

MAURICE RIVER TOWNSHIP LAND USE BOARD

Meeting Minutes: May 4, 2011

Present: B. Stowman, Chairman, C. Thompson, V. Chairman, Mayor K. Ireland, Committeeman K. Langley, R. Chard, J. Carrara, R. Hoffman, C. Morrissey, Engineer, T. Cuviallo, Planner and M. Benson, Solicitor.

The Chairman announced that this meeting was held in accordance with the Open Public Meetings Act of New Jersey.

The minutes of the 4-6-11 meeting were approved on a motion by Carrara and seconded by Langley. Ireland, Thompson and Hoffman abstained. All others voted in favor of the motion.

The Secretary announced receipt of the following correspondence:

1. Notice from Water's Edge Environmental, LLC of an application to DEP for a wetlands boundary line verification for Dorchester Shipyard, property known as Block 252, Lots 20 & 21; Block 272, Lots 15, 16 & 16.01 and Block 274, Lots 1-4.
2. Announcement of an ANJEC workshop, "Planning for Solar Development" on Monday, 5-16-11 in Gloucester City.
3. Notice of a Green Acres public hearing on 5-10-11 at the Municipal Bldg. to obtain comments on the proposed administrative transfer of Block 222, Lot 1 between the Nature Conservancy and the NJ DEP. (4.9 acres at the Maurice River Bluffs Preserve)
4. Copy of a Pinelands Recreation Permit granted to NEOC for the use of Block 117, Lots 13 and 17.01 for a two-day recreational vehicle event to be held on 4-16-11 and 4-17-11.
5. Announcement from Cumberland County Planning Director, Bob Brewer, that a presentation of the final draft of the CC Open Space and Recreation Plan would be held on this date.
6. Correspondence dated 4-12-11 and 4-21-11 from Rebecca J. Ashton with regard to the Jack Lafferty matter.

WHIBCO, INC.
Resource Extraction Renewal (Site #2)

Block 248, Lot 4
Weatherby & Hunters Mill Rd.

This conditional use/major site plan application introduced at the 4-6-11 meeting. The application was deemed incomplete at that time. An announcement was made that this matter would be carried over to the May meeting without further public notice.

Richard Hluchan, Esq. represented the applicant. He stated that the plans had been revised in accordance with comments and discussion from the April meeting.

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Cormac Morrissey, Land Use Board Engineer, discussed his review report dated 5-4-11. He noted that the company had substantially addressed the Board's concerns with the exception of a couple of items.

#11 Additional grading information was received for the area to be mined, however, proposed grades for the reclamation area still need to be provided but he felt that the Board could move forward.

#12 The applicant must address the Board's concerns with regard to the identification of specimen trees. Also, in the proposed reclamation area, 2 ft. contours were still needed. This was not severe enough to deem application incomplete and could be shown on the final plan.

#13 Waivers – Checklist D Items

- a) Plan Scale – No objection.
- b) Site Plan Certified by Land Surveyor – References to a previous survey were provided. No objection to waiver. Application was augmented with adequate topography.
- c) Reference to the topographic datum used was provided. No objection to the waiver.
- d) Waiver of all State and Federal approvals should be conditioned on receipt of such approvals prior to the issuance of the permit renewal.
- e) Drainage Facilities – waiver requested as the proposed depth of excavation is above the seasonal high water level. If the waiver is granted it should be limited to the current proposal.
- f) Survey – References to a previous survey were supplied. No objection to waiver.

#14 Section 35-19.6.A.7 requires a topographic map of the property. Waiver is requested due to the size of the property. Topographic maps have been provided showing 2 ft. contours in areas to be excavated. The maps should also show proposed 2 ft. contours in the 2011 reclamation area.

Tiffany CuvIELLO, Board Planner, reported that a very thorough Environmental Impact Statement has been submitted and the applicant has addressed the threatened and endangered species requirements.

Lance Landgraf, Jr., NJ Licensed Professional Planner with Marathon Engineering was sworn in. He testified previously before the Board and was again accepted as an expert witness.

Landgraf introduced Exhibit A-1 as a reproduction of the company's reclamation plan with lidar topography and showing 3/1 side slopes in two small areas where there are buffers along the road.

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Morrissey responded that some trees may need to be removed in order to create the slope and that there were three areas that needed to be fine tuned with proposed grades.

