

Disclaimer

These minutes reflect the actions taken by the Commission during its June 8, 2012 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 21, 2012.

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

MINUTES

June 8, 2012

Commissioners Present

Candace Ashmun, Bill Brown, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta via teleconference, John A. Haas, Rick Harris, Gary Quinn, D'Arcy Rohan Green, Edward Lloyd, Ed McGlinchey, Richard Prickett, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Authorities Unit Liaison John Cascarano and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

Robert Jackson

Chairman Lohbauer called the meeting to order at 9:34 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 14 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.

Minutes

Chairman Lohbauer presented the May 11, 2012 Commission meeting minutes, and Commissioner Ficcaglia moved the adoption of the minutes. Commissioner Rohan Green seconded the motion.

Commissioner Lloyd said that he was not present at the May 11, 2012 Commission Meeting, although he is listed as being present in the minutes. The executive secretary will correct the minutes.

The minutes of the May 11, 2012 meeting were adopted by a vote of 14 to 0.

Committee Chairs' Reports

Personnel and Budget Committee Meeting

Commissioner Haas updated the Commission on action from the May 29, 2012 Personnel and Budget Committee Meeting:

The Committee adopted the minutes from the May 1, 2012 meeting.

The Committee discussed and recommended Commission approval of the resolution to Authorize the Executive Director to Continue to Expend Funds for Fiscal Year 2013 at the Same Level of Expenditures as Fiscal Year 2012 until the Adoption of the Fiscal Year 2013 Budgets. This is done at the end of each fiscal year to keep the office running until the adoption of the new budget.

The Committee discussed the draft FY 2013 Operating (General Fund) Budget. Details on revenues and expenditures were provided. At the Committee's next meeting the proposed FY 2013 budgets will be discussed.

Financial Updates including Check Registers and Electronic Funds Transfers for May were reviewed. An update on application fees was also provided.

There was no Public Comment.

During Other Items of Interest, the May employee actions were reviewed. The Committee also discussed a proposal to paint the Fenwick Manor building.

Confidential personnel matters were discussed during closed session.

Plan Review Committee

Commissioner Ashmun advised that she and Nancy Wittenberg briefed the Pinelands Municipal Council on the Plan Review process, during the Council's May 31st meeting at

Richard Stockton College. She also said the Plan Review Committee will meet immediately following today's Commission Meeting.

Policy and Implementation Committee Meeting

Chairman Lohbauer updated the Commission on action from the May 25, 2012 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the April 27, 2012 meeting.

The Committee recommended that the Commission approve a proposed Memorandum of Agreement (MOA) with Ocean County regarding the Robert Miller Airpark. The Committee discussed the MOA extensively and made some revisions to the draft resolution, Executive Director's Report and the MOA.

The Committee received an update from Conservation Resources, Inc. on land acquisition projects. The Committee agreed to increase the percentage of funds contributed to the YMCA-Camp Ockanickon project, as well as providing payment in advance of settlement. In closed session, the Committee agreed to grant an extension for one 2010B project in Atlantic County and approved an allocation to Ocean County for one of the pre-approved parcels included in the NJ Turnpike Authority MOA.

The Committee recommended Commission approval of Monroe Township's 2012 Master Plan Reexamination Report and Ordinance 0:11-2012, responding to three sets of CMP amendments.

The Committee endorsed a proposal made by the Science Office to pursue a grant to study excavated ponds and stormwater basins.

Audit Committee

Chairman Lohbauer said the Committee has met twice and the Audit of the Commission is under way. He said he will provide further updates as necessary.

Executive Director's Reports

Ms. Nancy Wittenberg updated the Commissioners on the following:

- A kickoff meeting took place with Commission staff, NJDEP and USGS on the Landfill Rapid Assessment project. The goal of the meeting was to ensure we have DEP's support, because we will need access to their files and we want to make certain that the Commission's work will meet their needs. Her hope is that DEP will continue to use this framework for other landfills in the State.
- She said she met with a representative from Joint Base McGuire Dix Lakehurst (JBMDL) to discuss a path forward and establish a better relationship. Currently the base has not been applying for development at JBMDL. Another meeting will

be scheduled to discuss a process for future development at the base, through either a Memorandum of Agreement or a federal installation plan.

- A small internal group of staff has been convened to handle Plan Review. Although there are many good ideas, the Commission is very limited in what it can do, because staff still need to perform their daily job duties.
- On a positive note, the Science office has put together a speaker series on Pinelands related research. They have been receiving very good attendance from the public. Kudos to John Bunnell for coordinating these sessions.

Mr. Larry Liggett updated the Commission on the following:

- Staff is making their last and hopefully final adjustments to the Kirkwood-Cohansey buildout numbers.
- Regarding the landfill study, not only is staff assessing landfills in general but some towns have contacted us looking for specific recommendations.
- The Stockton expediting MOA is nearing completion and will most likely be on the next P&I agenda.
- Susan Grogan and Paul Tyshchenko attended SADC's annual conference for appraisers where they delivered presentations on the Pinelands Development Credit Program and development limitations which affect land values in the Pinelands Preservation and Agricultural Areas.

