

Minutes of a Regular Meeting of the  
**MONMOUTH COUNTY**  
**AREAWIDE WATER QUALITY MANAGEMENT PLAN**  
**AMENDMENT REVIEW COMMITTEE**

**Wednesday, September 2, 2015 11:00 AM**  
Monmouth County Planning Board Conference Room  
Hall of Records Annex, One East Main Street  
Freehold, New Jersey

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**1. CALL TO ORDER:**

Mr. Giannell called the meeting to order at 11:00 A.M.

**2. COMPLIANCE STATEMENT:** Open Public Meetings Act

Attorney Aikins offered a statement that the meeting was being held in compliance with P.L. 1975, c.231, the Open Public Meetings Act.

**3. ROLL CALL – ATTENDANCE:**

Members Present: Giannell, Domidion, Grbelja & Sampson  
Member Absent: Ettore  
Staff Present: Brennen, Luby, Scott  
Counsel: Aikins

Ms. Brennen introduced Christopher Merkel, Monmouth County Health Officer, who was in attendance today.

**4. OLD BUSINESS**

- Meeting Minutes

The minutes of the June 3<sup>rd</sup>, 2015 meeting were reviewed. Mr. Domidion moved to approve the minutes with one revision and Mr. Sampson seconded the motion. The minutes were unanimously approved. Ms. Grbelja abstained from voting.

- Monthly Activity Reports

- Ms. Brennen stated that important highlights will be covered in the upcoming status reports.
- Former Marlboro Hospital Site Specific Amendment Application – Ms. Brennen reported that this amendment was published in the NJDEP bulletin on July 8, 2015 and the Monmouth County Board of Freeholders passed a Resolution of Consent #2015-0622 on July 23, 2015.
- Marlboro Conover Hills Revision Amendment Application - Ms. Brennen reported that a draft adoption notice from NJDEP has been received and she responded with a letter on August 18, 2015 indicating that the notice was consistent with the Monmouth County Planning Boards' Resolution. NJDEP informed that a Freeholders' Resolution of Consent is not required at this time.
- Sunnyside at Howell Revision Amendment Application – Ms. Brennen reported that NJDEP has reviewed this application and is ready to move forward once their current data base issue is resolved. A draft notice of adoption is expected within several weeks.

- o The Grove at Howell (BJs) Revision Amendment Application – Ms. Brennen clarified that this site is often referred as the BJs site in Howell. This application has been completed and sent to Jim Herrman, Director of Community Development for Howell Township and Brian Brach at MRRSA for their review. NJDEP has requested additional information which has been sent to them and we are assisting them by preparing a map for the notice of adoption.

## 5. CORRESPONDENCE AND OTHER DOCUMENTS

Ms. Brennen presented two additional pieces of correspondence regarding Millstone which will be included in October's correspondence packet. The applicant for XXXIII Associates/Riverside Center, LLC has asked for an adjournment/postponement to the next meeting. Mr. Aikins inquired if we will meet the timeframe review date with a postponement and Ms. Brennen informed him the 90 days from receipt will not be until early November, therefore, we meet the timeframe.

Ms. Grbelja stated for the record that Millstone Township municipality does not support increasing the water flow to 40,000gpd. A letter has been sent stating that and there will be additional documents presented citing their Master Plan, their COAH Housing Plan and all of the sub-sections that state that it has been Millstone's philosophy not to permit sewers or wastewater treatment facilities within their boundaries. A resolution will be prepared by the Township committee, if necessary. Attorney Aikins confirmed that in order for a municipality to take a position on an issue, it needs to be done by resolution.

## 6. NEW BUSINESS

- Friendship Circle (Marlboro) Application Completeness - Ms. Brennen inquired whether an application is considered incomplete when it has unresolved inconsistencies with the Master Plan and/or current zoning which the applicant has not attempted to address through either a request for a zoning change or variance. Mr. Giannell commented that this applicant is submitting an application, however, there is no municipal approval for it and asked for Attorney Aikins opinion.

Attorney Aikins commented that having a Municipal approval is not a prerequisite for being deemed complete, however, in the absence of some direction from the Municipality, a resolution or a use variance from the Zoning Board with regard to a proposed use, it is fair to say the application is incomplete for review by this Amendment Review Committee and that the committee can take the position of it being incomplete.

He added that Marlboro Township is a Mayor/Council form of government and the Mayor cannot act unilaterally in a Mayor/Council form of government. The governing body is the council and the council has to adopt a resolution. If it is a resolution of support from the governing body, that is a different situation. A letter from one council member or the Mayor or two council members in the absence of a written resolution adopted by a majority of a governing body held at a public meeting is not enough – It is a notice of moment but it is not binding on the Municipality. What is binding on the Municipality is a written resolution, adopted by a majority of the governing body which, in a Mayor/Council form of government is the council at a duly noted public meeting. The governing body acts as one voice and they do so in 2 forms - by ordinance or by resolution both of which are written and duly adopted at a public meeting. This is how Municipalities have their legal authority to act.

Ms. Brennen reiterated that the direction of the committee is to deem this application incomplete because of its inconsistencies with the zoning in the Master Plan with no attempt to resolve this and the absence of some explanation either in the form of a use variance or some affirmative document such as a resolution from the governing body indicating support.

- Next Meeting – October 7, 2015 - Ms. Brennen confirmed that the committee will meet on October 7<sup>th</sup> and the November 4<sup>th</sup> meeting will be cancelled.

#### **7. COMMENTS FROM THE PUBLIC**

Steven Dalton, attorney with Giordana, Halleran & Ciesla, expressed his comments regarding the Friendship Circle application being deemed incomplete at today's meeting. He felt there is nothing that would preclude the committee from going forward with completeness and proceeding with a substantive review on a conditional basis. His concern was that if the ARC committee does not proceed until they receive a use variance approval, there will never be enough time, given the constraints of the site specific amendment law, to stay in the timeframe. He asked that the committee take that into consideration to have this application move forward on a conditional basis. Attorney Aikins asked when the use variance application was filed and Mr. Dalton responded that it has not yet been filed. Attorney Aikins asked to be copied on the application. The committee thanked Attorney Dalton.

The Committee adopted a Resolution to enter into an executive session at 11:29 a.m. moved by Mr. Domidion; seconded by Mr. Sampson and the vote indicated all in favor, to discuss matters involving attorney/client confidentiality exceptions to the Open Public Meetings Act. The Committee returned from executive session at 11:39 a.m. with all members in attendance.

#### **8. ADJOURNMENT:**

A motion was made by Mr. Domidion and seconded by Mr. Sampson to adjourn at 11:40 p.m.