Bob Williams, State Certified Forester, employed by Land Dimensions Engineering, was sworn in. He gave his credentials and was accepted as an expert witness. He stated that the letter provided dated 4-25-11 with regard to specimen trees, was of a general nature. He testified that he has since walked the site and found no specimen trees. He went on to explain that a specimen tree has exemplary or unique characteristics. They are normally very large or very old but also may have a cultural aspect which makes it unique.

Stowman stated that something more specific was needed in his letter.

On a motion by Carrara, seconded by Chard and a unanimous vote, the application was deemed complete with the requested waivers and recommended conditions.

Morrissey proceeded with the technical review portion of his 5-4-11 report.

15. Morrissey noted that the applicant requested a reduction of the bond amount. Hluchan stated that they will no longer seek that reduction.
16. The plan currently shows several areas of buffer encroachments along Weatherby and Hunters Mill Rd that will be restored in 2011. A small area within the buffer along Weatherby Rd. has not been reclaimed as stated on the plan. This area must be scheduled for reclamation in 2011 and shown as such on the revised plans. Also, clear marking of the buffer limit is needed so that further encroachment does not occur.

Landgraf stated that the buffers will be completely restored and notes will be added to the plan for those areas to be reclaimed in 2011. Also a grading schedule will be added. The Hunters Mill Rd. side will be re-graded and the buffer restored starting this summer. A galvanized pipe painted orange will be placed every 200 ft. and a tree will be blazed every 200 ft. to clearly show where mining should stop.

17. The applicant agreed to do three soil borings in the area proposed for excavation to determine the seasonal high water table. The borings will be witnessed by Morrissey. Landgraf pointed out where the borings would be done. Stowman suggested that a boring be performed at the lower end where the SHWT may be high.
18. Plans should indicate the limit of mining that occurred under the current permit.
Landgraf
stated that a bold red line will be added to the map depicted in Exhibit A-1 to show this.

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19. The proposed excavation for the next permit period does not appear to come near to the 300 ft. wetlands buffer. However, it should be verified during the time of each annual inspection, that the 300 ft. wetlands buffer is being maintained.
20. Cuiello stated that she was concerned that the language and maps in the Environmental Impact Statement show added areas, some of which are now proposed to be removed from the plans. It was determined that a disclaimer for the front of the EIS report should state that those particular areas will no longer be added and the sites are limited to what is included in the permit.

Cuiello further stated that the Certificate of Filing notes that the threatened and endangered species study documents the presence of barred owls in the area of the proposed mining. Additional information is needed to demonstrate that the proposed mining is consistent with threatened and endangered species standards.

Don Brickner, Environmental Scientist with Marathon Engineering, stated that Clemmys Environmental Services did a barred owl survey during 2007-2008. Their report concluded that the mining activities proposed at Site #2 would have no negative impact on the barred owl population in the area.

Brickner further stated that one barred owl was heard in May of 2007. He explained that they are sometimes lured into the site by the call. This site may be suitable habitat, but not critical habitat. There is no nesting or foraging evident. The site is not conducive for breeding and there is ample area adjacent to the site.

Hluchan stated that Pinelands is still reviewing this matter and could still require additional information.

Brickner stated that Pinelands asked for more information concerning the Cooper's Hawk. Clemmy's 2007 survey was supplemented with another survey performed in 2009 and there was no evidence found regarding the Cooper's Hawk.

21. Applicant agreed to blaze trees and install painted pipes above grade to mark buffers.
22. Applicant agreed to restore grades at a 3:1 slope within the buffer encroachment which may require the removal of some vegetation. Revegetation will take place on top.

Hluchan stated that he believed the company has satisfied Pinelands and Township standards.

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Wade Sjogren, President of Whibco, Inc., was sworn in. He was questioned about a sign on Port Elizabeth-Cumberland Rd. regarding official clean up. Sjogren also confirmed that the hours of operation would remain the same.

On a motion by Ireland, seconded by Thompson and a unanimous vote, the public hearing was opened.

Michael Pollum of Quaker St., Port Elizabeth was sworn in. He stated that he had no objection to the application, however, he asked that the truckers be reminded to clean off their trucks before heading out on the public road and not to use jake brakes as they are going through town.

Rebecca J. Ashton of Dorchester asked if the entire meeting was being devoted to Whibco. Stowman responded that there are a few other items on the agenda and that there would be a time for general public comment after the Whibco matter was completed.

On a motion by Ireland, seconded by Thompson and a unanimous roll call vote, the conditional use/major site plan application was approved subject to the conditions of approval discussed in the engineer's report and the revisions required to make the A-1 drawing compliant.

