

Disclaimer

These minutes reflect the actions taken by the Commission during its July 4, 2017 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 July 24, 2017.

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

MINUTES

**July 14, 2017**

Commissioners Present

Bob Barr, Bill Brown, Giuseppe Chila, Ed Lloyd, Mark Lohbauer, Ed McGlinchey, Richard Prickett, Gary Quinn and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Nicholas Kant and Deputy Attorney General (DAG) Bruce Velzy.

Commissioners Participating by Phone

Jane Jannarone.

Commissioners Absent

Alan W. Avery Jr., Paul E. Galletta, Candace Ashmun and D'Arcy Rohan Green.

Chairman Earlen called the meeting to order at 9:32 a.m.

DAG Velzy read the Open Public Meetings Act Statement.

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 10 Commissioners who participated in the meeting.)

The Commission and public in attendance pledged allegiance to the Flag.

Annual Re-organization

Chairman Earlen said the re-organization will be postponed until the next Commission meeting.

Minutes

Chairman Earlen presented the open and closed session minutes from the June 9, 2017 Commission meeting. Commissioner Barr moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The open and closed session minutes of the June 9, 2017 Commission meeting were adopted by a vote of 10 to 0.

Committee Chairs' Reports

Chairman Earlen provided an update on the June 30, 2017 Policy and Implementation Committee meeting.

The Committee adopted the minutes of the April 28, 2017 meeting.

The Committee recommended that the Commission certify Barnegat Township Ordinance 2017-12 (allows condominium development as a conditional use in the Neighborhood Commercial Zone).

The Committee recommended that the Commission approve Ocean County's amendment to the Public Safety Tower Plan for the Pinelands.

The Committee advanced to the Commission a resolution designating roads within Wharton State Forest that are appropriate for recreational use by motor vehicles. The Committee asked Ms. Wittenberg to seek input from the New Jersey Department of Environmental Protection (NJDEP) prior to the Commission meeting.

In closed session, the Committee discussed staff recommendations for Pinelands Conservation Fund grant approvals. The Committee approved funding for three acquisition projects and recommended the full Commission approve grant funding for a contingency project.

Wharton State Forest

Chairman Earlen asked Executive Director Wittenberg if she was able to schedule a meeting with the NJDEP to discuss the resolution designating roads within Wharton State Forest that are appropriate for recreational use by motor vehicles.

ED Wittenberg said she shared the resolution with the NJDEP but was not able to schedule a meeting with Commissioner Bob Martin.

Chairman Earlen said he is not comfortable advancing the resolution to the full Commission until ED Wittenberg is able to meet with Commissioner Martin. Commissioner Lohbauer said he disagrees that the Commission is required to wait to move on the resolution today but he has no objection to tabling the resolution.

Commissioner Jannarone said she supports Commissioner Lohbauer's concerns.

Commissioner Lloyd said he believes that the Commission has met the consultation requirements with the NJDEP as required in the Comprehensive Management Plan (CMP). He said damage at Wharton State Forest continues and if the resolutions is tabled today, language should be included in the motion that states it will be tabled only until the August Commission meeting.

Chairman Earlen added that the Commission has not met with the NJDEP on this resolution and map. He said Wharton State Forest is the NJDEP's land and they will have to enforce the resolution.

Commissioner Lloyd said that at the Policy and Implementation Committee meeting Commissioner Lohbauer suggested adding some language to the resolution. He said it is probably appropriate to change the resolution to include the language since no action is being taken today.

ED Wittenberg added that because of the shutdown, the Commission meeting packet was mailed early, so that is why Commissioner Lohbauer's suggested changes were not included in the resolution. However, a paper copy of the changes was provided to the Commissioners at this meeting.

Commissioner Lohbauer said the suggested changes to the resolution will note the Commission's authority to designate areas where motor vehicles are not permitted; rather than to designate roads where they are permitted.

The final motion to table the resolution to Designate Roads within Wharton State Forest that are Appropriate for Recreational Use by Motor Vehicles was moved by Commissioner Barr and seconded by Commissioner Lohbauer until the August Commission meeting.

Commissioner Lloyd said included in the motion is direction from the Commissioners for the Executive Director to meet with the NJDEP and share the resolution and proposed amendments to the resolution between now and the August Commission meeting.

All were in favor of the motion to table the resolution.

#### Executive Director's Reports

ED Wittenberg updated the Commission on the following:

- Today's Commission meeting is being live streamed and can be viewed from a link on the website.
- The Commission was closed on July 3, 2017 due to the state shutdown.

