

Disclaimer

These minutes reflect the actions taken by the Commission during its September 14, 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 September 22, 2017.

PINELANDS COMMISSION MEETING
Patriots Theater at the War Memorial
Trenton, New Jersey

MINUTES

September 14, 2017

Commissioners Present

Giuseppe Chila, Paul E. Galletta, 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 representatives Nicholas Kant and Craig Ambrose and Deputy Attorney General (DAG) Bruce Velzy.

Commissioners Participating by Phone

Candace Ashmun, Alan W. Avery Jr., Bill Brown, D'Arcy Rohan Green and Jane Jannarone.

Commissioners Absent

Bob Barr.

Chairman Earlen called the meeting to order at 9:46 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 13 Commissioners who participated in the meeting.)

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

Annual Re-organization

Chairman Earlen said the Commission will vote on a new Vice-Chair. Commissioner McGlinchey nominated Paul Galletta for Vice-Chair. Commissioner Quinn seconded the motion. The motion carried by a vote of 13 to 0.

Chairman Earlen said that the current Committee assignments will remain the same.

Minutes

Chairman Earlen presented the minutes from the August 11, 2017 Commission meeting. Commissioner Lloyd moved the adoption of the minutes. Commissioner McGlinchey seconded the motion.

The minutes of the August 11, 2017 Commission meeting were adopted by a vote of 8 to 0. Commissioner Ashmun, Commissioner Jannarone, Commissioner Rohan Green, Commissioner Quinn and Commissioner Chila abstained from the vote.

Committee Chairs' Reports

Commissioner McGlinchey provided an update on the August 29, 2017 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the February 2, 2017 meeting.

Jessica Lynch reviewed the check registers, electronic disbursements and application fees covering January through June. The application fees were 31% below the budgeted amount. Michelle Russell provided an update on employee actions.

Nancy Wittenberg and Jessica Lynch reviewed the Draft FY2018 Budget Resolution. The Operating Budget, the Kirkwood Cohansey Aquifer Assessment Study Fund Budget and the Pinelands Conservation Fund Budget were discussed. The spending of the Kathleen M. Lynch-van de Sande Fund was also reviewed. The Committee members recommended Commission approval of the budgets.

There was no public comment.

Executive Director's Reports

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

- On September 10th, staff met with the applicant and the Mayor of Winslow Township to discuss a redevelopment project at a site referred to as the "Brickyard".

- On August 24th, staff met with Little Egg Harbor Township representatives to discuss the possibility of establishing a firing range for the police department. The Township would like to transform a former municipal landfill site into a firing range.
- The Waterford Township Board of Education (BOE) requested an emergency determination from the Commission regarding a failing potable water well at the elementary school. The Executive Director confirmed the emergency approval determination with the Chairman. He added that the BOE is still required to file an application for the potable water well regardless of the emergency determination.

Director Liggett said there will be a meeting with Winslow Township to discuss its water conservation efforts. He said the Township would like to amend an existing Memorandum of Understanding (MOU) between the Commission, the Township and the Camden County Municipal Utilities Authority. He said the revised MOU will likely be on the October Policy and Implementation Committee meeting agenda. Director Liggett added that the annual Alternate Design Septic Systems report was recently mailed to Commissioners.

ED Wittenberg said that on October 4th, the Commission will hold a public hearing on the proposed amendments to the Comprehensive Management Plan (CMP) that the Commission authorized at the July Commission meeting.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval to demolish a building in Pemberton Township.

Commissioner Prickett said he would be recusing from the vote and left the dais.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1989-0349.020) (See Resolution # PC4-17-26). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Prickett returned to the meeting.

Chairman Earlen presented a resolution recommending approval of the installation of 12.1 miles of 30 inch natural gas main.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions Pinelands Development Application Number 2014-0045.001(See Resolution # PC4-17-27). Commissioner Avery seconded the motion.

Commissioner Lloyd said he is recusing himself from the vote on this application because he is the President of the Board of Eastern Environmental Law Center and the firm is representing the Sierra Club in this matter.

ED Wittenberg said before she begins her presentation, Stacey Roth needs to read a statement.

Stacey Roth read the following statement into the record:

On August 29, 2017, the Pinelands Commission, its Ethics Liaison Officer and the Deputy Director, now Acting Executive Director, of the State Ethics Commission received a letter from a member of the public raising allegations that certain Pinelands Commissioners may have a conflict of interest requiring recusal from the vote on the New Jersey Natural Gas Company application. On September 11, 2017 and on September 13, 2017, the Commission's ELO received letters from other entities joining in the conflict of interest issues previously raised. After review of the information provided and consultation with the Commission's ELO, the State Ethics Commission staff determined that neither Commissioner in question has a conflict of interest requiring recusal in this matter.

ED Wittenberg delivered a presentation on the New Jersey Natural Gas application. She began by reviewing a timeline of the application. She then displayed a map, depicting the pipeline route. She reviewed the comments the Commission received. She went over the relevant CMP standards and permitted use standards by management area. (See presentation slides for further details).