**WHIBCO, INC.
Resource Extraction Renewal**

**Sites 1 and 3-7
Various Blocks/Lots**

This conditional use/major site plan application for resource extraction renewal was introduced at the April meeting. The application was deemed incomplete at that time. An announcement was made that this matter would be continued at the May meeting without further public notice.

Richard Hluchan, attorney for the applicant, stated that the Certificate of Filing should be issued soon. He further stated that the applicant has amended its application to remove those parcels where the current zoning would require a use variance to allow resource extraction.

Hluchan then informed the Board that the application is now a matter of re-approving what has been previously approved and asked if that relieved them from providing lidar data.

Morrissey stated that a survey or limited survey was required. Submission of the lidar data was proposed by the applicant in lieu of a survey.

Landgraf stated that the lidar data was proposed for saving time as well as cost. No new areas are proposed for sites 1 and 3-7. The applicant will return in the summer or fall to amend the application for the new areas.

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David Wood, NJ Licensed Professional Engineer was sworn in. He stated that he prepared the plans and could provide previously approved plans that exclude any new mining areas. The new mining limit is not being extended.

Wood and Morrissey will go over what needs to be done to submit an acceptable plan to the Board for renewal of the previously approved mining areas.

Hluchan asked that an announcement be made that the application be carried over to the June 1st meeting to resolve the notice issue. The Certificate of Filing should be in hand by that time and we should be able to go through completeness.

Stowman stated that the same comments regarding blazing the trees along the buffer would apply here as on Site #2.

Morrissey stated that some studies have been done on hydraulic impacts and the Board will want to hear about that.

Stowman asked about unusual activity at the Dorchester site. Wade Sjogren stated that he was not aware of any activity other than the usual, but he would look into it.

A site inspection of the remaining sites was scheduled for Tuesday, 5-17-11 at 4 PM. Carrara and Chard are not available. Jim Pflaumer will be asked to attend.

Benson announced that this matter remains incomplete and will be continued at the 6-1-11 meeting with no further public notice.

Report on ANJEC Sea Level Rise Workshop

Stowman reported that he attended this workshop on 4-11-11 and was encouraged that our area is getting some attention. If the sea level rise were to continue at its current rate, it could rise 39 inches in the next 100 years.

Stowman further stated that he brought up the concern regarding the area of Basket Flats. Danielle Kreeger, PhD, with the Partnership for the Delaware Estuary, was one of the speakers at the workshop. She agreed that we have a drastic need and was very interested in this historic area. She stated that there has been some success with mollusk tubes that would help to sustain the banks. Also, jetties and berms can be reinforced with spoils from the dredging of the Delaware River.

Carrara added that the dredge spoils and then grass would hold it all together.

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It was also noted that Committeeman Langley is looking into the possibility of acquiring a FEMA grant to prevent flooding.

Stowman concluded that more support is needed and he is hoping that we get the much needed support and attention to address these issues.

Solar Amendments to the Pinelands Comprehensive Management Plan

Tiffany CuvIELLO, Board Planner, prepared a report dated 5-4-11 regarding her review of the proposed CMP amendments that will regulate the siting of solar energy facilities in the Pinelands. The public hearing will be held on 5-19-11 and written comments will be accepted through 6-17-11.

Currently, solar facilities are permitted as an accessory use. The proposal addresses solar facilities as principle uses. Municipalities will have discretion in where to allow the facilities in keeping with Pinelands regulations. The new regulations do not mandate solar facilities.

CuvIELLO explained that the proposed regulations specifically address solar facilities on landfills and resource extraction sites. Maurice River Township is interested in solar as a future use of the old landfill located on Rt. 47 and Hunters Mill Rd., which is currently in a Rural Development District. The Commission has proposed this area for change to Forest Area District. She discussed the differences in the requirements relating to each district as outlined in her report.

Regulations for resource extraction sites permit solar facilities in the Forest Area with restricting the use to previously mined areas that are under no obligation for restoration.

Senate Bill 2126 creates requirements to permit solar facilities on all landfills and resource extraction sites, preempting the Township's discretion and is expected to be passed this summer.

The Board was further advised that there are technical assistance grants available, sponsored by the EPA, to evaluate a site for a potential solar facility.

There was discussion with Morrissey regarding the types of things that a landfill closure plan would include.

There being no further business, Chard motioned to adjourn at 9:03 PM. Hoffman seconded. Unanimous.

Respectfully submitted,
Barbara Sutton, Secretary