Mr. Chuck Horner updated the Commission on the following:

- A field meeting took place between staff and Woodland Township officials concerning a previously-approved, rather controversial, road improvement project (Cedar Drive & Prince Street). The Commission received notice from a conservation group that paving was taking place beyond the limits of the existing gravel road. Commission Staff will continue to work with the Township engineer to rectify the situation.
- Staff also met with Hamilton Township officials regarding the expansion of an existing park and Egg Harbor City officials regarding two public development applications that have wetlands issues.
- A provision was added to the Commission's stormwater regulations several years ago to permit exceptions. The provision states that if stormwater can be managed by an alternate means elsewhere on the parcel or on an adjacent parcel or in the vicinity of the project, the applicant can opt to do this. This provision has helped to solve many old stormwater issues.
- An application was received for a companion bridge to the Route 72 Bridge in Ocean County. The project is in the Pinelands National Reserve. Our obligation based on an existing MOA, is to comment on the proposed bridge application to DEP. Staff will be doing so shortly.

Commissioner Rohan Green asked Mr. Horner when it comes to stormwater management alternatives, does staff provide guidance?

Mr. Horner stated staff does offer guidance and often recommends alternatives.

Public Development Projects and Other Permit Matters

Commissioner Prickett recused himself and left the room.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Amended Application for a Public Development (Application Number 1997-0585.002) (See Resolution # PC4-12-17). Commissioner Witt seconded the motion.

Mr. Horner provided some information on the project. The road widening of Route 530 will begin at Route 206 in Southampton Township and extend eastwardly toward Pemberton Borough for 2.8 miles. With the exception of a minor encroachment on wetlands, there are no significant environmental issues that have been raised, nor were any threatened and endangered species issues identified.

Part of the proposed road project infringes on lands (Katona Farm) that have a PDC deed restriction. The project will encroach on an approximately 3.5 acre portion of the Katona Farm.

The Department of Transportation was consulted to suggest construction alternatives. The results of numerous meetings and discussions are reflected in the report.

Commissioner Rohan Green suggested that the Commission address the term “recommended vegetation”, which is referenced in the report, when we do Plan Review. Commissioner Ashmun said she was expecting vegetation issues to be on the list of items to address.

Ms. Stacey Roth stated that the Deed of Conservation Easement was placed on the Katona Farm in 1983 by the Burlington County Board of Chosen Freeholders. At that time, the Pinelands Development Credit Bank had not been established. Later, the PDC Bank purchased the associated PDCs on the Katona Farm. However, Burlington County retained the easement. The Commission does not have the authority to release the easement on the property. The condition that was added to the Public Development report addresses the impact of the release of the restriction on the PDC Program.

Chairman Lohbauer complimented the staff on such great work with this complex project.

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

Commissioner Prickett returned to the meeting.

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 2011-0087.001 & 2011-0088.001) (See Resolution # PC4-12-18). Commissioner Brown seconded.

The Commission adopted the resolution by a vote of 14 to 0.

Resolutions Relating to Municipal Ordinances

Commissioner Ashmun moved the adoption of a Resolution Issuing an Order to Certify Resolution PB 12-12, Approving the 2012 Master Plan Reexamination Report of Monroe Township, and Ordinance 0:11-2012, Amending Chapter 175 (Land Management) of the Code of Monroe Township (See Resolution #PC4-12-19). Commissioner Witt seconded the motion.

Ms. Susan R. Grogan said this ordinance and master plan reexamination report are in response to the Commission's clustering, forestry and wetlands management amendments, which the Commission adopted some time ago. The Commission is considering this ordinance because the Township has elected to retain a 100 ft. scenic setback for cluster development.

The Commission adopted the resolution by a vote of 13 to 0, with Commissioner Earlen abstaining.

MOAs

Commissioner Haas moved the adoption of a Resolution Authorizing the Executive Director to Enter into a Memorandum of Agreement (MOA) With Ocean County Regarding Proposed Development Projects at the Ocean County Airport Located within the Robert Miller Airpark Complex (See Resolution #PC4-12-20). Commissioner Rohan Green seconded the motion.

Ms. Wittenberg stated that the MOA has been discussed at length at numerous meetings. There have been some language changes based on discussions at the P&I Meeting.

Ms. Roth provided some background on the Robert Miller Airpark, also known as the Ocean County Airport, located in both Berkeley and Lacey Townships. The Airport is a pre-existing, non-conforming use partially located in the Preservation Area and partially located in the Forest Area. Ms. Roth pointed out the area of the proposed crosswind runway on an aerial photograph from 1976. The area of the crosswind runway, one of the proposed development projects covered by this MOA, had been cleared as of 1976 if not previously and is still maintained as a cleared area today.

