

Disclaimer

These minutes reflect the actions taken by the Commission during its March 14, 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 March 26, 2014.

PINELANDS COMMISSION MEETING¹

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

MINUTES

March 14, 2014

Commissioners Present

Candace Ashmun, Alan W. Avery, Jr., Bill Brown, Joe DiBello, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta, Robert Jackson, Ed Lloyd, Ed McGlinchey, Richard Prickett, Gary Quinn, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorneys General (DAGs) Helene Chudzik and Kristen Heinzerling.

Commissioners Absent

D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:36 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum.

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 February 21, 2014 Commission meeting minutes. Commissioner Ashmun moved the adoption of the minutes. Commissioner Jackson seconded the motion.

The minutes of the February 21, 2014 Commission meeting were adopted by a vote of 14 to 0.

Other

Chairman Lohbauer recognized Commissioner Ashmun's 90th birthday with cake and flowers. He said he only learned today that back in July that Commissioner Brown also turned 90. Chairman Lohbauer wished happy birthdays to both Commissioners Ashmun and Brown.

Committee Chairs' Reports

Policy & Implementation Committee

Commissioner Prickett updated the Commission on action from the February 28, 2014 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the January 6, 2014 meeting.

The Committee received a presentation from staff and USGS on the assessment of closed landfills in the Pinelands Area.

The Committee recommended that the Commission approve, with conditions, the *Town of Hammonton's Long Term Comprehensive Plan for Treatment and Disposal of Wastewater*. Municipal representatives provided new information regarding their interest in video-examining older vitreous clay sewer pipes to confirm whether their replacement is truly necessary. The Committee affirmed its interest in having further discussion of the matter at the Commission meeting.

The Committee received draft copies of the 2013 progress reports to the National Park Service for the Long-Term Environmental and Economic Monitoring Programs.

Personnel & Budget Committee

Commissioner Prickett updated the Commission on action from the March 4, 2014 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the October 29, 2013 meeting.

Acting Chairperson Prickett asked if the Commission should revisit the idea of holding a 35th Anniversary event. Following a discussion, the Committee agreed to discuss this idea with the full Commission.

Ms. Donna Connor told the Committee that the FY2013 Financial Statements, Schedules and Notes, will soon be ready for CPA review and discussed a one year extension with our current accounting firm. The Committee agreed. Ms. Connor noted that the FY2013 audit will likely begin the first week in April.

Ms. Connor provided information on the FY2014 Budget Update. She reported that application fees are extremely low and that we may receive only half of the budgeted amount. This necessitates budget revisions, which will be brought to the next Committee meeting. There was also a discussion concerning the need for an additional vehicle to meet the needs of the Science office for the upcoming field season. Following the discussion, the Committee agreed to pursue the purchase of a new vehicle now and will sell an existing vehicle at the end of the field season.

Chairman Lohbauer reminded Commissioners that there is a vacancy on the Audit Committee and, if anyone is interested, to please contact him.

Plan Review Committee

Commissioner Ashmun updated the Commission on the February 21, 2014 Plan Review Committee meeting:

She reminded Commissioners to contact her about any Plan amendments that they would like addressed as part of Plan Review. She requested that responses be received by March 21, 2014.

The Committee approved the October 11, 2013 meeting minutes.

Staff provided an update regarding the progress of the Plan Review report.

Staff noted that the first plan review rule proposal was published in the NJ Register on February 18, 2014. The public hearing for the proposal is scheduled for Wednesday, March 26 at 7 PM at the Commission's office. The rule proposal contains administrative efficiency improvements and an extension of time for the alternate design septic system pilot program for the FAST technology.

Staff met with Tom Hedden, Chairman of the Board of the New Jersey Trail Lovers Coalition, who provided an overview of organized off-road vehicle events from the early planning stages to the post-event cleanup activities.

Staff presented an introductory overview of the content of the Regulatory Programs and Public Information and Outreach chapters of the Plan Review Report.

The next meeting of the Plan Review Committee is scheduled for April 11, 2014 immediately following the full Commission meeting.

Chairman Lohabuer asked Commissioner McGlinchey to provide an update on the newly-created Ad-Hoc Committee to address staff raises.

