

PC2-44

Disclaimer

These minutes reflect the actions taken by the Commission during its June 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 June 26, 2014.

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

MINUTES

June 12, 2014

Commissioners Present

Candace Ashmun, Bill Brown by telephone beginning at 6:40 p.m., Alan W. Avery, Jr., Joe DiBello, Paul E. Galletta, Robert Jackson, Jane Jannarone, Ed Lloyd, Richard Prickett, and Chairman Mark Lohbauer. Also present were Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

Sean Earlen, Ed McGlinchey, D'Arcy Rohan Green, Gary Quinn and Fran Witt.

Chairman Mark Lohbauer called the meeting to order at 6:12 p.m. He said Executive Director Wittenberg was not present because her father passed away and that Mr. Larry Liggett will move the meeting through the agenda. He also noted that Jane Jannarone, the recently appointed Cumberland County Commissioner was present.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Jessica Noble called the roll and announced the presence of a quorum. (There were 9 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.

DAG Heinzerling administered the oath of office to Ms. Jannarone.

Commissioner Lohbauer welcomed Commissioner Jannarone.

Commissioner Jannarone said she is excited to be at the Commission. She said she attended the Pinelands Orientation and commended staff for such an excellent program.

Minutes

Chairman Lohbauer presented the open and closed session minutes from the May 9, 2014 Commission meeting. Commissioner Ashmun moved the adoption of the minutes. Commissioner Galletta seconded the motion.

Commissioner Lloyd wanted to be sure that the closed session minutes reflect that he was not present for the discussion.

Ms. Stacey Roth confirmed that the closed session minutes acknowledge that Commissioner Lloyd left the meeting room.

The minutes of the May 9, 2014 Commission meeting were adopted by a vote of 8 to 0, with Commissioner Jannarone abstaining. Commissioner Brown was not present for the vote.

Committee Chairs' Reports

Personnel & Budget Committee

Acting Committee Chairperson Prickett updated the Commission on action from the June 3, 2014 Personnel and Budget (P&B) Committee meeting:

The Committee did not adopt the minutes from the April 1, 2014 and April 29, 2014 meetings as there were not enough Commissioners present. They were put on hold until the next meeting.

The Committee reviewed and recommended Commission approval of the Resolution to Authorize the Executive Director to Continue to Expend Funds for Fiscal Year 2015 at the Same Level of Expenditures as Fiscal Year 2014 until the Adoption of the Fiscal Year 2015 Budgets.

Nancy Wittenberg reviewed the FY 2015 Draft Operating Budget. Ms. Wittenberg said that the state appropriation remains the same as the last few years. Because application fees have been lower this fiscal year, the amount anticipated for FY2015 for has been decreased. The salary expenditure does not include any changes that may result from

PC2-46

contract negotiations, which will require a budget amendment. The final draft of all three budgets (Operating, Pinelands Conservation Fund, and Kirkwood/Cohansey) and the budget notes are expected to be presented at the next P&B meeting.

Ms. Wittenberg reviewed the financial statements and the May check register, electronic disbursements and application fees. Michelle Russell provided an update on employee actions.

Plan Review Committee

Commissioner Ashmun said the Plan Review Committee will meet again on July 11, 2014.

Policy & Implementation Committee

Chairman Lohbauer updated the Commission on action from the May 30, 2014 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the April 25, 2014 meeting.

The Committee recommended Commission certification of Winslow Township Ordinance #O-2014-006 extending the term of resource extraction permits from two to four years.

The Committee recommended Commission certification of Egg Harbor Township's November 2013 Master Plan Amendment and Ordinance 44-2013 revising sign standards and adding digital billboards as a permitted use in three Regional Growth Area zones.

The Committee recommended Commission conditional certification of Monroe Township Ordinance O:19-2013 adopting sign standards for changeable copy and electronic message signs along Route 322 and the Black Horse Pike within the Township boundaries.

The Committee recommended Commission adoption, without change, of the proposed Comprehensive Management Plan amendments related to efficiency measures and the Pilot Program for Alternate Design Wastewater Treatment Systems.

