

Disclaimer

These minutes reflect the actions taken by the Commission during its August 14, 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 August 25, 2015.

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

MINUTES

August 14, 2015

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, Bill Brown, Joe DiBello, Sean Earlen, Paul E. Galletta, Jane Jannarone (via telephone), Ed Lloyd, Ed McGlinchey, Richard Prickett, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Amy Herbold and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Gary Quinn and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:33 a.m.

DAG Sean Moriarty read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum. (Thirteen Commissioners participated in the meeting.)

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

Re-Organization

Chairman Lohbauer said the Committee assignments will remain the same, except he will serve as an alternate on the Personnel and Budget Committee and Commissioner Barr has agreed to serve on that Committee as well.

Minutes

Chairman Lohbauer presented the minutes from the July 10, 2015 Commission meeting. Commissioner Prickett moved the adoption of the minutes. Commissioner Barr seconded the motion.

Commissioner DiBello said that the economic monitoring program discussed during the budget presentation at the July meeting also includes environmental monitoring.

The minutes of the July 10, 2015 Commission meeting were adopted by a vote of 12 to 0, with Commissioner Avery abstaining.

Committee Chairs' Reports

Agriculture Committee

Commissioner McGlinchey provided an update on the July 31, 2015 Agriculture Committee meeting:

The Committee adopted the minutes of the June 16, 2015 meeting.

The Committee received a presentation from Ms. Susan Payne, Executive Director, State Agriculture Development Committee (SADC), on its Agricultural Management Practice for On-Farm Direct Marketing.

Commissioner McGlinchey said SADC provided a lot of useful information on pilot programs. He said the main point is that if a farm owner is holding a special event, it must be directly related to the agricultural activity.

The Committee will conduct its next meeting in October.

Policy & Implementation Committee

Chairman Lohbauer provided an update on the July 31, 2015 Policy & Implementation Committee meeting:

The Committee adopted the minutes of the June 26, 2015 meeting.

The Committee recommended Commission certification of Galloway Township Ordinance 1909-2015, Adopting a Redevelopment Plan for a Portion of the White Horse Pike Corridor Phase II – Pomona Road Redevelopment Area.

The Committee recommended that the Commission deem a 0.57 acre parcel of land in Medford Township as eligible for acquisition pursuant to the Limited Practical Use land acquisition program.

The Committee received a briefing on the Department of Environmental Protection's proposed Flood Hazard Area Control Act rules and discussed the comment letter being developed by Ms. Stacey Roth, the Commission's Senior Counselor.

Personnel & Budget Committee

Chairman Lohbauer said the August 4, 2015 P&B meeting was canceled.

MOA ad hoc Committee

Commissioner Ashmun said the Committee's next meeting will be held on September 25, 2015, immediately following the P&I Committee meeting.

Executive Director's Reports

Ms. Nancy Wittenberg updated the Commission on the following:

- The Municipal Officials Orientation was held as part of the Pinelands Municipal Council meeting on July 31. More than 50 officials attended the event, which featured several staff presentations.
- A Certificate of Filing was issued for the South Jersey Gas (SJG) pipeline application. The Certificate of Filing is not an approval but allows the applicant to proceed through the application process. She said, in this instance, the applicant will be continuing on to the Board of Public Utilities (BPU) for the equivalent of "local approvals." Staff will review the application one final time through the coordination process to ensure consistency with the Comprehensive Management Plan (CMP). She said the BPU will hold a public hearing and staff will look at the comments raised at the hearing for relevancy to CMP standards.

Commissioner Ashmun requested a copy of the Certificate of Filing issued for the South Jersey Gas application.

Commissioner Lloyd asked if Commissioners would have any future involvement with the application.

Ms. Wittenberg said the application would only be reviewed by staff.

Mr. Larry Liggett updated the Commission on the following:

- The State's Water Supply Advisory Committee has contracted with Dan Van Abs to look at water supply in the year 2040. Mr. Van Abs is currently mining data from the permit level. The study may look at groundwater recharge.
- Staff will meet with Winslow Township next month to discuss a major rezoning plan.
- A meeting has been scheduled with the New Jersey Builders Association to review future enhancements to the Pinelands Development Credits (PDC) Program.

