efforts to State Senator Ray Lesniak, Chair of the Senate Economic Growth Committee, in June.

The Committee learned that the New Jersey Conservation Foundation has combined funds from a variety of sources including the final remaining Pinelands Conservation Funds, allowing it to purchase a 475 acre portion of the Zemel property in Woodland Township. Closing is anticipated for May 2015.

Commissioner Galletta said he spoke with Commissioner McGlinchey this week and he asked about the status of the Agriculture Committee.

Commissioner Galletta asked for clarification as to what Commissioners will be on the Agriculture Committee.

Commissioners Earlen, Prickett, Lloyd, McGlinchey and Galletta will serve on the Committee. Chairman Lohbauer said he would serve as an alternate. The Committee needs one more alternate.

Chairman Lohbauer said he would ask Commissioner McGlinchey (who will Chair that Committee) to discuss a schedule with its members and Director Wittenberg.

Commissioner Ashmun clarified that the Agriculture Committee would be composed only of Commission members.

Executive Director's Reports

Mr. Larry Liggett updated the Commission on the following:

- Last month Mr. Liggett advised the Commission that Hammonton had to discharge treated wastewater into Hammonton Creek. Currently, Hammonton is back to completely using ground recharge. The overland/surface drip irrigation should be operational by the end of May. The underground/ subsurface drip irrigation should be completed by this fall.
- About five years ago, the Commission and the New Jersey Department of Environmental Protection (NJDEP) agreed to share threatened and endangered (T&E) species data. The Commission's T&E data has been updated electronically. Now the NJDEP and the Commission can work from the same maps.

Ms. Wittenberg noted that as part of Hammonton's Long Term Comprehensive Wastewater Plan, no additional flow is permitted until both the overland and underland drip irrigations systems are operational.

Mr. Chuck Horner provided an update on the following:

- The Commission has received an appeal of the Buena Vista Township application (application # 2009-0089.001) originally on today's agenda. Ms. Stacey Roth is in the process of reviewing the appeal. The Mayor of Buena Vista Township has requested that the application be postponed until the May Commission meeting.
- Staff will be meeting with the Burlington County Engineer's office on April 29 to discuss the Taunton Lakes Road widening project.
- A pre-application meeting was held with Atlantic City Electric to discuss an electric transmission line that would cross the Mullica River in the vicinity of the Garden State Parkway and on through New Gretna. The poles have already been installed as part of another project.

Commissioner Ashmun asked if the line would be attached to the bridge across the Mullica River.

Mr. Horner said that the line will be attached to poles that were previously installed for another transmission line.

- Staff continues to meet with the owners of a large mining operation in Maurice River Township to discuss a habitat conservation plan in order to address the threatened and endangered species standards of the Comprehensive Management Plan (CMP).

Commissioner Earlen said he read the article in the newspaper about a New Jersey Natural Gas (NJNG) pipeline proposed through Burlington County. He asked Ms. Wittenberg if our staff has had any conversations with representatives from NJNG.

Ms. Wittenberg said some time ago NJNG advised the Commission of its plans. At this time no application has been submitted.

Commissioner Earlen asked about the status of Jackson Township's rezoning.

Ms. Wittenberg said the issue is ongoing. She said Jackson Township is evaluating the best option for a specific portion of the Regional Growth Area.

Commissioner Lloyd said he had heard that the NJNG application was filed with the Board of Public Utilities this week.

Ms. Roth reminded Commissioners it is time to file Financial Disclosure Statements. The deadline is May 15.

Public Development Projects and Other Permit Matters

Chairman Lohbauer said Buena Vista Township has requested that its public development application that was on today's agenda be postponed until the May Commission meeting.

Resolutions Relating to Municipal Ordinances

Commissioner Earlen moved the adoption of a resolution Issuing an Order to Conditionally Certify Ordinance O-6-14, Amending Chapter 253 (Land Development) of the Code of Franklin Township (See Resolution # PC4-15-07). Commissioner Brown seconded the motion.

Commissioner Galletta said that there are about 10 businesses that could be affected by this ordinance and he will be voting no. He said the CMP needs to be amended to address electronic signs.

The Commission adopted the resolution by a vote of 9 to 2. Commissioner Galletta and Commissioner Jannarone voted no.

Public Comment on Agenda Items and Pending Public Development Applications

No members of the public offered comment.

Ordinances Not Requiring Commission Action

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

- Shamong Township Ordinance 2014-5
- Tabernacle Township Ordinance 2015-2

No members of the Commission had questions.

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

Chairman Lohbauer requested that the public focus their comments on issues rather than judge members of the staff and the Commission.

Denise Garner of Jackson Township congratulated Commissioner Barr on his appointment. She said she was here to provide comments on Jackson's rezoning proposal from residential to commercial that the Town Council did not vote to approve. She said commercial development would not be a good idea because of the area's close proximity to

the base. She said many residents are upset about the rezoning possibility. She said that keeping the area as open space would be ideal.

Tim Mead, a Winslow Township resident, provided comment about youth soccer at Tuckahoe Turf Farms. See attached comments.

Allen Carter of Tuckahoe Turf Farms provided comment on marketing his turf. See attached comments.

Josephine Sienkiewicz of Jackson Township said that she and her husband own a small farm in Jackson in the area proposed for rezoning. She said she does not support changing the zone from residential to industrial.

Fran Brooks of Tabernacle Township welcomed Commissioner Barr. She requested an explanation of the pilot project connected to the Tuckahoe Turf matter.

Ms. Wittenberg said the CMP allows for pilot programs. She said the program would be independent of the Tuckahoe Turf matter. She said the pilot would allow the Commission to evaluate non-agriculture activities on agricultural lands. Depending on the outcome of the pilot, the Commission might propose rule changes.

