

Holland Township Environmental Commission Minutes

April 3, 2013 – 7 pm Meeting - Reorganization

Chairman Keady called the meeting to order. He read the Open Public Meeting Act. All stood for the pledge of allegiance. All were reminded to turn off their cell phones or put them in silent mode.

Members Present: Jerry Bowers, Henry Gore, Ted Harwick , Chairman Michael Keady, Christopher Meyers, and Secretary Maria Elena Jennette Kozak.

Members Absent: N/A

Township Committee Liaison: Ray Krov.

Let the record show we have a quorum.

Minutes: A motion was made by Jerry Bowers and seconded by Ted Harwick to approve the minutes of December 5, 2012, January 2, 2013 and February 6, 2013 as received. All present were in favor. Motion carried.

Sub-Committee:

Stormwater Education – Mike Keady, Ted Harwick and Maria Elena Jennette Kozak as Secretary Kozak. Some discussion took place regarding the assembly programs planned for the Holland School as some other ideas for community day. Secretary Kozak will also find out more information from some governmental programs such as the Ambassador program to see if they can provide information or attend our community day. Rutgers Extension has the Rain Barrel program and this can also be explored. Secretary Kozak will also see if the waste haulers have any programs for community day.

Trails – Chris Meyers (chair), Henry Gore and Ted Harwick. Past ideas included publicity on existing trails. Additional discussion has taken place about connections needed for trails that end and begin again with nothing connecting them. This gets into an open space and acquisition of land discussion. The Dennis Road/519 trail to the Delaware River is a major focus on connection. After a lot of discussion about trails, Greenways, Hunterdon Land Trust and other agencies, it was decided that public education was a priority. A suggestion was made that this subcommittee create a Trail Map of current trails which would help future discussions of future trails. Chris Meyers expressed that due to work restraints, he is unable to spearhead the development of a trail map over the next few months. Henry Gore and Ted Harwick will work on a prototype map for the next scheduled meeting. Henry Gore asked about the proposed Riegel Ridge walkable trail and Liaison Krov said he would look into what progress is being made.

ERI – Jerry Bowers (chair), Mike Keady and Henry Gore. Progress is being made. A meeting with the Highlands Council and the Planner has taken place with more information to follow. The goal is to have something to the subcommittee to review at the May 1 meeting. Chairman Keady will indicate “accept all the changes” on his electronic copy of the original document forwarded to the township and will add the subcommittee comments to the document for Planner Mike Mueller to review. Once Mr. Mueller has reviewed the document, it will be submitted to the Highlands Council for their review. The ultimate document will come back to the Environmental Commission for review and

recommendation to the Planning Board for adoption. The Planning Board will handle the adoption process which includes a public hearing. Chairman Keady explained that Mr. Mueller will also be working on the Master Plan document and that the Planning Board could undertake the adoption process of the ERI and the Master Plan at the same time. One Public Hearing for both documents. Liaison Krov asked for clarification of the process. Everyone has agreed that the public should have the opportunity to review the documents. At the current time, because Holland Township adopted the checklist ordinance we are protected as the Highlands Council does review our applications.

Web Page – Chris Meyers (chair), Jerry Bowers – Nothing to report as the Township still has to determine what they want to do.

Shade Tree and Community Forestry Plan Sub-Committee – Henry Gore and Maria Elena Jennette Kozak as secretary. The DEP has verbally approved the grant. A discussion will need to take place regarding selecting a consultant. We do not have money in place. The DEP will recommend people to perform the service (a list will be provided as these people are committed to the project and have worked with the DEP on the criteria). The Environmental Commission wants to send out proposals and be involved with the selection. Liaison Krov stated that if the amount is just \$3,000.00 then the EC can make the recommendation and then have Secretary Kozak submit a voucher. The Holland portion is in-kind. Once the commitment is received then plans can be made on how to move forward.

2013 Long Term Goals for the Environmental Commission:

Jerry Bowers presented a “TO DO” list. It is as follows:

To Do List:

- Complete the ERI
- Complete business notification process re recycling
- Develop a Shade Tree and Community Forestry Plan
- Institutionalize EC review of site plans (with PBP)
- Complete webpage for the EC
- Develop a current/proposed trail map
- Identify HC resources available for site mitigation at Warren Glen and Hughesville mills

Henry Gore presented a “TO DO” list. It is as follows:

Proposal for Environmental Commission Goals

- Expedite Highlands planning in Holland.
Complete ERI inventory. Guide ERI features into Holland Master Plan update.
Re-establish communication with Highlands Council
- Establish a Community Forestry Management Plan.