New airport uses are not permitted in the Preservation Area, however the CMP allows up to a 50% expansion of pre-existing, non-conforming uses that have not been abandoned since January of 1981. The standard by which one determines 50% expansion is floor area ratio, capacity or use. The County has agreed that they have reached or exceeded this threshold, thus the need for a deviation from this standard. In addition, they need a deviation from the threatened and endangered species standards and wetlands and wetland buffer standards of the CMP. Numerous projects are being proposed as part of this MOA; however, the most significant are the crosswind runway and parallel taxiway. Obstruction removal is also necessary for safety, and will result in tree topping and tree removal. Ocean County has agreed to acquire 485 acres within a three-year period as part of the offset for this MOA.

Commissioner Harris expressed concern over the wildlife habitat that may be impacted by the proposed enhancements to the Ocean County Airport. Ms. Roth went into detail as to how the County plans to handle both threatened and endangered plants and animal species.

A discussion took place regarding concerns about reserving five acres for future development at the Airport. This area will be designated for potential future development projects that may occur to keep up with new technology.

Mr. David McKeon, Ocean County Planning Director, said future development cannot be anticipated, but it will be tied to any FAA safety issues or circular letters.

Before tabling the discussion, Chairman Lohbauer asked if there were any other comments or questions.

Commissioner Prickett asked Ms. Roth about the T&E exhibits associated with the MOA and the monitoring of those areas.

Ms. Roth said the County submitted a letter on June, 7, 2012, which is an addendum to the report entitled "Critical Habitat Survey for Endangered and Threatened Species for Proposed Airpark Improvement" and is dated February 22, 2007. This letter, which she just received, addresses the monitoring of the Northern Pine Snake and Sickle-leaved golden aster.

Commissioner Prickett asked if we could make reference to that letter in the MOA.

Ms. Roth said she would make reference to the letter received on behalf of the county regarding the monitoring of threatened and endangered plants and animal species in the MOA. She will also change wording in the MOA to state that the County will be reporting to the P&I Committee annually regarding the *implementation of the offset*, which will encompass both the acquisition and habitat issues.

Ms. Roth suggested adding a "whereas" clause in the resolution to reflect what type of development could occur on the five-acre area that will be reserved. Ms. Roth consulted with Mr. McKeon regarding the specific language to be added to the resolution to clarify the type of development that could occur there.

Ms. Roth read the proposed "whereas" clause that was decided upon.

Commissioners agreed that adding an additional "whereas" clause to the resolution would make them feel more comfortable about the future development of the five acres.

The Commission adopted the resolution by a vote of 14 to 0.

Chairman Lohbauer recognized Commissioner Prickett and Commissioner Lloyd for their assistance with this MOA.

At 10:40 am, Commissioner Galletta advised that he was signing off.

Public Comment on Agenda Items and Pending Public Development Applications

Mr. Lee Rosenson, Pinelands Preservation Alliance and NJ Audubon Society, questioned when is a public record considered closed and for whom is it closed. He referenced two instances where the Commission was not consistent with the comment period. He said when the Commission decides to close a record, that restriction should apply to everyone. He said he wants to defend the public's right to comment on matters of substance.

Miscellaneous Resolutions

Commissioner Haas moved the adoption of a resolution To Authorize the Executive Director to Continue to Expend Funds for Fiscal Year 2013 at the Same Level of Expenditures as Fiscal Year 2013 Budgets (See Resolution #PC4-12- 21). Commissioner Prickett seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0. Commissioner McGlinchey, Commissioner Brown and Commissioner Earlen were out of the room and did not participate in the vote.

Ordinances Not Requiring Commission Action

The following ordinances required no action:

- Barnegat Township Ord. 2012-13
- Egg Harbor Township Ord. 8-2012
- Town of Hammonton Ord. 024-2011
- Manchester Township Ord. 12-008
- Pemberton Township Ord. 2-2012
- Waterford Township Ord. 2012-08

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

Mr. Fred Akers, of the Great Egg Harbor Watershed Association, spoke of the new Somers Point/Ocean City Bridge built over the Great Egg Harbor River. He stated the construction of the bridge was the most expensive DOT project to date. He said the visitor's center, biking and hiking lanes, and fishing piers, make the bridge a destination.

He expressed concern over the Wastewater Quality Management Memorandum of Understanding that was recently completed. He said it is a big accomplishment to coordinate with the DEP. However, he felt the document overlooked something with management area changes. In particular, it is unclear whether the sewer service designation could be removed if a Regional Growth Area were converted to a Forest Area. He said he is assuming in advance that the Plan Review Committee will be discussing management area changes.

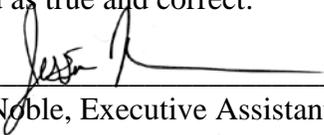
Lastly, Mr. Akers questioned the process used when staff undertake work outside of their Commission employment.

Ms. Wittenberg said anytime a state employee in any state agency is interested in working out of their normal state job, they must comply with the state ethics requirements. Each such instance is reviewed by Ms. Roth (State Ethics Liaison Officer).

Adjournment

Commissioner Ficcaglia moved to adjourn the meeting. Commissioner Witt seconded. The Commission agreed to adjourn at 10:50 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: June 19, 2012