The Committee discussed revised draft Pinelands Conservation Fund objectives and policies to fund an education and outreach component and to transfer additional funds into the land acquisition component. The next step will be to seek public input.

The Committee received an update on Stafford Township's proposal to locate a stormwater basin in the Pinelands Forest Area to resolve flooding issues in a portion of Ocean Acres. Staff is awaiting a response to certain questions posed to its consultant and may recommend that the project be allowed to proceed through a Memorandum of Agreement with the Township.

Executive Director's Reports

Mr. Larry Liggett updated the Commission on the following:

- Staff will be meeting with the Council on Affordable Housing (COAH). COAH has recently proposed revised rules and is seeking public comment through August 1,

PC2-47

2014. Staff wants to ensure that the rules are consistent with the CMP and current buildout models for the Pinelands.

- Staff has provided comments to the Cape May County Municipal Utilities Authority regarding a comprehensive wastewater planning study. The Commission provided partial funding to the study. The purpose of the study is to determine if the construction of a sewer interconnect is a feasible option for Woodbine Borough.
- The Plan Review report is due this summer.

Mr. Paul Leakan said staff is working hard to finalize the report and hopes to have it completed in early July.

- The Commission is seeking public input on proposed changes to the policies that guide the Pinelands Conservation Fund. A public meeting will be scheduled in the near future.

Ms. Roth provided an update on Bills S2125 and A3257. She said the bills propose to change the definition of Low Intensity Recreational Use on farms that have been deed restricted under the Pineland Development Credit (PDC) program located in the Pinelands Agricultural Production Areas.

Ms. Roth said staff responded in writing regarding legal concerns about the bill to Senator Van Drew and Assemblyman Andrzejczak. She said A3257 was voted out of Committee today and the Senate companion bill S2125 was introduced but has not yet been listed for consideration.

Ms. Roth said a meeting has been scheduled with other state entities to discuss the bill.

Ms. Roth said staff met with the property owner and the soccer league in an attempt to find an amicable solution, and the conversation is ongoing.

Chairman Lohbauer noted that the Atlantic County Executive wrote to the Commission, and in that letter he requested that the Commission support the soccer activities at Tuckahoe Turf Farm.

Ms. Roth provided information about the extent of the soccer activities taking place at the Tuckahoe Turf Farm. She said the fields are currently being used for weeknight soccer practice by about forty children. In addition, about 1 to 2 weekends a month, larger soccer events are held. The events attract up to 3,000 to 4,000 people, that utilize 40 soccer fields, including food vendors, thousands of parked vehicles and portable sanitary facilities.

Commissioner Ashmun said the owners of the property sold their Pinelands Development Credits.

PC2-48

Commissioner Lloyd suggested posting the letter sent to Senator Van Drew and Assemblyman Andrzejczak on the Commission's website.

Commissioner Galletta asked if the bill would change the description of the Agricultural Production zone.

Ms. Roth said yes.

Mr. Leakan said the Pinelands Orientation was held on May 29, 2014. He said fifty members of the Pinelands community were in attendance and staff delivered a number presentations, including the results from the Rapid Landfill Assessment study.

Mr. Ernest Deman provided an update on the following:

- Staff met with Medford Township officials on May 13, 2014 to discuss the development of a paved bike path along Stokes Road.
- On May 30, 2014 a pre-application meeting was held with Walmart representatives. The development of a Walmart store is being proposed in Manchester Township on Route 37 in the Pinelands National Reserve. The applicant is evaluating four parcels within the Pinelands Area for threatened and endangered species mitigation.

Ms. Roth provided an update on the litigation surrounding the proposed development of that Walmart.

Commissioner Brown joined the meeting via telephone at 6:40 p.m.

CMP Amendments

Commissioner Galletta said he would be recusing himself from the vote on the CMP amendments because of the PDC component but he would not be leaving the room.

Commissioner Galletta moved to the audience.

Commissioner Lloyd moved the adoption of a Resolution To Adopt Proposed Amendments to the Comprehensive Management Plan (Application Requirements and Procedures; Letters of Interpretation; Pilot Program for Alternate Design Treatment Systems) (See Resolution # PC4-14-17). Commissioner Ashmun seconded the motion.