Commissioner McGlinchey said the Committee did meet and he requested to go into closed session to further discuss the matter.

Closed Session Resolution

DAG Chudzik read a resolution to retire into closed session regarding collective bargaining. Commissioner McGlinchey moved to retire into closed session. Commissioner Jackson seconded the motion. The Commission agreed to retire into closed session by a vote of 14 to 0, beginning at 9:58 a.m.

Return to Open Session

The meeting resumed at 10:45 a.m.

Commissioner McGlinchey said that in closed session the following motion had been agreed upon:

To amend all necessary budgets, including the budget of the Pinelands Conservation Fund in order to move additional funds into the personnel component of the Commission's budget to increase it by 5% over the amount currently allocated and to explore additional appropriations for future funding. Commissioner McGlinchey moved the motion. Commissioner Ashmun seconded the motion.

Commissioner Lloyd suggested adding a dollar figure to the resolution, rather than just a percentage, because additional money would need to be added to cover other costs associated with staff salary increases, such as pension benefits.

Commissioner McGlinchey said he did not know what the dollar figure would amount to, and said he wanted to leave it at 5%.

Commissioner Earlen said he agrees with the intent of the resolution and that Commission staff need salary increases. However, he said he does not support the resolution because it conflicts with the ongoing collective bargaining negotiations.

The motion passed by a vote of 12 to 2 with, Commissioners Earlen and Avery voting no.

[Secretary's Note: The Governor vetoed the above motion on April 7, 2014.]

Executive Director's Reports

Ms. Nancy Wittenberg updated the Commission on the following:

- The Pinelands Short Course was held this past weekend at The Richard Stockton College of New Jersey. The new location was a great success. She said Commissioner Prickett attended.
- Staff met with the New Jersey Department of Environmental Protection (NJDEP) to continue discussions regarding forestry permitting issues.
- Two staff members, Donna Connor and Karen Young are retiring at the end of May. Recruitment for the Business Manager position, is underway.
- Ms. Wittenberg introduced the Commission's newest employee, Lisa MacCarrigan. She said Lisa was hired as a Regulatory Program Specialist and noted that Lisa grew up in the Pinelands.

Commissioner Prickett said the Short Course was a great event and congratulated staff on another successful year.

Mr. Larry Liggett updated the Commission on the following:

- The Water Supply Advisory Council has begun to release data appendices to the Water Supply Master Plan. The New Jersey Geological Survey recently released a report on the low-flow margin method, something the Commission may want to utilize for the Kirkwood-Cohansey data.
Direct Link: <http://www.njgeology.org/pricelst/tmemo/tm13-3.pdf>
- The public hearing on the pending rule proposal will be held on March 26, 2014 at 7:00 p.m. and the public comment period will close on April 19, 2014.

Mr. Charles Horner updated the Commission on the following:

- Staff met with Ocean County to discuss an application concerning the Cedar Bridge Tavern. Ocean County is proposing renovations to the tavern, to allow it to be used as a museum and interpretive center. The County is also proposing the construction of a caretaker dwelling.
- The Commission is working with NJDEP regarding a threatened and endangered plant that was identified in the vicinity of the proposed development area of Martha's Furnace pedestrian bridge. The Commission approved the reconstruction of the bridge some time ago but the project has been delayed because of the plant. Talks continue on how to avoid impacts on the plant.
- The Commission continues to work out the details of an expansion to an existing Walmart in the Town of Hammonton. The current stormwater basins are not functioning properly.
- Staff is meeting with Washington Township officials to discuss managing and permitting campgrounds.

- The Robert Miller Airpark cross-wind runway is nearly constructed; however, staff continues to spend time discussing related matters with local government entities.

Commissioner Ashmun asked if the Cedar Bridge Tavern parcel is deed restricted. Ms. Rhonda Ward said she did not believe so. Commissioner Ashmun was concerned that the integrity of the use could be jeopardized. Commissioner Avery said the parcel is not deed restricted. Mr. Horner said that as the application progresses, he would continue to provide updates.

Public Development Projects and Other Permit Matters

Commissioner Galletta moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1981-1833.063, 1981-1833.068, 1981-1833.069 & 1981-1833.071) (See Resolution # PC4-14-07). Commissioner Witt seconded the motion.