Commissioner Lohbauer thanked the public for its participation who were on both sides of the application. He said he would be voting no on this resolution because he did not agree with some of recommendations in the Executive Director's Recommendation Report. (See attached statement).

Commissioner Prickett said the 1979 Pinelands Protection Act, which designated the Preservation Area due to its vulnerability to environmental degradation, was an important factor in his decision on this application. He said after reading the Executive Director's Recommendation Report, hearing public comment and reviewing the CMP, he is not convinced that the pipeline is associated with the function of the Joint Base and he will be voting no.

Commissioner Rohan Green said she agrees with both Commissioner Lohbauer and Commissioner Prickett's comments regarding this application. She said she will be voting no.

Chairman Earlen asked ED Wittenberg to call the role.

Commissioner Ashmun read a statement into the record, stating the route will go through sensitive areas of the Pinelands. She said the argument of redundancy has not been demonstrated. She voted no on the resolution. (See attached statement)

Commissioner Avery said he agrees with the application as it is outlined in the Executive Director's Recommendation Report. He voted yes.

Commissioner Brown voted yes.

Commissioner Chila said he agrees with the Executive Director's Recommendation Report and appreciated the work of staff on this application. He voted yes.

Commissioner Galletta voted yes. He said the base commanders said they need this project. He said for him national security was a deciding factor in his decision.

Commissioner Jannarone voted yes. She said she agrees with the Executive Director's Recommendation Report.

Commissioner Lohbauer voted no.

Commissioner McGlinchey voted yes.

Commissioner Prickett voted no.

Commissioner Quinn voted yes.

Commissioner Rohan Green voted no.

Chairman Earlen thanked ED Wittenberg and staff for the work on the New Jersey Natural Gas application. He said he agrees with the Executive Director's Recommendation Report. He voted yes.

The Commission adopted the resolution by a vote of 8 to 4.

Planning Matters

Commissioner Lloyd returned to the dais. Commissioner Prickett stated he was recusing himself from the next matter and left the dais.

Commissioner Lohbauer moved the adoption of a resolution Issuing an Order to Certify Ordinances 12-2011 and 15-2017 of Pemberton Township (See Resolution # PC4-17-28). Commissioner Avery seconded the motion.

Chief Planner Susan Grogan said the Township adopted an ordinance several years ago approving a Redevelopment Plan for the Browns Mills section of Pemberton Township. She said since that time, staff has worked with Pemberton Township on some minor revisions to the Plan. She said Pemberton Township is proposing about 200 residential units and some commercial development. She said the plan has met all the CMP standards and the Redevelopment Area is located in the Regional Growth Area. She said staff is recommending certification of these ordinances.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Prickett returned to the dais.

Commissioner McGlinchey moved the adoption of a resolution Issuing an Order to Certify Ordinances 7-16 and 8-17 of the Borough of South Toms River (See Resolution # PC4-17-29). Commissioner Prickett seconded the motion.

Chief Planner Grogan said adoption of this resolution will approve two Redevelopment Plans in South Toms River Borough. She said Ordinance 7-16 relates to a Redevelopment Plan on a municipal landfill. She said Ordinance 8-17 relates to a Redevelopment Plan on a vacant area in the Borough on Dover Road. She advised the Commission that staff worked closely with the Borough. Both redevelopment plans are in the Regional Growth Area and will require the purchase of Pinelands Development Credits (PDCs).

Commissioner Lohbauer complimented staff on responding to concerns raised by the Pinelands Preservation Alliance about the Redevelopment Plan. He also noted that he was happy to see the use of PDC's. Lastly, he said that threatened and endangered habitat was destroyed by off road vehicle use.

The Commission adopted the resolution by a vote of 12 to 1.

Commissioner Avery ended participation in the meeting at 10:34 a.m.

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

Jeff Tittel, Director of the New Jersey Sierra Club, commended the Commission for its work on designating appropriate areas for motor vehicle use at Wharton State Forest.

Rosemarie Mason, a member of the Outdoor Club of South Jersey, said she is involved in the maintenance of the Batona Trail. She asked the Commission to help protect Wharton.

Diane Mason, a member of the Outdoor Club of South Jersey, said the Wharton map will be a valuable tool for enforcement.

Georgina Shanley of Ocean City, NJ, said that only emergency personnel vehicles should be permitted in Wharton but for now she supports the map.

Paula Yudkowitz said the adoption of the Wharton resolution is a step in the right direction but now the map must be enforced.

Mike Cannon asked the Commission to approve the Wharton map today.

Jason Howell, of the Pinelands Preservation Alliance, thanked the Commission for its work on the Wharton issue.

Emile DeVito, of the New Jersey Conservation Foundation, said the map is a step in the right direction. He said he hopes the Commission will pass the resolution unanimously so it can be used to show the next administration that there is a need for more enforcement in the state forests.