Ms. Susan R. Grogan said the amendments are efficiency measures that were identified through the Plan Review Process.

She reviewed each amendment to the CMP:

- Revises the provisions of the Alternate Design Wastewater Treatment Systems by removing the Cromaglass septic system from the pilot program and extends the deadline for the installation of the FAST septic system through August 5, 2018.
- Expands the list of activities in the CMP which require no application to the Commission.
- Extends the duration of Letters of Interpretations from 2 years to 5 years.

PC2-49

Ms. Grogan added that the amendments were published in the February 18, 2014 issue of the New Jersey Register and a Public Hearing was held on March 26, 2014. She added that if the rules were adopted tonight, they will take effect sometime in September. She said adoption of the amendments is subject to a 30-day review period by the Governor.

The Commission adopted the resolution by a vote of 9 to 0, with Commissioner Galletta not participating in the vote.

Public Development Projects and Other Permit Matters

Chairman Lohbauer presented a Resolution recommending approval for the development of an 86 space paved parking area in Hamilton Township.

Commissioner Galletta moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 2013-0149.001) (See Resolution # PC4-14-18). Commissioner Lloyd seconded the motion.

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

Resolutions Relating to Municipal Ordinances

Commissioner Ashmun moved the adoption of a Resolution Issuing an Order to Certify the November 2013 Amendment to the Master Plan of Egg Harbor Township and Ordinance 44-2013, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township (See Resolution # PC4-14-19). Commissioner Jackson seconded the motion.

Commissioner Lloyd said he supports the resolution but he would have liked to have seen responses to public comments in the Executive Director's Report.

Ms. Grogan said that the ordinance allows digital signs in the Regional Growth Areas and that is what the comments focused on.

Commissioner Lloyd said one of the public comments said the CMP does not allow signs but we did not address that concern.

Chairman Lohbauer said that at the P&I meeting it was determined that in order to address the problem of electronic signs, the CMP needs to be amended.

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

Chairman Lohbauer presented a resolution recommending conditional approval of an ordinance for Monroe Township.

Commissioner Galletta moved the adoption of a Resolution Issuing an Order to Conditionally Certify Ordinance 0:19-2013, Amending Chapter 175 (Land Management)

of the Code of Monroe Township (See Resolution # PC4-14-20). Commissioner Prickett seconded the motion.

Ms. Grogan said after a lengthy discussion at the P&I meeting, Commissioners requested additional information about existing businesses along the Black Horse Pike in the Rural Development Area (RDA) and the Forest Areas (FA) that would be affected by the Monroe Township ordinance.

She said because the CMP does not include rules regarding the new digital signs and changeable message sign technology, it is a difficult for the Commission when municipalities submit ordinances regulating new sign technology.

She said the ordinance limits the location of the changeable message and electronic message center signs to the Black Horse Pike and Route 322 corridors which extends through the Regional Growth Area and the Forest and Rural Development Areas. She added that these are on-site signs, not billboards, and Monroe has included a number of provisions on the size and brightness of these signs.

She said Paul Tyshchenko drove along the Black Horse Pike and Route 322 and took some pictures of existing businesses that were provided to the Commissioners. There are about 10 to 12 existing businesses along the Black Horse Pike in the Rural Development and Forest Area that would be affected by the conditional certification. Only one of those businesses is located in the Forest Area.

Ms. Grogan said Monroe Township unintentionally deleted the mandatory CMP sign provisions that apply to all management areas and have been in place since Monroe's land use ordinance was first certified by the Commission.

She said that staff is still recommending conditional certification of the ordinance and has included language in Attachment A to the Executive Director's report to both restore the mandatory CMP sign provisions and prohibit the changeable message signs in the FA and RDA.

Commissioner Ashmun said what concerns her is that some of the lots are only one lot deep and because of the shallowness, they intrude into the Forest Area.

Commissioner Galletta said staff did an excellent job of providing additional information but he cannot support the resolution because he does not think it is fair to hurt the one business in the Forest Area that cannot use the new technology.

Commissioner Avery asked Ms. Grogan if she considered exempting existing conforming businesses.

