

Disclaimer

These minutes reflect the actions taken by the Commission during its May 12, 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 May 26, 2017.

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

MINUTES

**May 12, 2017**

Commissioners Present

Alan W. Avery Jr., Bob Barr, Paul E. Galletta, D'Arcy Rohan Green, Jane Jannarone, Mark Lohbauer, Ed McGlinchey, Richard Prickett and Gary Quinn. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Lisa LeBoeuf and Deputy Attorney General (DAG) Bruce Velzy.

Commissioners Participating by Phone

Bill Brown and Ed Lloyd.

Commissioners Absent

Candace Ashmun, Giuseppe Chila and Chairman Sean Earlen.

Vice Chairman Galletta called the meeting to order at 9:34 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 11 Commissioners who participated in the meeting.)

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

Minutes

Vice Chairman Galletta presented the open and closed session minutes from the April 7, 2017 Commission Meeting. Commissioner Avery moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes of the April 7, 2017 Commission Meeting were adopted by a vote of 10 to 0, with Commissioner Quinn abstaining.

Other

Staff member Jessica Noble was recognized for 10 years of service at the Commission.

Committee Chairs' Reports

Commissioner Avery said the May 2, 2017 Personnel and Budget Committee was canceled. He said the Audit Committee met on April 28, 2017. He said the FY 15 Audit Report identified minor recording errors. He said the Commission has purchased new accounting software from Edmunds, and it will help with bank reconciliations. He said Bowman and Company, who serves as the Commission's accounting consultant, will review the financials on a monthly basis.

Vice Chairman Galletta provided an update on the April 28, 2017 Policy and Implementation Committee Meeting:

The Committee adopted the minutes from the March 24, 2017 CMP Policy & Implementation Committee meeting with a correction to page 5 regarding the fencing program in Wharton State Forest.

The Committee recommended that the Commission certify Barnegat Township Ordinance 2017-05, adopting the Shoreline Sand & Gravel and Compass Point Redevelopment Plan.

The Committee received a presentation on a grant proposal the Science Office is preparing in response to a Request For Proposal from the Environmental Protection Agency. The study will look at the effects of land use on water quality and microorganisms in natural ponds, excavated ponds, and stormwater basins, and will build on two previous Commission studies. The Committee endorsed the submission of the proposal.

The Committee received an update on the history and status of telecommunications plans and was told that amendments may be submitted shortly for the Public Safety Tower Plan, Verizon's Small Network Node Deployment, and the Mobilitie, LLC Small Cell and Transport Facility Deployment.

Executive Director's Reports

ED Wittenberg updated the Commission on the following:

- The Commission has not received a formal letter from the U.S. Department of the Interior appointing a federal representative. A phone call was held with Bob Krumenaker, who has been named the temporary appointee.
- Staff met with officials from the City of Port Republic to discuss closure of its landfill.
- Staff recently met with the New Jersey Department of Environmental Protection (NJDEP) staff to discuss a number of issues. At that meeting, Wharton State Forest was discussed. The group discussed using the USGS topographic map of Wharton from 1997 as a baseline guide to define roads.

Commissioner Lohbauer said he supports working with the NJDEP to find a means to protect Wharton.

Director Larry Liggett provided information on two items that will be discussed at upcoming Policy and Implementation (P&I) Committee meetings:

- Vertical Bridge, a telecommunication infrastructure company, is proposing to build a cell tower in Chatsworth. A plan amendment will be necessary for the construction of the tower.
- NJDEP released the Water Supply Master Plan at the beginning of May. Staff will pay close attention to the analysis of Pinelands watersheds, recharge and aquifer storage and recovery (ASR). NJDEP will hold three public hearings and staff will most likely attend the hearing held at Stockton University.
- A former mayor of Estell Manor has contacted the Commission about restrictions in the Forest Area and the limitations the management area presents for constructing solar facilities. The City of Estell Manor is predominately a Forest Area.

After a brief discussion between Commissioners about the permitted uses in the Forest Area and potential impacts of solar, it was requested that staff provide additional information on the matter at a future Policy and Implementation Committee meeting.

Ernie Deman updated the Commission on the following:

- During the April Commission meeting, an applicant provided comment on the reasons why their property could qualify to build a single family dwelling under the cultural housing provision. Staff was not able to determine that the applicant qualifies under that provision, but a Certificate of Filing was issued for the development of a dwelling under a different standard.
- Staff site inspected the stormwater management facilities associated with the construction of exit 44 on the Garden State Parkway after a member of the public commented about the basins at the April Commission meeting. It was observed that the basin was constructed in accordance with the Commission approval and that the basin was functioning properly.
- April Field, who worked as an Environmental Specialist in the Regulatory Programs office for 17 years, resigned from her position in April.