- Establish a Holland Trails plan.
 - Riverways
 - Open land connectors.
 - Grant applications.
 - Integration with state Trails Master plan

- Establish a Holland Viewshed list for later inclusion into ERI.
 - Identify public scenic views
 - Get input from townspeople
 - Identify "most valuable" areas for needed protection.

- Investigate and propose "green" building ordinances.

- Support Holland recycling.
 - Business's support
 - New opportunities, such as promoting whole fallen tree log recovery

- Solar electric
 - Identify ways to protect farm and open land use
 - Ordinance revision if necessary
 - Promotion of solar on township roofs, parking lots and waste areas.

- Fish, wildlife and flora
 - Inventory existing species and habitat
 - Promote management plans for deer damage

After much discussion, The Environmental Commission decided that at the next scheduled meeting they would have a "brain storming session" to determine the 2013 Goals. Secretary Kozak will gather some material for this "Brain Storming Session".

Assembly Bill 3218 – removing "inherently beneficial" from solar Installations on farmland.

ASSEMBLY, No. 3218
STATE OF NEW JERSEY
215th LEGISLATURE
 INTRODUCED JULY 30, 2012

Sponsored by:

Assemblywoman ALISON LITTELL MCHOSE

District 24 (Morris, Sussex and Warren)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblyman GARY R. CHIUSANO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Modifies "inherently beneficial use" definition for purposes of zoning variance to discourage siting of wind and solar energy facilities on agricultural land and open space.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning wind and solar energy facilities under local zoning and amending P.L.1975, c.291.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to read as follows:

3. For the purposes of this act, unless the context clearly indicates a different meaning:

The term "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action.

"Administrative officer" means the clerk of the municipality, unless a different municipal official or officials are designated by ordinance or statute.

"Agricultural land" means "farmland" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3).

"Applicant" means a developer submitting an application for development.

"Application for development" means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

"Approving authority" means the planning board of the municipality, unless a different agency is designated by ordinance when acting pursuant to the authority of P.L.1975, c.291 (C.40:55D-1 et seq.).

"Board of adjustment" means the board established pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69).

"Brownfield" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of contaminant, as included in the "Brownfields Redevelopment Task Force" inventory, developed pursuant to section 5 of P.L.1997, c.278 (C.58:10B-23).

"Building" means a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

"Cable television company" means a cable television company as defined pursuant to subsection g. of section 3 of P.L.1972, c.186 (C.48:5A-3).

"Capital improvement" means a governmental acquisition of real property or major construction project.

"Circulation" means systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

"Common open space" means an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

"Conditional use" means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefor by the planning board.

"Conventional" means development other than planned development.

"County agriculture development board" or "CADB" means a county agriculture development board established by a county pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-14).

"County master plan" means a composite of the master plan for the physical development of the county in which the municipality is located, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to R.S.40:27-2 and R.S.40:27-4.

"County planning board" means the county planning board, as defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county in which the land or development is located.

(cf: P.L.2004, c.2, s.32)

2. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to read as follows:

3.1. "Days" means calendar days.

"Density" means the permitted number of dwelling units per gross area of land to be developed.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any

use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this act.

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance, and in accordance with recognized environmental constraints.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this act.

"Development transfer" or "development potential transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance.

"Development transfer bank" means a development transfer bank established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the State TDR Bank.

"Drainage" means the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

"Environmental commission" means a municipal advisory body created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of the site.

"General development plan" means a comprehensive plan for the development of a planned development, as provided in section 4 of P.L.1987, c.129 (C.40:55D-45.2).

"Governing body" means the chief legislative body of the municipality. In municipalities having a board of public works, "governing body" means such board.

"Historic district" means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic site" means any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance.

"Inherently beneficial use" means a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure so long as the wind, solar or photovoltaic energy facility or structure is located on or above a parking lot, rooftop, or brownfield, and not within agricultural land or open space.

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer.

"Interested party" means: (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this act, or whose rights to use, acquire, or enjoy property under this act, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this act.

"Land" includes improvements and fixtures on, above or below the surface.