- Staff has been working with multiple municipalities to explain the Commission's Rapid Landfill Assessment Study.

Mr. Chuck Horner provided an update on the following:

- Staff continues to work with Hammonton officials and the Federal Aviation Administration regarding a tree clearing issue at the municipal airport.
- On July 23, staff attended a meeting with both the U.S. Army Corps of Engineers and the New Jersey Department of Environmental Protection (NJDEP) about a mitigation site in Bass River Township. The site in question is a salt marsh that has become invaded with the invasive species phragmites.
- Staff continues to have discussions with the North Hanover School District on their proposal to demolish three existing schools at Joint Base McGuire-Dix-Lakehurst and construct a new one.
- Staff met with the Mayor of Shamong Township on July 29. At that meeting a proposal to construct a cell tower for emergency services was discussed. The project site is in a Rural Development Area. The applicant must demonstrate consistency with the Commission's Cellular Plan.

Mr. Horner asked Ms. Jean Montgomerie to introduce a summer intern who is assisting Regulatory Programs staff.

Ms. Montgomerie said Ryan Coughlan, a senior at Temple University, helped enter 25 new Threatened and Endangered species records into the GIS layer that is used to review development applications.

Mr. Horner commended Mr. Coughlan's dedication as an unpaid internship.

Public Development Projects and Other Permit Matters

Chairman Lohbauer presented a resolution recommending approval of four public development applications in Pemberton Township.

Commissioner Prickett recused himself and left the room.

Commissioner Avery moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1983-9616.003, 1984-0606.004, 1984-0606.005 & 1991-1108.010)(See Resolution # PC4-15-18). Commissioner Earlen seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0, with Commissioner Prickett not participating in the vote.

Commissioner Prickett returned to the dais.

Chairman Lohbauer presented a resolution recommending the approval of a solar facility at Joint Base McGuire-Dix-Lakehurst.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1991-1149.063) (See Resolution # PC4-15-19). Commissioner Earlen seconded the motion.

Commissioner Ashmun said she was happy to see that the Department of the Army would be purchasing the .50 PDC.

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

Resolutions Relating to Municipal Ordinances

Commissioner Avery moved the resolution Issuing an Order to Certify Galloway Township Ordinance 1909-2015, Adopting a Redevelopment Plan for a Portion of the White Horse Pike Corridor Phase II – Pomona Road Redevelopment Area (See Resolution # PC4-15-20). Commissioner Earlen seconded the motion.

Commissioner Ashmun prefaced her comments by stating that unfortunately she missed the discussion on this ordinance at the P&I Committee meeting. She said she would be voting no today because changing the height limitation in a Pinelands Village is the type of precedent the Commission should not be setting.

She said a lot of effort went into planning the Villages. She said the Commission should not be deviating from the CMP to approve a redevelopment plan. She said she understands the arguments but does not support this resolution.

Commissioner Prickett said he also had concerns over the precedent this ordinance would be setting.

Chairman Lohbauer said he respects Commissioner Ashmun's and Commissioner Prickett's views on this ordinance. He said this is an exception for a project not an authorization to overturn the height limitation in Pinelands Villages. He said he believes the change is consistent with surrounding development. He said this is a unique circumstance and this is the type of discretion we should allow.

Mr. Liggett said mixed-use development is somewhat rare in the Pinelands. He said we typically split the uses but, in this instance, retail development is proposed on the ground level and age-restricted apartments will be on the three stories above. He added that the White Horse Pike is a developed highway.

Commissioner Galletta asked if the development's proposal of age-restricted housing, would help fulfill Galloway's affordable housing commitment.

Mr. Liggett said the development of the units associated with the project will satisfy a portion of the Township's affordable housing obligation.

Commissioner Earlen said we should be thinking about developing up rather than out.

Commissioner Ashmun said if the CMP needs to be changed, then we should change it.

The Commission adopted the resolution by a vote of 10 to 2, with Commissioner Ashmun and Commissioner Prickett voting no. Commissioner Lloyd abstained from the vote.

Other Resolutions

Commissioner Prickett moved the adoption of a resolution Determining the Eligibility of a Parcel of Land for Acquisition by the Department of Environmental Protection Pursuant to the Limited Practical Use Program (See Resolution # PC4-15-21). Commissioner Ashmun seconded the motion.