Doug O'Malley, Director of Environment NJ, said he supports the off road vehicle resolution.

Hal Pschunder of Hainesport, NJ, commended the Commission for the Wharton resolution and asked if there were plans to publish trail and usage maps.

Hara Rola of Haddon Township, NJ, said she supports the Wharton resolution. She said the next step is to restore the damaged areas. She suggested creating a volunteer restoration project.

Anne Carroll of Collingswood, NJ read a poem into the record.

Jim Justnes, with Jeep Jamboree, thanked the Commission for its efforts with the Wharton map.

Dave Pringle, New Jersey Campaign Director for Clean Water Action, said the Wharton resolution is a step in the right direction.

Margo Pellegrino of Medford Lakes, NJ, said approving a map for ORV use at Wharton is important for many reasons including protecting our bodies of water.

Bill Ron-Miller of Pennsylvania commended the Commission for its efforts in protecting Wharton from ORV damage.

Ordinances Not Requiring Commission Action

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

- Berlin Borough 2017 Master Plan Land Use Element
- Egg Harbor Township Ordinance 25-2017
- Stafford Township 2017 Comprehensive Master Plan
- Waterford Township Ordinance 2017-21

No members of the Commission had questions.

Other Resolutions

Chairman Earlen presented a resolution regarding Wharton State Forest.

Commissioner Lloyd moved the adoption of a resolution to Designate Existing Roads within Wharton State Forest that are Appropriate for Recreational Use by Motor Vehicles (See Resolution # PC4-17-30). Commissioner Lohbauer seconded the motion.

ED Wittenberg explained staff had received a lot of comment from the Enduro community. She said she reached out to all Commissioners to see if they would accept the addition of the following language to the resolution: *This finding does not apply to the Commission's review of Off-Road Vehicle Event Route Maps. It is also not the intent of the Commission that the USGS Topographical maps be used by DEP as part of its review of Special Use Permits.*

She said Commissioners were not opposed to the language.

Chairman Earlen asked about the review process for Enduro events.

ED Wittenberg said the applicant submits a route map that is then reviewed to ensure the route does not go through deed restricted land, wetlands and threatened and endangered habitat. ED Wittenberg said that process will not change.

Commissioner Galletta said he can support the resolution.

Commissioner Lohbauer thanked ED Wittenberg, Commissioner Bob Martin at the New Jersey Department of Environmental Protection, the volunteers who offered suggestions on the Wharton resolution, Commissioner Lloyd who drafted the resolution and former Wharton State Forest Superintendent Rob Auermuller. He said he hopes that, in the future, other state parks can be addressed with similar maps and resolutions as suggested by Commissioner McGlinchey.

Commissioner Lloyd said it has taken a long time to finalize this resolution but it is something we can all be proud of. He thanked the members of the public who offered their input.

Chairman Earlen thanked Commissioner Lohbauer and Commissioner Lloyd for drafting the resolution. He also thanked staff for its hard work spent on this initiative.

The Commission adopted the resolution by a vote of 12 to 0.

Chairman Earlen asked for a motion to accept the Commission's 2016 Annual Report.

Commissioner Galletta moved the adoption of a resolution To Approve the New Jersey Pinelands Commission's 2016 Annual Report (See Resolution # PC4-17-31).
Commissioner Prickett seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Lloyd left the meeting and Commissioner Brown ended participation in the meeting.

After a 10 minute break the meeting resumed at 11:29 a.m.

General Public Comment

The following members of the public expressed their objection to the resolution to approve the New Jersey Natural Gas application:

Jeff Tittel

Arnold Fishman

Virginia Tamuts

Temma Fishman

Carol Jones

Danielle Pla

Heather Warbuiton

Georgina Shanley

Steve Fenichel

Andrea Bonette

Margit Meissner- Jackson

Barbara Fox-Cooper

Carleton Montgomery

Doug O'Malley

Karlos Basak

Dave Pringle

Margo Pellegrino

Bob Filipczak (Provided written comment. See attached.)

Ann Kelly

The public comments included objections to burning fossil fuels and horizontal directional drilling (HDD), and concerns about the future of our children, climate change and the aquifer.

Emil Kaunitz, a representative from the Defense Enhancement Coalition, said he supports the Southern Reliability Link project. He said the BRAC (Base Realignment and Closure) found there was a gas supply deficiency at the Joint Base. He said the Joint Base is the second largest employer in New Jersey.

Other

Commissioner Prickett suggested staff look into grant possibilities for restoration work at Wharton State Forest to address the damage created by off road vehicles.

ED Wittenberg said the Commission, the NJDEP and the Pinelands Preservation Alliance have partnered on an initiative to inventory ponds on all state lands. She said once we complete that project, it would be timely to look into corrective actions.

Adjournment

Commissioner Galletta moved to adjourn the meeting. Commissioner Rohan Green seconded the motion. The Commission agreed to adjourn at 12:28 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: September 20, 2017