Mr. Liggett left the room.

Commissioner McGlinchey asked if the violations at Stockton had occurred after the Master Plan agreement.

Mr. Horner said that during the Master Plan process, existing violations were found. Commission staff worked with Stockton to identify the violations and create a mechanism to resolve them.

Mr. Horner said some of the violations are being legitimized through the application that the Commission is about to vote on. Some development that took place without application is being resolved by actual removal. He said other than that, there have been no additional violations.

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

Commissioner Galletta, a resident of the Town of Hammonton said today he would leave the room for the discussion on the applications related to Hammonton. He then said in the future he will not be leaving the room when Hammonton applications are on the agenda. He said he thinks it's disruptive to leave the room for the discussion and he does not believe that his presence in the room will influence the vote. He said unless the DAG can provide him with specific case law, he will not be leaving the room in the future.

Commissioner Galletta left the room. Commissioner McGlinchey said he needed to depart the meeting.

Commissioner Prickett moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1993-0360.004 & 2013-0151.001) (See Resolution # PC4-14-08). Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Galletta returned to the meeting and Commissioner Prickett recused himself and left the meeting room.

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 1982-2906.008) (See Resolution # PC4-14-09). Commissioner Lloyd seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0.

Public Comment on Agenda Items and Pending Public Development Applications

Richard Bizub of the Pinelands Preservation Alliance said PPA supports the Hammonton Wastewater Plan with the conditions that Staff has incorporated into the plan. He said Hammonton's management of water supply has an impact on the disposal of wastewater. He also commended Hammonton for the steps it has taken towards the ultimate goal of keeping the discharge out of Hammonton Creek.

Temma Fishman, requested a copy of the NJDEP agreement that Ms. Wittenberg mentioned during her report. Ms. Wittenberg said the meeting with NJDEP was to discuss the process of reviewing NJDEP's forestry applications and ways the process could be improved. There is no formal agreement.

Ordinances Not Requiring Commission Action

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

- Lakehurst Borough Ordinance 2014-01

No members of the Commission had questions.

Other Resolutions

Commissioner Galletta recused himself and left the room.

Ms. Wittenberg said staff has been working diligently with Hammonton's current administration in an effort to resolve the long standing issue of discharge into Hammonton Creek. She said the resolution has been revised since the Policy and Implementation Committee meeting and Ed Wengrowski will review those changes.

Mr. Wengrowski said that in December of 2010 the Town of Hammonton sought approval of an increase in water allocation. Staff raised concerns during the application process that an increase in water allocation would produce more wastewater, which was already an issue for the Town dating back to 1991. Included in the water allocation approval were

certain stipulations including no increase in wastewater discharge to Hammonton Creek. In addition, the Boyer Avenue Land Application facility was required to accommodate a certain amount of wastewater. Lastly, a Long Term Comprehensive Plan for Treatment and Disposal of Wastewater was to be prepared with the consultation of Commission staff, which is the subject of today's discussion. Mr. Wengrowski provided details of the revisions that were made to the resolution. (Please refer to the attached presentation slides.)

Ms. Wittenberg said that in accordance with N.J.A.C. 7:50-4.5, language will be added to the resolution that in the event there is an emergency as it relates to Hammonton's discharge of wastewater to Hammonton Creek, the Executive Director will consult with the Chairman, prior to taking any action.

Mr. Wengrowski said that if there is no progress with this plan, the Executive Director can call up proposed development in Hammonton.

Commissioner Lloyd moved the adoption of a Resolution To Approve With Conditions Hammonton's Long Term Comprehensive Wastewater Plan to Eliminate the Discharge of Treated Wastewater to Hammonton Creek (See Resolution # PC4-14-10) Commissioner Prickett seconded the motion. Please note the motion included the above amendment of N.J.A.C. 7:50-4.5.

Hammonton Mayor Steve DiDonato thanked the Commission and staff for a fair and honest representation of the situation, and he promised to work diligently to achieve the same goal.

Commissioner Prickett said he was impressed by how well all the parties involved worked together.

Chairman Lohabuer said the plan allows for flexibility and he thanked the residents of Hammonton.

The Commission adopted the resolution by a vote of 12 to 0.