"Local utility" means any sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); or any utility, authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

"Lot" means a designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

(cf: P.L.2009, c.146, s.1)

3. This act shall take effect immediately.

STATEMENT

This bill would modify the definition of "inherently beneficial use" in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) so that wind and solar or photovoltaic energy facilities are only included if located on or above a parking lot, rooftop, or brownfield, and not within agricultural land or open space.

If a use is held to be inherently beneficial, it presumptively satisfies the positive criteria for the grant of a use variance under subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70), which is required when the proposed use is inconsistent with the zoning plan. Presently, "inherently beneficial use" is defined as "a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure."

This bill narrows that definition so that wind and solar or photovoltaic energy facilities are only included if located on or above a parking lot, rooftop, or brownfield, and not within agricultural land or open space. This modification would help to restore balance between the State's effort to encourage alternative energy development, and the equally important goal of preserving open space.

There has not been a companion Senate Bill introduced. A 3218 was introduced in July 2012 and there has not been a hearing yet. It is not on the calendar for a vote. Chairman Keady has discussed this bill with outside sources and was told that the bill is not going anywhere. Ted Harwick felt that he does not believe we should ask the governing body to do something that is not going anywhere. Henry Gore expressed the opposite opinion that the Environmental Commission is the voice of the town for environmental issues and that we need to write a letter to not only the governing body but the governor, the assembly and the senate on our opinions. Secretary Kozak expressed major concerns with that concept and reminded the Environmental Commission that she believed that the role here is to recommend things to the Planning Board who then makes recommendations to the Township Committee. Secretary Kozak expressed that she would check with the township committee on protocol. Chairman Keady said in regards to the bill he wants to find out more of what is going on with ANJEC and the League of Municipalities. Ted Harwick will call Dougherty's office to find out what is up. Jerry Bowers said he did not think a Senate Bill was necessary.

ANJEC Trainig Session:

Ted Harwick attended the training session at the Duke Estate. His report is as follows:

Report of Ted Harwick on attendance at "Fundamentals For Effective Environmental Commissions" conducted by Association of New Jersey Environmental Commissions (ANJEC)," Saturday, March 23, 2013, at Duke Estate, Somerset County. Agenda attached.

The seminar was attended by approximately 50 to 60 people. Most were from a reasonable distance from the venue. Frenchtown had 3 or 4 attendees. I am listing below the few and simple notes I took. No doubt the Holland EC has already accomplished most of things I heard.

1. The EC should have a Class II or Class IV Planning Board member.
2. The EC must issue an Annual Report which can be as simple as it's meeting minutes under a cover letter.
3. The Master Plan is based on the Resource Inventory. (This is optionally referred to as "Environmental " RI or "Natural" RI.)
4. After the Master Plan is derived from the Inventory it spawns the Zoning and Land use ordinance.

5. When the EC visits a proposed site the terms of the "site walk" should be spelled out in an agreement specifying, among other things, who is responsibility for injuries and other liabilities. If the applicant is a third party the owner should execute a release.

6. Often the Engineer or Planner will try to hijack the ERI.

7. The EC can make it documents available at the library and other public places. Try to get the public invested in the EC goals and objectives.

8. Digital copies of an Environmental Manual for Municipal Officials were made available.

9. I obtained a 2012 Municipal Land Use Law, with 2013 insert. can lend it to the members for their personal research.

I would classify the meeting as not spectacular, but informative and worth the better part of Saturday. I met an interesting chap by the name of Dave Peifer.

9:00- Registration & Refreshments

9:15- Introduction and Welcome, Sandy Batty, ANJEC Executive Director

9:20- Environmental Commission Powers and Responsibilities Peg Van Patton, ANJEC Advisory Board, Former Chair, Hillsborough Env. Commission, pvpatton@verizon.net

10:00-Environmental/Natural Resource Inventories

Dave Peifer, ANJEC Project Director, dpeifer@anjec.org,
973-539-7547

*ERI not a
policy document*

10:40-11:00 Break

11:00 -Land Use Planning and Environmental Ordinances

Sandy Batty, ANJEC Executive Director, sbatty@anjec.org,
973-539-7547

11:30 -Site Plan Review

Barbara Vadnais, P.E. ANJEC Trustee, Former Princeton Environmental Commission and member of Site Plan Review Advisory Board, bvadnais@verizon.net

12:30 -Networking Reception

1:30 -Adjourn

Public Comment:

There was no one present in the audience for comment.

At 9:10 Jerry Bowers made a motion to adjourn.

Respectfully Submitted

Maria Elena Jennette Kozak

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Environmental Commission Secretary