Susan Grogan said a brochure was recently printed that highlights the importance of roadside habitats in the Pinelands. (Copies were provided to each Commissioner and made

available to the public). She said Robyn Jeney has had some positive meetings with the counties to review the best management practices (BMPs) for caring for native roadside habitat. An update on those meetings will be provided at a later date. Stacey Roth introduced Bruce Velzy as the Commission's new Deputy Attorney General. She said DAG Velzy previously worked in the Environmental Enforcement Section, handling waste licensing matters at the Division of Law, and now works in the Environmental Permitting and Counseling section.

Stacey Roth provided an update on the South Jersey Gas Appeal:

- During the April Commission meeting, the Commission denied a motion to Stay Pinelands Resolution No. PC4-17-03 that was filed by the Pinelands Preservation Alliance. The Stay motion filed by the Pinelands Preservation Alliance at the Appellate Division was also denied because the Appellate Division Judge determined that there would be no irreparable harm from the construction, maintenance and operation of the pipeline. In addition, South Jersey Gas made a motion to accelerate the proceedings, and that motion was granted. Once the Statement of Items Comprising the Record is submitted to the court, a scheduling order will be provided. RC Cape May made a motion to intervene in the appeal, and that motion was granted. There is another motion for the consolidation of NJ Sierra Club, Environment New Jersey and the Pinelands Preservation Alliance litigation matters that is still pending.

Paul Leakan said the architect has submitted drawings to the State for the issuance of permits needed to proceed with the Pinelands Visitor Center. He also said the Pinelands Summer Short Course has 14 confirmed courses and six field trips. The educational event will take place on July 27<sup>th</sup> at Kramer Hall in Hammonton.

#### Public Development Projects and Other Permit Matters

Vice Chairman Galletta presented a resolution recommending the approval of the development of an access road and nine monitoring wells on the same site as the Estell Manor landfill.

Commissioner Barr moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1992-0280.004) See Resolution # PC4-17-08). Commissioner McGlinchey seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0.

#### Municipal Master Plan and Ordinances

Vice Chairman Galletta presented a resolution recommending the adoption of Barnegat Township Ordinance 2017-05.

Commissioner McGlinchey moved the adoption of a resolution Issuing an Order to Certify Barnegat Township Ordinance 2017-05, Adopting a Redevelopment Plan for the Shoreline

Sand and Gravel and Compass Point Redevelopment Area (See Resolution # PC4-17-09). Commissioner Lohbauer seconded the motion.

Susan Grogan said Barnegat's redevelopment plan is comprised of 140 acres in the Regional Growth Area. An aerial map of the parcel was displayed on the Smartboard. The site is surrounded by existing residential development. The site will be redeveloped by two separate builders, one for each site (Shoreline Sand and Gravel and Compass Point). The plan will permit age restricted residential development and a small commercial development (25,000 square feet). Threatened and endangered survey work was performed, and it was determined that there is no critical habitat for the Northern Pine Snake. A 300 foot buffer to wetlands will be maintained due to the presence of Pine Barrens treefrogs. There will be a 30% Pinelands Development Credit (PDC) obligation for non-affordable housing units.

Commissioner Prickett asked about the role of the Commission in assisting municipalities with redevelopment plans.

Susan Grogan said it depends on the relationship with the municipality. She said staff is always available to look at language prior to a town submitting an ordinance. She added staff is always happy to offer suggestions about PDCs, affordable housing requirements and applicable CMP standards.

Ms. Grogan provided additional information on the PDC requirement associated with the redevelopment plan. She also said that there is an affordable housing requirement built into the redevelopment plan. She said that as adopted the Shoreline portion requires a 10% set aside and the Compass Point ranges from a 5% to a 10% set aside. The township may change where they want the affordable housing units to be built and instead require the redevelopers to contribute to the Affordable Housing Trust Fund. She added that should this change occur and as long as there are no changes to density or PDC requirements, the amendment could be resolved without bringing another resolution to the Commission.

Commissioner Lloyd asked why the set aside percentage was not 20% and asked about the status of Barnegat's affordable housing settlement.

Susan Grogan said the 20% set-aside is no longer typical, adding that more and more staff have been seeing lower numbers related to set-asides, around the 10% range. She said Barnegat Township is currently in settlement discussions with the Fair Share Housing Center.