New Jersey Pinelands Electric Transmission Right-of-Way Vegetation Management Plan

Mr. Horner said that during the 2000's Commission staff and utility companies struggled with Right-of-Way (ROW) vegetation maintenance applications. As part of an offset from the 2004 Memorandum of Agreement (MOA) with the Board of Public Utilities (BPU) a contribution to the Pinelands Conservation Fund was made for the development of a vegetation management plan.

Mr. John Bunnell provided background information. In August of 2003, the Northeast experienced a blackout, and the cause was determined to be due to the failure to trim trees in and around electric transmission lines. Federal efforts required the removal of woody species from electric transmission ROWs. At the state level, the New Jersey Board of

Public Utilities implemented vegetation management rules. Around the same time, as Mr. Horner mentioned the Commission's Regulatory Programs Staff was exerting great effort to review vegetation maintenance activity applications coupled with the offset requirements of 2004 BPU MOA, Commission staff contracted with the Rutgers University Center for Remote Sensing and Spatial Analysis and partnered with numerous utility companies to create a Pinelands-wide vegetation-management plan. In 2009, the Commission adopted rules for a ROW maintenance plan as a ten-year Pilot Program. (Please see presentation slides for additional details.)

Ms. Jean Montgomerie updated the Commission on the progress report, which is required as part of the pilot program. She said the report must address three things: type of vegetation management activities that were utilized, significant issues, and the need for amendments to the ROW plan. Ms. Montgomerie provided a brief overview of each and highlighted the vegetation maintenance activities completed during 2011, 2012 and 2013. (See presentation slides for additional details)

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

Theresa Lettman of Pinelands Preservation Alliance said she attended the Short Course at Stockton and enjoyed it. She said she was while at Stockton she noticed electronic signs, one of which was very large and changed every eight seconds in a range of brightness and colors. She said she reviewed Galloway Township's ordinance which, does not permit such signs, an ordinance that this Commission has adopted. She said when reviewing changes to the Plan regarding electronic signs to take into consideration the human view as well as the effects the light has on wildlife. She provided two reports on ecological light pollution.

Fred Akers of the Great Egg Harbor Watershed Association commended Chuck Horner for his role in resolving failing stormwater basins. He also said that the update in the 2013 4th Quarter Management Report for the New Jersey Board of Public Utilities MOA failed to mention the date the MOA was made available to the public. He read an excerpt from the 2004 MOA with BPU that stated there was critical need for improvement to the grid in South Jersey. He then provided testimony as to why he thinks South Jersey has plenty of electric stability. He said South Jersey Gas made improvements in 2004 when they upgraded a 20 inch pipe to a 24 inch pipe and directionally drilled under the Great Egg Harbor River. He said maybe this was for the casino expansion that never happened. He said maybe the 2004 improvements are enough.

Bill Wolfe recommended changing the process for pre-application meetings and conducting business with other inter-governmental agencies. He said Plan Review should address the impacts of climate change on Pinelands forests. He believes, although not a biologist, that there is a direct link between climate change and the Southern Pine Beetle infestation and linear infrastructure. He said right-of-ways can be migratory corridors. He said he would try to submit his recommendations in writing. He said regarding today's Hammonton discussion, the NJDEP does not have a policy under the Clean Water Act to eliminate discharge. He said the Hammonton issue stems from the NJDEPS permit, which was not validly issued.

Georgina Shanley said she was saddened by the ROW presentation, and the Commission does not have enough staff to supervise such projects. She said the Pinelands should remain undisturbed. She said that South Jersey Gas was cited by the NJDEP for a polluted site in Atlantic City. She said under the Christie Administration, there has been a 60% drop in enforcement on these types of violations.


Adjournment

Commissioner Jackson said after seeing the ROW presentation, it is amazing the amount of work our staff does.

Commissioner Lloyd provided further comment on the Hammonton discussion and the National Pollution Elimination Discharge System. He said the Clean Water Act of 1972 called for the elimination of all discharges into water in the United States by 1985. He praised staff for today's work on Hammonton and said we should be proud that we are protecting an Outstanding National Resource Water.

Commissioner Avery moved to adjourn the meeting. Commissioner Ficcaglia seconded the motion. The Commission agreed to adjourn at 1:01 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: 4/10/14