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

Public Comment on Agenda Items and Pending Public Development Applications

Arnold Fishman of Medford Lakes, NJ, asked about the SJG application. He wanted to make sure he understood what the Executive Director reported on this morning and the next steps for the application.

Ms. Wittenberg said staff determined that the SJG application was consistent with the CMP. She said the application will move on to the BPU. The Commission will be part of that process to guarantee that the application remains consistent with the CMP.

Georgina Shanley of Ocean City, NJ, said it was a sad day for the Pinelands and was disappointed with the issuance of the Certificate of Filing for the SJG application.

Ordinances Not Requiring Commission Action

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

- Barnegat Township Ordinance 2015-03
- Monroe Township Ordinance O:15-2015 and O:23-2015
- Shamong Township Ordinance 2015-4

No members of the Commission had questions.

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

Georgina Shanley asked about the status of the New Jersey Natural Gas (NJNG) application.

Mr. Horner said staff issued a letter to the applicant requesting additional information. He said the application remains incomplete.

Margit Meissner-Jackson of the Ocean County chapter of the Sierra Club said that the power generated by BL England will go into the grid. She said a recent editorial in the Asbury Park Press indicated that the proposed NJNG pipeline and the SJG pipeline will create a surplus of a gas in the state. She said that allowing off-road vehicles at Wharton State Forest is a mistake.

Jeff Tittel of the Sierra Club raised concerns that the South Jersey Gas application process has not been open and transparent. He raised concerns over South Jersey Gas being a private development application. He said there seems to be conflicting arguments about who is being served by the plant. He said the power supplied by BL England is not going to Atlantic City Electric. He said the energy generated at BL England will be sold on the spot market to the highest bidder. He said electric use in New Jersey is declining. He urged the Commission to hire independent experts to provide information on this matter. He said the pipeline will increase air pollution and there is no evidence that the electric generated at BL England will serve the Pinelands. He closed by stating that the BL England plant is not necessary to the grid.

Doug O'Malley said we are in the current process because South Jersey Gas failed to apply for a Waiver of Strict Compliance. He said it is unclear what the Commissioners' role and the public's participation for the SJG application will be. He said the BL England plant is not necessary to the PJM grid. He suggested that the Commission bring in PJM or another independent analyst and not rely on the BPU. He said he hopes the Commission asserts its authority under the CMP to ensure that this matter ends appropriately.

Arnold Fishman of Medford Lakes asked members of the Commission to investigate whether staff's determination of the Certificate of Filing is proper.

Bob Filipczak of Linwood, NJ, said the press inaccurately quoted him as saying Oyster Creek should remain open and BL England should be closed. He said he never said shut BL England. He said Oyster Creek is destroying the Barnegat Bay. He said burning compressed gas creates micro-pollutants that are more harmful than burning coal. He said the repowering of BL England from coal to gas does not make sense.

Commissioner Ashmun asked about the future role of the Commissioners and staff regarding the SJG pipeline application.

Ms. Wittenberg said staff would re-engage through the State agency coordination process. She said staff will review the BPU-issued document to ensure consistency with the Commission's rules.

Commissioner Lloyd asked if there is a hearing at BPU and whether it will be the appropriate place for the public to comment on CMP related issues.

Ms. Wittenberg said yes. She added that at the last BPU hearing, members of the public raised CMP-related topics.

Commissioner Lloyd asked if a public hearing on the application could be held at the Commission.

Ms. Wittenberg said there is nothing in the rules regarding the process for a private application or state coordination that allows the Commission to conduct a public hearing.

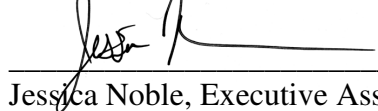
Chairman Lohbauer said the BPU issued an order on July 22, 2015. He said in that order the CMP issue of “primarily serve only the needs of the Pinelands” was raised. He said a lot of public comment surrounded that issue, and he said he is interested to see how the BPU will address it.

Chairman Lohbauer said the P&I Committee will not meet this month.

Adjournment

Commissioner Barr moved to adjourn the meeting. Commissioner Earlen seconded the motion. The Commission agreed to adjourn at 10:51 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: August 21, 2015