The Commission adopted the resolution by a vote of 11 to 0.

#### Public Comment on Agenda Items and Pending Public Development Applications

Georgina Shanley of Ocean City, NJ, said she is opposed to solar in the Forest Area. She requested clarification on the South Jersey Gas appeal update.

Paula Yudkowitz of Oaklyn, NJ, said she is upset about the lack of progress with the Wharton State Forest map. She said she visits Wharton about three times a week, and each time she witnesses some type of destruction.

Jason Howell of the Pinelands Preservation Alliance, said the destruction that has occurred at Wharton State Forest happened on DEP's watch. He said the subcommittee process is redundant and the Commission should issue a resolution. He said an off-road vehicle recently damaged fields at Tuckahoe Turf Farm.

Margit Meissner-Jackson, Conservation Chair for Ocean County Sierra Club, said the Commission's only job is to protect the Pinelands and the aquifer. She spoke about autism in New Jersey and the importance of testing private wells for heavy metals. She said New Jersey has enough housing and too many vehicles on the road. She said she is boycotting Jersey produce.

Temma Fishman of Medford Lakes, NJ, requested clarification on the South Jersey Gas appeal.

Bob Filipczak of Linwood, NJ, said converting BL England from a coal-fired plant to natural gas will not benefit air quality. He resubmitted testimony from the Jan. 24, 2017 Commission meeting and submitted additional info (see attached). He said solar panels should be installed on every high school gymnasium in New Jersey. He also provided the Commission with a sample of water from the Barnegat Bay. He said Oyster Creek is destroying the Barnegat Bay, not fertilizer.

Katie Smith of the Pinelands Preservation Alliance said she hopes the Commission will thoroughly review the potential proposed solar amendment for the Forest Area and allow adequate time for public participation.

Marilyn Miller of Toms River, NJ read a quote from Major Ronald Balfour: "No age lives entirely alone; every civilization is formed not merely by its own achievements but by what it has inherited from the past. If these things are destroyed, we have lost a part of our past, and we shall be the poorer for it."

Jackie Zimnak of Little Egg Harbor, NJ, said the Commission needs to take action to stop the off-road vehicle damage at Wharton State Forest.

#### Ordinances Not Requiring Commission Action

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

- Berlin Borough Planning Board Resolution 2017-5
- Egg Harbor City Ordinance 3-2017

Chief Planner Grogan noted that within Berlin Borough's Resolution a very detailed affordable housing plan outlines each site with specific set-aside requirements.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Bob Filipczak of Linwood, NJ expressed his dissatisfaction with the NJDEP and the Governor.

Georgina Shanley of Ocean City, NJ, asked if the CMP is being amended to include standards on climate change. She said she wished the Commission would take on more of a leadership role. She said the South Jersey Gas pipeline will eventually be used for export.

Margit Meissner-Jackson of Eagleswood Township spoke about a 30-inch pipeline being proposed by New Jersey Natural Gas. She said it will go under the Bay to serve Long Beach Island residents. She does not support the use of natural gas.

Jason Howell of the Pinelands Preservation Alliance said the Commission has heard from a variety of people who use Wharton State Park. He encouraged the Commission to take action on a map.

Marilyn Miller of Toms River, NJ, said the public cares about the Pinelands.

Paula Yudkowitz of Oaklyn, NJ, suggested a moratorium on Enduro events until the ORV issue is under control at Wharton.

Dan Homan of Philadelphia, PA said he loves the Pinelands.

Other

Commissioner Prickett said he recently heard about an instance where PFOS and PFOA were being detected in privately-owned wells on the Rancocas. He asked if it was possible to have an update on the issue at a Policy and Implementation Committee meeting.

ED Wittenberg said an update can be provided.

At the request of some members of the public, Ms. Roth provided additional details on her earlier statement regarding the South Jersey Gas appeal.

Commissioner Avery questioned who was representing the three parties that have challenged the Commission's South Jersey Gas decision.

Stacey Roth said NJ Sierra Club and Environment New Jersey are represented by New Jersey Appleseed, and the Pinelands Preservation Alliance is represented by Dechert.

Commissioner Lohbauer said he is encouraged by the progress staff has made with working with the NJDEP on the Wharton matter. He said it seems like everyone is in agreeance

with the resolution advising where motor vehicle activity can occur at Wharton. He added that ultimately the map will need to be implemented by the NJDEP and the Park Police.

Adjournment

Commissioner McGlinchey moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 11:24 a.m.

Certified as true and correct:

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

Date: May 22, 2017