

Disclaimer

These minutes reflect the actions taken by the Commission during its October 9, 2015 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 October 23, 2015

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

MINUTES

**October 9, 2015**

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, Bill Brown, Joe DiBello, Sean Earlen, Paul E. Galletta, Jane Jannarone, Ed Lloyd, Ed McGlinchey, Richard Prickett, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Amy Herbold and Deputy Attorney General Sean Moriarty.

Commissioners Absent

D'Arcy Rohan Green and Gary Quinn.

Chairman Lohbauer called the meeting to order at 9:37 a.m.

DAG Sean Moriarty read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 11 Commissioners present.)

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

### Minutes

Chairman Lohbauer presented the minutes from the September 11, 2015 Commission meeting. Commissioner Prickett moved the adoption of the minutes. Commissioner Barr seconded the motion. Commissioner Jannarone abstained.

The minutes of the September 11, 2015 Commission meeting were adopted by a vote of 10 to 0. Commissioner McGlinchey and Commissioner Lloyd were not present for the vote.

### Committee Chairs' Reports

Chairman Lohbauer said there were no Committee meetings this past month.

### Executive Director's Reports

Ms. Nancy Wittenberg updated the Commission on the following:

- The Municipal Council met on September 29<sup>th</sup>. At that meeting Superintendent Robert Auermilller presented the Motorized Access Plan for off-road vehicles at Wharton State Forest. She said the plan was receiving some pushback and the NJ Department of Environmental Protection (NJDEP) has begun a stakeholder process.
- The Board of Public Utilities will hold a public hearing on October 19, 2015 at the Upper Township Municipal court on the South Jersey Gas Pipeline <http://www.state.nj.us/pinelands/home/news/bpupublichearing.shtml>.
- World Water Monitoring day will be held on October 23rd at Batsto Lake.
- A new link on the Commission's website has been created for requesting documents through the Open Public Record Act (OPRA).

Commissioner McGlinchey joined the meeting.

Mr. Paul Leakan displayed the updated OPRA page on the Commission's website and explained the three options for submitting an OPRA request.

Link: <http://www.state.nj.us/pinelands/home/contact/opra.shtml>

Commissioner Lloyd joined the meeting.

Ms. Wittenberg said at the September 11th Commission meeting, a member of the public read emails into the record about the New Jersey Natural Gas (NJNG) Southern Reliability Link. Ms. Wittenberg said that staff held two pre-application meetings with New Jersey Natural Gas. She said at those meetings various potential routes were discussed. In April 2015, NJNG submitted a formal application that is currently under review.

Ms. Wittenberg said she does not know who sent the emails in question and that the proposal presented to staff always included routes through Joint Base McGuire-Dix-Lakehurst.

Chairman Lohbauer asked if staff recommended that the applicant shift the route through the base.

Ms. Wittenberg said no, staff offered guidance as to the restrictions imposed on the routes consistent with the Comprehensive Management Plan (CMP).

Chairman Lohbauer said that at the last Commission meeting a member of the public read emails into the record that gave the perception that staff suggested that NJNG direct the proposed pipeline through the Joint Base.

Mr. Larry Liggett updated the Commission on the following:

- The State's Water Supply Advisory Committee continues to meet but there is no news on the issuance of a report.
- The Delaware River Basin Commission is having a water forum on October 22. Commission staff will be making a presentation on how water is managed in the Pinelands.
- A meeting with the New Jersey Builders Association has been rescheduled to November. At that meeting the Pinelands Development Credit Program and the Kirkwood Cohansey study will be discussed

Mr. Chuck Horner provided an update on the following:

- Commission staff met with Stafford Township officials. Stafford Township is pursuing a Waiver of Strict Compliance application for a compelling public need to construct a stormwater basin on the south side of Route 72 to help alleviate flooding problems in the Ocean Acres residential development area. A public hearing on the matter will be scheduled before the end of the year.
- An October 8th letter to the Department of Transportation has been distributed to Commissioners. Mr. Horner said that in 2014 the Commission approved the reconstruction of the Blue Anchor Dam in Winslow Township, construction on the project has begun. He said a staff member recently identified the endangered plant species American Lotus at the project site. Staff has reviewed and determined that the development will not result in an irreversible, adverse impact on the local population.
- The Commission recently issued a Certificate of Filing (CF) for an addition to the existing Wal-Mart store in the Town of Hammonton. The issuance of the CF was contingent on the resolution of two matters: a failing stormwater basin at the Wal-Mart site and the Town's ability to have the land disposal application for wastewater fully operational.