Ms. Grogan said she did consider it but felt that it was not a good mechanism to regulate which business are allowed the new technology and which are not. She said the distinction should remain between management areas.

PC2-51

Commissioner Lloyd concurred.

Chairman Lohbauer said this discussion shows the need for amendments to the CMP concerning the new sign technology.

The Commission adopted the resolution by a vote of 8 to 1, with Commissioner Galletta voting no and Commissioner Jannarone abstaining.

Chairman Lohbauer presented a resolution recommending approval of the following resolution.

Commissioner Prickett moved the adoption of a Resolution Issuing an Order to Certify Winslow Township Ordinance O-2014-006, Amending Chapter 179 (Natural Resources) of the Code of Winslow Township (See Resolution # PC4-14-21). Commissioner Jackson seconded the motion.

Ms. Grogan said this ordinance will allow Winslow Township to extend the term of resource extraction (mining) permits from 2 years to 4 years.

Ms. Grogan said there are two mining operations in the Pinelands Area in Winslow Township.

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

Public Comment on Agenda Items and Pending Public Development Applications

Marilyn Miller said for someone like her, who doesn't get a newspaper and has a computer that barely works, it was very difficult to find out about tonight's meeting. She also requested more information on the Veteran's Highway project.

Mr. Deman provided additional information.

Ordinances Not Requiring Commission Action

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

- Barnegat Township Ordinance 2014-04
- Barnegat Township Ordinance 2014-05
- Egg Harbor City Ordinance 2-2014 and 6-2014
- Monroe Township Ordinance 0:07-2014

No members of the Commission had questions.

Other Resolutions

Commissioner Prickett moved the adoption of a Resolution To Authorize the Executive Director to Continue to Expend Funds for Fiscal Year 2015 at the Same Level of Expenditures as Fiscal Year 2014 until the Adoption of the Fiscal Year 2015 Budgets (See Resolution # PC4-14-22). Commissioner Jackson seconded the motion.

Ms. Roth reminded Commissioners that by adopting this resolution the Commission will be able to continue to pay expenses and purchase any necessary items until the next budget is adopted.

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

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

Tom Mahedy voiced his opposition of the Governor, the pipeline project that had come before the Commission and was voted on in January 2014 and fracking. He made the suggestion that when new Commissioners take their oath, the statement should include "abide by the CMP". He also commented on the issue of recusal. He also said that he was opposed to the recreational use of Tuckahoe Turf Farm.

In response to Mr. Mahedy's comments, Commissioner Avery asked Mr. Mahedy to refrain from personal attacks on members of the staff.

Commissioner Lloyd said he agrees with Commissioner Avery, adding that it does not serve anyone to insult staff. He also said he wanted to make the record clear about his recusal on the proposed MOA with South Jersey Gas. Ms. Roth was acting as the Ethics Liaison Officer for the Commission.

Chairman Lohabuer asked the public to please leave staff out of its comments.

Marilyn Miller said she was upset to see the parcel across the street from the Commission for sale. She said she was also discouraged to hear the discussion about the Walmart. She said she lives very close to the proposed site of the Walmart in Manchester. She inquired about Ocean Acres after hearing the update Chairman Lohbauer provided from the last P&I meeting. She closed by stating she is against the pipeline project and against Walmart.

Commissioner Avery advised Ms. Miller that the Ocean County Library has newspapers and public access to the internet.

Amy Karpati of Pinelands Preservation Alliance commented on proposed Bills S2125/A3257. She said as Ms. Roth previously noted the bill passed the Assembly Committee today. She said Jaclyn Rhoads was at that Committee meeting, and although there was a lot of opposition, the bill still passed. Ms. Karpati showed a site map of the 40 some soccer fields at Tuckahoe Turf farm and passed it around to the Commissioners on her electronic device. She said when rules are changed for one land owner it is poor public

policy. She also expressed concern over the legality of the use of deed restricted lands for which the property owner previously received compensation.