Mr. Joel Mott said the Pinelands Summer Short Course is coming up on July 27<sup>th</sup> and there is still space available for some classes. The Pinelands Orientation for New Elected Officials is scheduled for July 25<sup>th</sup>.

Director Larry Liggett provided information on the following:

- Meetings took place again with both Verizon and Mobilite on the deployment of their microcell technology. The technology being proposed is for service capacity not coverage.
- Staff is preparing a response to NJDEP with comments on the draft Water Supply Master Plan.

Commissioner Lloyd requested that staff's response be shared with Commissioners.

Director Charles Horner said that in the past month staff conducted the following meetings:

- The Mayor of Mullica and representatives from the Sweetwater Casino met with staff concerning the re-establishment of the restaurant.
- Staff met with representatives from Pemberton Township and a developer who is interested in building a large residential development off of Lakehurst Road.
- Staff met with the Mayor of Woodland Township. The township is interested in developing a parcel on the south side of Route 72. Staff advised the representatives of the permitted uses.

Director Horner added that at the June Commission Meeting, a member of the public shared comments related to the tourist railroad in Buena Vista Township. He said he provided Commissioners with a packet of information, including the comments submitted by that member of the public, the original public development report recommending approval of the tourist railroad and a recent response letter from Buena Vista Township's engineer.

Commissioner Lohbauer asked ED Wittenberg if she had any news about a federal appointee.

ED Wittenberg said that a new representative has not been identified; however there are National Park Service representatives present at today's meeting.

#### Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval of the demolition of Crichton Elementary school in Pemberton Township. Commissioner Prickett said he would recuse from voting on this matter and left the room.

Director Horner said the resolution was revised to address uncertainty that existed with respect to the actual tax block and lots subject of development. However the text of the

resolution remains the same. He said a new copy of both the resolution and report were handed out earlier this morning.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1985-0726.009) (See Resolution # PC4-17-16). Commissioner Lloyd seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0, with Commissioner Prickett recusing from the vote.

Commissioner Prickett returned to the dais.

Chairman Earlen presented a resolution recommending the approval for the installation of a non-potable water well in the Borough of Woodbine and the installation of sanitary sewer main within the Ames Road right-of-way in Monroe Township.

Commissioner Barr moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1981-0837.030 & 2017-0111.001)(See Resolution # PC4-17-17). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution recommending the approval of two forestry applications within Brendan Byrne State Forest.

Commissioner Prickett moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1990-0260.004 & 1996-1396.006)(See Resolution # PC4-17-18). Commissioner Brown seconded the motion.

Commissioner Prickett asked about the low ground pressure equipment that is to be used in the proposed forestry activity.

Director Horner said that the low ground pressure equipment is used to minimize adverse impacts to threatened and endangered species, nests and dens.

Commissioner Prickett asked if the forestry proposal had been reviewed by the Commission's Science Advisory Committee.

ED Wittenberg said only Commission staff reviewed the application.

Commissioner Prickett asked if any simulated modeling of the forest had been done.

Director Horner said the NJDEP may have completed some modeling but the Commission has not reviewed it or conducted its own version.

The Commission adopted the resolution by a vote of 10 to 0.

Municipal Master Plans and Ordinances

Chairman Earlen said the next resolution is to certify an ordinance for Barnegat Township.

Commissioner Lohbauer moved the adoption of a resolution Issuing an Order to Certify Ordinance 2017-12, Amending Chapter 55 (Land Use) of the Code of Barnegat Township (See Resolution # PC4-17-19). Commissioner McGlinchey seconded the motion.

Chief Planner Susan Grogan said the Commission has reviewed a number of zoning and redevelopment plans submitted by Barnegat Township in recent months. She said this specific ordinance change will add condominium development as a conditional use in the portion of the C-N (Neighborhood Commercial) Zone located in the Pinelands Regional Growth Area. She said the certification of Ordinance 2017-12 will affect only one property and the purchase of Pinelands Development Credits will be required. Ms. Grogan added that staff is recommending certification of the Ordinance.

Chairman Earlen said there was an extensive presentation at the Policy and Implementation Committee.

The Commission adopted the resolution by a vote of 10 to 0.

Other Planning Resolutions

Commissioner Lohbauer moved the adoption of a resolution Issuing an Order to Certify Ocean County's May 2017 Amendment to the Comprehensive Public Safety Tower Plan for the Pinelands (See Resolution # PC4-17-20). Commissioner Prickett seconded the motion.

Ms. Grogan said the amendment to Ocean County's Public Safety Tower Plan which the Commission approved many years ago will allow the County to expand its search area when siting a tower and provide more flexibility when siting a tower on developed, publicly-owned land. She said the amendment does not allow for any additional towers. She added that the amendment is for public emergency service towers only, not commercial providers.