Commissioner Avery asked if the Commission would see a summary of the comments from the Stafford Township Waiver application public hearing.

Mr. Horner reviewed the sequence of actions the Waiver of Strict Compliance would follow. He said the Commission will receive a report and recommendation from the Executive Director, including a summary of the public comments and relevant responses from the staff.

Public Development Projects and Other Permit Matters

Chairman Lohbauer presented a resolution recommending the approval of a forestry stewardship plan for Double Trouble State Park.

Commissioner Barr moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1982-4156.019) (See Resolution # PC4-15-28). Commissioner Galletta seconded the motion.

The Commission adopted the resolution by a vote of 13 to 0.

Chairman Lohbauer presented a resolution recommending the approval of an asphalt walking track and associated improvements at the Chatsworth Elementary School in Woodland Township.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1993-0148.003) (See Resolution # PC4-15-29). Commissioner Earlen seconded the motion.

The Commission adopted the resolution by a vote of 13 to 0.

Other Resolutions

Chairman Lohbauer presented a resolution to adopt the 2014 Annual Report.

Commissioner Ashmun moved the adoption of a resolution To Approve the New Jersey Pinelands Commission's 2014 Annual Report (See Resolution # PC4-15-30). Commissioner Prickett seconded the motion.

The Commission adopted the resolution by a vote of 13 to 0.

Chairman Lohbauer said the next resolution acknowledges the late Bob Hagaman for his service on the Commission. The Chairman read the resolution into the record.

Commissioner Avery moved the adoption of a resolution Expressing the Commission's appreciation to the late Robert Hagaman for his service as a member between December 16, 2002 and June 12, 2008 (See Resolution # PC4-15-31). Commissioner Barr seconded the motion.

The Commission adopted the resolution by a vote of 13 to 0.

Public Comment on Agenda Items and Pending Public Development Applications

There were no members of the public who offered comment.

Ordinances Not Requiring Commission Action

Chairman Lohbauer asked if any Commissioners had questions regarding the master plans not requiring Commission action:

- Berkeley Township's 2015 Master Plan Reexamination Report and Master Plan Amendments
- Little Egg Harbor Township's 2015 Master Plan Reexamination Report, Master Plan Amendments and Floodplain Management Plan
- Ocean Township's 2015 Master Plan Reexamination Report and Master Plan Amendments

No members of the Commission had questions.

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

Micah Rasmussen commented on the New Jersey Natural Gas (NJNG) Southern Reliability Link project based on emails he provided at the September Commission meeting. He questioned how the route was chosen and the veracity of the application.

Georgina Shanley of Ocean City, NJ expressed her dismay that the South Jersey Gas application is classified as a private development application. She read a July 2015 quote from Governor Chris Christie about making the NJDEP more business friendly and more transparent. She said the Commission needs a moratorium on transmission pipelines.

Jeff Tittel of the New Jersey Sierra Club said that there are two applications at the Commission moving behind closed doors without transparency and public input. He said people no longer trust government and it's a problem throughout the country. He said the system worked when the Commission voted on the Memorandum of Agreement with the Board of Public Utilities for the pipeline to repower BL England because there was scrutiny and debate. He said the South Jersey Gas application is not a private development application because it is a public utility. He said New Jersey does not need any additional energy. He said there needs to be an investigation into the Department of Defense and the NJNG Southern Reliability Link (SRL). He said the NJNG SRL is not for resiliency but for development along the coast and places like Heritage Minerals. He asked that the Commission put a stop to these types of applications until an independent review occurs.

Margit Meissner-Jackson, Sierra Club Ocean County spoke about the risks pipelines pose to water bodies and the people of New Jersey.

Ann Kelly said pipelines do not serve the Pinelands, New Jersey, the country or the world. She said that there is a toxic plume near the base, and to run a pipeline in this area would be very dangerous.