Georgina Shanley welcomed Commissioner Jannarone. She said the Pinelands is under assault. She said the passing of Bill A3257 overrides the Commission's authority. She went on to mention that South Jersey Gas is preparing to put in a valve station in Upper Township. She expressed further concern over the need to protect the Pinelands. She said she was apprehensive over the Governor's recent nomination of Bob Barr to the Commission because he lacks knowledge of the Pinelands. She asked if there have been any meetings with the gas company.

Ms. Roth said there has been no contact with South Jersey Gas since the Commission vote in January.

Dr. Steven Fenichel said he was confused by Mr. Lloyd's defense of Ms. Roth. He said the oath of office for Commissioners should include "abide by the CMP". He said without the CMP, there might not be a Pinelands Commission. He said with regard to Bill A3257, he is concerned that bill will remove the public's right to provide comment.

Ms. Roth provided information that that is not the case.

Commissioner Ashmun said she took the oath thirty years ago and that oath requires that both the national and state constitution be upheld, which includes abiding by the law, which is the CMP.

Dr. Fenichel expressed concern over the ethical standards of the Governor's proposed appointee to replace Commissioner Jackson. He said he sent a letter to each member of the judiciary about the appointee.

Jack O'Connor from Ocean County requested a definition of low intensity recreation. He said the definition is vague. He said he has held off-road vehicle events in the Pinelands and the Commission has been inconsistent with its regulations on deed restricted lands.

Chairman Lohbauer said that soccer tournaments are not considered low intensity recreation.

Commissioner Ashmun said the definition does not speak to events.

A brief discussion took place about the definition of low intensity recreation.

Bill Aronson, resident of Bass River Township, said this was the first Commission meeting he attended. He said he was discouraged to hear that the Pinelands are under attack but was encouraged to see that the public cares so much about the Pinelands. He asked the Commissioners if they felt under attack by this Administration. He said soccer is big money as he is familiar with the cost to have a child play the sport. He asked for

clarification of Commissioner Avery's comment earlier in the meeting about Commission staff.

Commissioner Avery said he commented because the commentor was speaking in a derogatory manner about staff. He said if the public has praise for staff he will be more than happy to listen but he will not accept the public speaking negatively about staff when they cannot respond.

Chairman Lohbauer said the past year we have had to discuss some controversial issues, meeting got heated and the public made negative comments about Commission staff. He said Commissioners will not tolerate that.

Mr. Aronson provided comments on Viking Yacht, what he referred to as a big polluter. He also said he is looking for ways to encourage commercial business in the village of Bass River. He questioned if changing the Pinelands Area boundary (to remove the village commercial area) was a possibility. He said he is trying to raise ratables in his town in order to fight Viking Yacht.

Chairman Lohbauer said that would take legislative action.

Commissioner Ashmun said it would also take Federal action.

Chairman Lohbauer said it would be a major undertaking.

Leo Snyder of Hainesport, NJ said he is against the pipeline project.

Marilyn Miller said she doesn't understand how the development of the parcel across the road was approved. She asked for additional information.

Commissioner Ashmun suggested she look at the Township ordinance and that the Pinelands is not a no-build zone.

Chairman Lohbauer said development is permitted in the Pinelands.

Mr. Mahedy provided comments on Walmart.

Chairman Lohbauer asked that Mr. Mahedy focus his comments on matters that are in the purview of the CMP.

Mr. Mahedy said the first port for Liquefied natural gas (LNG) has opened in Maryland. He closed by apologizing for not being polite but he doesn't think he was personally attacking anyone.

Other

Commissioner Ashmun asked about the South Jersey Gas Lawsuit.

PC2-55

DAG Heinzerling said the motion to dismiss was filed.

Ms. Roth added that a copy of that motion was sent via email today to all Commissioners. Ms. Roth said the Commission has other ongoing litigation matters as well.

Adjournment

Commissioner Prickett said Whitesbog will be holding its 31st Annual Blueberry Festival on June 28, 2014.

Chairman Lohbauer thanked the public for attending the night meeting.

Commissioner Prickett moved to adjourn the meeting. Commissioner Jackson seconded the motion. The Commission agreed to adjourn at 8:09 p.m.

Certified as true and correct:

Jessica Noble, Executive Assistant

Date: _____