At the request of Commissioner Prickett, Ms. Grogan reviewed the hierarchy that is used to site towers. She explained that first sites outside the Pinelands are considered, and then Regional Growth Areas and Towns, and continue down the line and only at the last resort are the Preservation Area District and Forest Area considered.

The Commission adopted the resolution by a vote of 10 to 0.

Public Comment on Public Development Applications and Resolutions where the Record is Not Closed

No comment was provided.

Ordinances Not Requiring Commission Action

Chairman Earlen asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Barnegat Township Ordinances 2017-14, 2017-15 and 2017-17
- Town of Hammonton Ordinance 10-2017
- Maurice River Township Ordinances 658 and 659
- Monroe Township Ordinance O:22-2017

No members of the Commission raised questions.

Other Resolutions

Chairman Earlen said the next resolution is to accept the Fiscal Year 15 Audit Report.

Commissioner Lohbauer moved the adoption of a resolution To Accept the Fiscal Year 2015 Audit Report. Commissioner McGlinchey seconded the motion. (See Resolution # PC4-17-21)

ED Wittenberg said there was a minor finding related to bank reconciliations that Commissioner Avery has advised Commissioners about at previous meetings. She said a new accounting software has been procured to solve that problem. She said the other finding relates to the disaster recovery plan and the need to test the plan.

Commissioner Lohbauer commended the Executive Director and Staff that the FY 15 Audit found the internal controls adequate.

Chairman Earlen thanked the Audit Committee for its involvement in the Audit process.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen said the next resolution is to authorize various Comprehensive Management Plan amendments.

Commissioner Brown moved the adoption of a resolution To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan (CMP) in Accordance with the Administrative Procedure Act. Commissioner Lohbauer seconded the motion. (See Resolution # PC4-17-22)

Chief Planner Grogan said she would review the proposed plan amendments, some of which stemmed from the Plan Review process in 2014. She said the proposed amendments were reviewed at a July 2016 Policy and Implementation Committee meeting. She also said the amendments were reviewed with representatives from the Governor's office in September of 2016.

Chief Planner Grogan said some of the proposed CMP amendments are efficiency measures, minor corrections and relate to the following: Application Fees; Escrows; Application Procedures; Landfills; Water Quality; Signs; Alternate Design Wastewater Treatment Systems Pilot Program (See attached presentation slides for more details). She outlined the next steps in the rulemaking process, which include a public hearing, acceptance of written comment, and adoption notice for the Commission's consideration.

The Commission adopted the resolution by a vote of 10 to 0.

#### General Public Comment

Randy DePasquale of Marlton, NJ, said the Wharton State Forest Map will not only serve the NJDEP but users of the forest. He also believes that the map will help curb accidental damage within the forest.

Paula Yudkowitz of Oaklyn, NJ, expressed her frustration that the Commission did not act on the resolution related to Wharton State Forest. She said the damage continues.

Dom Stockton-Rossin of Pemberton, NJ read from the Pinelands Protection Act (N.J.S.A. 13-18A-24b). He urged the Commission to act on the Wharton State Forest resolution.

John Fanz of Winslow Township, NJ, said that in the vicinity of Paradise Lakes a gate was installed blocking access to hundreds of acres of Wharton State Forest by the public and the Forest Fire Service. He was curious what could be done about the gate.

Jeff Tittel, Director of the NJ Sierra Club, said he was pleased to see the Commission using topographic maps to combat illegal off-road vehicle damage. He expressed his dissatisfaction with the Southern Reliability Link special meeting venue, date and time. He also said it was not fair that as an objector he only has three minutes to provide oral comment. He encouraged the Commission to hold a public hearing and adopt new rules.

Kathy Dejneka of Chatsworth, NJ, said the Commission should not wait to act on the Wharton State Forest resolution.

Georgina Shanley of Ocean City, NJ, said the Commission should move forward with the Wharton State Forest resolution. She said she is opposed to the New Jersey Natural Gas Southern Reliability Link natural gas pipeline.

Doug O'Malley, Director of Environment New Jersey, expressed his dissatisfaction with the process for the New Jersey Natural Gas Southern Reliability Link natural gas pipeline. He said there should be more hearings, in the evening, near the pipeline route.

Tom Hedden of Tabernacle, NJ, and representing East Coast Enduro Association, provided two points on the Wharton State Forest resolution. He said the "consultation" portion of the resolution is weak. He said gaining support and input from the towns surrounding the state forest is crucial. He also said the resolution should include language recognizing permitted off-road vehicle events.