Ms. Roth added that the CMP at 7:50-10.1 authorizes the Commission to go through a rule making process if the pilot warrants such a decision. The Commission has received a number of applications for "events" on agricultural lands that are not currently addressed in the CMP. She said rather than deal with these types of applications on a case-by-case basis, the pilot would address them as a whole.

Commissioner Earlen said the Pilot Programs sounds like something the Agricultural Committee should work on.

Fred Akers of the Great Egg Harbor Watershed Association said he attended the Pinelands Short Course and it was great. He referred to the process of Buena Vista Township applying to the Commission after development occurred as a charade. He said the Commission should find a mechanism to retain a licensed engineer to review certain types of development. He also recommended an independent, third-party peer review so there is some certainty that the proposed stormwater system will work.

Chairman Lohbauer said there is almost always no guarantee.

Margit Meissner-Jackson said that there are three pipelines making their way into New Jersey: New Jersey Natural Gas, South Jersey Gas and Pilgrims. She said she is not in favor of pipelines in the Pinelands or elsewhere in the state.

Carol Gay of the New Jersey State Industrial Union Council thanked the Commissioners for voting against the South Jersey Gas pipeline. She said she is against any pipelines in the Pinelands. She said it is imperative that we move away from fossil fuels and turn to

renewable resources. She said fracking is a dangerous and harmful process that needs to end.

Marianne Clemente welcomed Commissioner Barr. She asked if there was any new information regarding the South Jersey Gas litigation matter.

Chairman Lohbauer said there is nothing to report.

Bill Wolfe of Bordentown welcomed Commissioner Barr. He said planning and regulatory rules need to be based on the CMP, science and law, not compelling personal interests. He said some of the public comment offered today was outside of the Commission's realm. He said he received a response from the Chairman on climate change and how it relates to the Commission. He reviewed the reasons why he was disappointed with the Chairman's response.

Paul Dietrich of Dennis Township said that his daughter has been playing with the Barons at Tuckahoe Turf Farm for many years. He said there is a need for the fields and there is support for the continued soccer activities there.

Jim Rapp of Jackson Township said he was happy with the outcome of the South Jersey Gas matter and, if it returns to the Commission, he hopes for the same conclusion. He welcomed Commissioner Barr. He said he was in Trenton and rallied against the nomination. He thanked Commissioner Jackson for his service on the Commission. He said that President Obama has endorsed natural gas as the petroleum of choice. He said this is a national issue. He offered Commissioner Barr support.

Jeff Tittel, Director of the NJ Sierra Club, thanked Robert Jackson for his dedication to the Pinelands. He said Boards go through cycles, Commissioners come and go and it is important to remember why we are here. He said the Pinelands are unique, home to plant species only found in this area and the largest freshwater aquifer on the eastern seaboard. He said the Commission, staff and public need to work together to deal with MOAs, sewer plants, climate change, the southern pine beetle, political pressure and large scale housing developments.

Lee Rosenson of Pinelands Preservation Alliance (PPA) and New Jersey Audubon Society commended former Commissioner Jackson for his work at the Commission and welcomed Commissioner Barr. He said the flow of information between staff and Commissioners has room for improvement. He said that every year he raises his concern over T&E consultants, and every year nothing is done. He said it is a conflict of interest when an applicant pays a T&E consultant to do a study on their property. He believes the Commission should hire the consultant in order to get unbiased results.

Chairman Lohbauer said staff would add the T&E discussion to the next P&I agenda.

Michael Gross, environmental counsel to the New Jersey Builders Association, said

he appreciated hearing the Chair's request to keep personal attacks out of the public comment portion. He said after reviewing minutes from the last couple of meetings he was shocked to read the negative comments about staff. He said he has worked with numerous staff members through the years and has the utmost respect for them. He asked Commissioners to keep in mind that interactions between the applicant and staff are essential to achieve a compliant application. He said in every regulatory process that he has been involved in there has always been conversations that took place between the two.

Doug O'Malley of Environment New Jersey welcomed Commissioner Barr and thanked Bob Jackson for his service. He thanked Chairman Lohbauer for looking at the MOA process. He said the relationship between staff and the applicant during the South Jersey Gas pipeline matter was not typical, as portrayed through emails obtained by PPA. He said the Commission needs to work more on climate change-related issues such as the Southern Pine Beetle.

Closed Session Resolution

DAG Chudzik read a resolution to retire into closed session to discuss pending litigation matters.

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

Return to Open Session

Commissioner Lloyd made a motion to return to open session. Commissioner Earlen seconded the motion. The meeting resumed at 12:03 p.m.

DAG Chudzik said pending and anticipated litigation were discussed in closed session and no action was taken.

DAG Chudzik requested a motion to allow the Executive Director to continue to negotiate and resolve the Murphy v Medford matter consistent with the discussion that took place in closed session. The motion was moved by Commissioner Lloyd and seconded by Commissioner Earlen. All were in favor. The motion passed by a vote of 11 to 0.

DAG Chudzik requested a motion to authorize the Executive Director to continue to negotiate and settle the Tuckahoe Turf Farm matter consistent with the terms discussed in closed session. The motion was moved by Commissioner Barr and seconded by Commissioner Prickett. Commissioner Rohan Green voted no. The motion passed by a vote of 10 to 1.

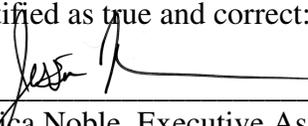
Commissioner Barr thanked everyone for the warm welcome.

Chairman Lohbauer requested that staff craft a resolution to recognize Commissioner Jackson. He also congratulated staff on another successful Pinelands Short Course.

Adjournment

Commissioner Ashmun moved to adjourn the meeting. Commissioner Barr seconded the motion. The Commission agreed to adjourn at 12:09 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: April 17, 2015