Bill Wolfe said he hopes that the Commission will take Mr. Rasmussen's testimony seriously and that if the applicant (NJNG) submitted false information, an outside entity should investigate the matter. He said with the ongoing Paris conference on climate, this is

a great time to amend the CMP to address climate change. He provided rationale as to why the Air Quality standards in the CMP obligate the Commission to do so. He asked about the status of the Commission's ability to impose a moratorium.

Ms. Roth said DAG Moriarty would be providing guidance on the issue of a moratorium in closed session.

Mr. Wolfe said there are management issues at the Commission. He said the upcoming Board of Public Utilities hearing will accept comment on the pre-emption of municipal approvals under the Municipal Land Use Law for the South Jersey Gas pipeline.

Nathalie Neiss of Upper Township said there have been many misconceptions with the pipeline to re-power BL England and the upcoming hearing. She asked the Commission to provide clarification.

Chairman Lohbauer offered Ms. Neiss the opportunity to have a Commission staff member answer her questions after the meeting.

Ms. Neiss requested more information about the upcoming BPU hearing on October 19.

Ms. Wittenberg said the BPU will hold a public hearing on the provisions of N.J.S.A. 40:55D:19. She said this provision in the Municipal Land Use Law allows a public utility to bypass approval from a municipality and gain approval from the BPU.

Marianne Clemente questioned why the Commission can't hold a hearing on the South Jersey Gas pipeline application.

Chairman Lohbauer said there is no provision in the CMP that allows there to be a hearing for a private application.

Ms. Clemente asked why South Jersey Gas is considered a private entity.

Mr. Horner provided clarification as to how the CMP defines and determines the difference between a public entity and a private entity for development applications.

Connie Higgins of Long Beach Island, NJ said that the Commissioner's job is to protect and preserve the Pinelands. She said that she is losing confidence in government. She asked the Executive Director to allow the Commission to vote on the South Jersey Gas application.

Marilyn Miller said to the Commission that she is here to support the Commission in protecting and preserving the Pinelands.

Doug O'Malley of Environment New Jersey said there is a problem with the application process at this Commission. He said NJNG is using the Joint Base to undermine the CMP. He said that a moratorium on pipelines should be implemented at the Commission just as

the Delaware River Basin Commission instituted a moratorium on fracking in its watersheds. He requested that the Commission complete an independent investigation and scrutinize the NJNG application and implement a moratorium on pipelines.

Mr. Wolfe added that he filed an inquiry with the Base to find out what happened on their side.

Margo Pellegrino said she agrees that an independent investigation is necessary to determine what really happened with the NJNG emails. She said Mr. Lloyd's recusal was not directed by the Attorney General's office.

Commissioner Ashmun requested that staff prepare a resolution in support of the continuation of the Land and Water Conservation Fund.

Commissioner Lloyd said the Attorney General's office was involved in his recusal. He also said that he attended a signing of a Memorandum of Agreement that New York Governor Cuomo and numerous other jurisdictions from around the world initiated and committed to keeping the temperature rise below two degrees. He said he agrees with Mr. Wolfe that this Commission has a commitment to address climate change.

#### Closed Session Resolution

DAG Moriarty read a resolution to retire into closed session to discuss pending litigation.

Commissioner Lloyd moved to retire into closed session. Commissioner Prickett seconded the motion. The Commission agreed to retire into closed session by a vote of 13 to 0, beginning at 11:23 a.m.

#### Return to Open Session

Commissioner Lloyd made a motion to return to open session. Commissioner Prickett seconded the motion. The meeting resumed at 12:14 p.m.

DAG Moriarty said that in closed session the Commission discussed pending Tuckahoe Turf Farm litigation, pending South Jersey Gas litigation, moratoriums and pending anticipated New Jersey Natural Gas litigation.

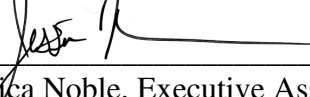
Commissioner Prickett said he was excited about the upcoming World Water Monitoring Day at Batsto on Friday, October 23.

Chairman Lohbauer said that the next Policy and Implementation and MOA Committee meetings will be on October 30, 2015.

Adjournment

Commissioner Barr moved to adjourn the meeting. Commissioner Jannarone seconded the motion. The Commission agreed to adjourn at 12:17 p.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: October 21, 2015