Dave Benedetti, Director of Community Development for Pemberton Township, said the Township has submitted an application to the Commission for the development of recreation fields on what is known as West End Park. He said the park is fallow agriculture land in the Regional Growth Area. He said the problem is that the parcel contains significant wetlands that are causing limitations on developing new athletic fields on the site. He said the Township would like to change the management area to an Agricultural Production Area. He said the town is aware of the issue in Hammonton that occurred on Tuckahoe Turf.

Emile Devito of the New Jersey Conservation Foundation, said he hopes the Commission can come to a unanimous decision in supporting the use of topo maps at Wharton State Forest. He advised the Commission about a group of volunteers who are collecting data at Brendan Byrne State Forest and mapping critical areas. They plan to share the data with the NJDEP because the Department does not have the resources to do it.

Margo Pellegrino of Medford Lakes, NJ, asked if there are new alternate design septic systems being tested for use in the Pinelands. She said she hopes the Commission can move forward with a map regarding the Wharton State Forest issue. She also said the use and abuse in the Pinelands Area has a negative impact on the Kirkwood-Cohansey aquifer.

Jason Howell of the Pinelands Preservation Alliance, said the park police at Wharton State Forest are understaffed and do not have the tools to successfully do their job. He said it is the Commission's job to solve land use issues. He said the resolution is a good thing. He passed around a piece of charred remains from an off road vehicle that he reported exploded and left a burned spot on Batsto River Road.

Harriet Rolo of Haddon Township, NJ urged the Commission to adopt a resolution on the Wharton State Forest matter.

Corey Bishop of Egg Harbor City, NJ said she came to today's meeting to hear the Wharton issue that was tabled. She said the Commission should be more considerate of the public's time and consider holding additional meetings at different locations and times. She suggested the Commission adopt the resolution and make any necessary changes later.

Katie Smith of the Pinelands Preservation Alliance said the Alliance, along with 28 other organizations, submitted a letter to the Commission requesting to extend the meeting on the New Jersey Natural Gas matter three-hours beyond 5:00 p.m. to allow people who work during the day an opportunity to comment in person.

John Hiros introduced himself as a member of the Governor's Pinelands Review Committee in the late 1970's. He said he was happy to see the Commission is still here trying to do its job. He said the Commission should remove the political arguments from the table and protect and preserve the Pinelands.

Commissioner Brown left the meeting.

Resolution to Retire into Closed Session

DAG Velzy read a resolution to enter into closed session to discuss an acquisition matter. The Commission agreed to retire into closed session by a vote of 9 to 0, beginning at 11:28 a.m.

Return to Open Session

The Commission entered back into open session at 11:42 a.m.

Chief Planner Grogan said that in closed session staff recommended that the Commission allocate Pinelands Conservation Fund money toward the acquisition of a parcel in Pemberton Township that is outside of the pre-approved acquisition area.

Commissioner Lloyd moved the adoption of a resolution To Award a Grant from the Pinelands Conservation Fund for the Acquisition of Land in Pemberton Township Located Outside the Pre-Approved Acquisition Areas. (See Resolution # PC4-17-23). Commissioner McGlinchey seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

Adjournment

Commissioner McGlinchey asked staff to brief him on Mr. Benedetti's request to change management areas in Pemberton Township for West End Park.

Director Horner said staff reviewed the plan from Pemberton Township. Staff advised the Township that the wetlands were an issue. He said in turn the township wanted to discuss the soccer activities being conducted at Tuckahoe Turf in Hammonton. Those fields are in the Agricultural Production Area. Director Horner said the situations are not the same. He said the Hammonton approval precluded recreational activities on wetlands.

Ms. Stacey Roth added that the legislation affecting Tuckahoe Turf was to permit soccer on agricultural lands.

Director Horner added that regardless of legislation, only about 25% of Pemberton's Westend Park is useable for recreation fields.

Commissioner Lohbauer thanked staff for working on the Wharton resolution. He said after hearing Mr. Hedden's comments, he realized language in the resolution should be adjusted so that the Enduro community can continue to hold their events and that the Wharton Park Superintendent can continue to issue special use permits.

A conversation ensued about whether or not to add additional language to the resolution.

Commissioner Lohbauer acknowledged that Wharton is not the only state forest suffering from off-road vehicle damage.

Commissioner Lohbauer said in response to Ms. Smith's earlier comments, he supports extending the hours of the public meeting on July 26<sup>th</sup>.

Commissioner McGlinchey moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 11:53 a.m.

Certified as true and correct:

  
\_\_\_\_\_  
Jessica Noble, Executive Assistant

Date: July 20, 2017