

From: Stacey Roth
To: kerstin.sundstrom@gov.state.nj.us
Date: 12/5/2013 4:41 PM
Subject: Fwd: Re: Letter regarding public hearing location

FYI

>>> Mark Lohbauer <mlohbauer@jgscgroup.com> 12/5/2013 4:18 PM >>>
Ms. Baker:

Thank you for your letter. As you requested, I am blind-copying this reply to the other Commissioners, so that they may see your letter, too. Yours is one of several requests from the public regarding the public hearing, and I forwarded them to our Executive Director, and our Counsel, for their consideration. The hearing will be proceeding as scheduled on Monday evening, December 9th, based upon the rationale provided by our Counsel, Ms. Roth, which I copy, below:

"Per N.J.A.C 7:50-4.52(c)3, the Executive Director shall set the date, time and place of a public hearing for consideration the agreement. This provision requires the ED to conduct the hearing in accordance with the hearing procedures at N.J.A.C 7:50-4.3. N.J.A.C 7:50-4.3(d)2 authorizes the ED to continue a hearing to a fixed date, time and place. Unless that continuance is publicly announced at a properly noticed and convened hearing, that provision requires continued hearing must be noticed in the same manner as the earlier hearing (.e. 10 days prior to hearing date in Commission's official newspaper having general circulation in the area of the proposed development. (See N.J.A.C. 7:50-4.3(d)2.) In light of these provisions, it does not appear that the ED is authorized to change a hearing date once scheduled, nor is there any provision authorizing the chair to unilaterally schedule, cancel or change a public hearing date. Consequently, I believe a vote by the full Commission, with the necessary quorum, would be necessary to reschedule the public hearing.

I also called the AG's office to get their take on the above; and they agree. Absent a special meeting, public vote and quorum in support of changing the public hearing, the public hearing on Monday must proceed. Additionally, it is no longer possible to publish notice of the cancellation of the Monday meeting in the newspaper, so the issue is moot.

I also confirmed with the AG's office that the address error in the notice was not a fatal flaw. We have corrected the address on the Commission's website and had sent a correction to the newspaper. We also plan to have someone at the incorrect address on Monday on the off chance that someone gets confused and doesn't know where the Galloway Township Municipal Building is located."

I do appreciate your interest in this issue, and thank you for your effort in presenting this to us.

Mark Lohbauer

On Dec 5, 2013, at 3:36 PM, Alice Baker wrote:

> Dear Commissioner Lohauer:
>
> Attached please find a letter expressing concern regarding the publication of the incorrect location of the public hearing scheduled for Monday December 9th. I respectfully ask that you forward this letter to the other Pinelands Commissioners.
>
> Sincerely,
> Alice Baker
>
> --

- > Alice R. Baker
- > Staff Attorney
- > Eastern Environmental Law Center
- > 744 Broad Street
- > Suite 1525
- > Newark, NJ 07102
- > t. 973.424.1166
- > f. 973.710.4653

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- > P Please consider the environment before printing.
- > <Letter to Commissioners on Public Hearing location.pdf>

Mark S. Lohbauer
JGSC Group, LLC
Office: 856 662-8800
Cell: 609 209-1344
Fax: 856 662-8801
mlohbauer@jgscgroup.com