

Disclaimer

These minutes reflect the actions taken by the Commission during its July 10, 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 July 21, 2015

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

MINUTES

July 10, 2015

Commissioners Present

Candace Ashmun, Bob Barr, Bill Brown, Joe DiBello, Sean Earlen, Paul E. Galletta (via telephone), Jane Jannarone (via telephone), Ed McGlinchey, Richard Prickett, Gary Quinn, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Michael Collins and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Alan W. Avery Jr., Ed Lloyd and D'Arcy Rohan Green

Chairman Lohbauer called the meeting to order at 9:36 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 12 Commissioners participating at the meeting.)

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

Re-Organization

Chairman Lohbauer said the re-organization of Committee assignments will be held over to the August Commission meeting. He asked Commissioners to contact him with assignment requests.

Election of Vice Chair

Chairman Lohbauer said that Vice Chairman Avery said he would like to give up his post as Vice Chairman.

Chairman Lohbauer requested a nomination for Vice Chairman.

Commissioner McGlinchey made a motion nominating Paul Galletta for Vice Chairman. Commissioner Ashmun seconded the motion. All were in favor.

Minutes

Chairman Lohbauer presented the minutes from the June 12, 2015 Commission meeting. Commissioner Barr moved the adoption of the minutes. Commissioner Earlen seconded the motion.

The minutes of the June 12, 2015 Commission meeting were adopted by a vote of 12 to 0.

Committee Chairs' Reports

MOA *ad hoc* Committee

Commissioner Ashmun said the Committee met on June 26, 2015.

The Committee adopted the minutes of the April 24, 2015 meeting.

The Committee began reviewing a list of issues and suggestions related to the MOA process and standards.

The Committee's next meeting will be held on September 25, 2015, immediately following the P&I Committee meeting.

Personnel & Budget Committee

Commissioner McGlinchey and Commissioner DiBello jointly provided an update on the June 30, 2015 Personnel & Budget Committee meeting:

The Committee recommended adoption of the minutes from the June 2, 2015 meeting, but a quorum of the Committee was not present.

Copies of the Operating Budget, the Kirkwood Cohansey Aquifer Assessment Study Fund Budget and the Pinelands Conservation Fund Budget, dated June 30, 2015, were provided to the Personnel and Budget Committee for review. The Committee members who were

present at the Committee's June 30, 2015 meeting recommended Commission approval of the budgets.

Nancy Wittenberg and Jessica Lynch reviewed the May Check Registers, electronic disbursements and application fees. Michelle Russell provided an update on employee actions and reviewed the revisions to the Commission's Personnel Policies, dated June 30, 2015. The Committee members who were present at the meeting recommended Commission approval of the Commission's Personnel Policies.

Commissioner McGlinchey said that he supports the Kirkwood Cohansey and PCF budgets but he will not be voting in favor of the budget resolution because the Operating budget does not have money allocated for salary increases for Commission employees.

Agriculture Committee

Commissioner McGlinchey provided an update on the June 16, 2015 Committee meeting:

The Committee adopted the minutes from the May 1, 2015 meeting.

The Committee received a summary of the nine meetings staff has conducted with various interest groups.

The Committee asked that the State Agriculture Development Committee be invited to the next meeting to discuss its On-Farm Direct Marketing agricultural management practice.

The Committee's next meeting will be held on July 31, 2015, following the P&I Committee meeting.

Policy & Implementation Committee

Chairman Lohbauer provided an update on the June 26, 2015 Policy & Implementation Committee meeting:

The Committee adopted the minutes of the May 29, 2015 meeting.

The Committee received a presentation on the Pinelands Conservation Fund land acquisition program and supported staff recommendations to dedicate \$750,000 to a new round of land acquisition to be administered by staff.

Executive Director's Reports

Ms. Nancy Wittenberg said that later in the meeting she would present the Fiscal Year 2016 budget.

Mr. Larry Liggett updated the Commission on the following:

- Commission staff continues to work with the New Jersey Department of Environmental Protection (NJDEP) regarding Water Quality Management Planning to ensure that the Pinelands boundaries are recognized. He said staff will also be analyzing the septic acreage requirements within the Pinelands Area watersheds.

- Commission staff have begun to receive copies of the affordable housing paperwork being filed by Pinelands municipalities with the superior court in response to a recent NJ Supreme Court ruling on the Council on Affordable Housing's (COAH) rules. Staff will continue to evaluate affordable housing obligations.

Mr. Chuck Horner provided an update on the following:

- The Commission has been contacted by the NJDEP on behalf of the Borough of Medford Lakes, the Town of Hammonton and Medford Township to create temporary debris storage areas. These areas will be used by the municipalities to collect tree branches and brush that fell off trees from the recent weather incident. The Commission staff reviews these types of requests to ensure that the storage areas are not in wetlands or other sensitive areas.
- The Department of Transportation (DOT) has contacted Commission staff about an application for deceleration lanes in a couple of areas along Route 72 East in both Barnegat and Stafford townships. They have requested an expedited review because of the number of car accidents that have occurred.
- The Town of Hammonton continues to work out the details of a tree clearing issue at the municipal airport.
- Staff held two pre-application meetings with the North Hanover Township School District about the demolition of three existing schools at Joint Base McGuire-Dix - Lakehurst. The school district is proposing to build one new school on the same property as the existing schools.

Commissioner McGlinchey asked if DOT was still in violation of its rules regarding stormwater management.

Mr. Horner said NJDEP had cited DOT some years ago over certain freshwater wetlands protection standards. He said he would find out the status of the matter and report back at the August Commission meeting.

Commissioner Ashmun asked if the proposed Route 72 deceleration lane involved widening the road.

Mr. Horner said that he estimates the deceleration lane would be about 10 feet wide in the existing disturbed shoulder, with a length of about 500 feet. He added that he has not seen the plan yet.

Public Development Projects and Other Permit Matters

Chairman Lohbauer presented a resolution recommending approval of a public development application for a potable water treatment building.

Commissioner Prickett recused himself and left the room.

Commissioner McGlinchey moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1991-1108.009) (See Resolution # PC4-15-15). Commissioner Barr seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0, with Commissioner Prickett not participating in the vote.

Commissioner Prickett returned to the room.

Chairman Lohbauer presented a resolution recommending the denial of a Waiver of Strict Compliance for the development of a single family dwelling in Medford Township.

Commissioner McGlinchey moved the adoption of a resolution Denying an Application for a Waiver of Strict Compliance (Application Number 2010-0150.001) (See Resolution # PC4-15-16). Commissioner Prickett seconded the motion.

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

Public Comment on Agenda Items and Pending Public Development Applications

Bill Wolfe of Bordentown, NJ said at last month's meeting he mentioned NJDEP's proposed Stream Encroachment rule modification. He asked which agency's rules would govern.

Mr. Horner said that NJDEP is proposing amendments to the Flood Hazard rules, adding that staff is currently reviewing the proposed amendments and will provide comments to the NJDEP. He said that the way the Commission's regulations and the Pinelands Protection Act were written, the general rule is that in the Pinelands Area, the Commission's regulations prevail.

Mr. Wolfe said that at a December 4, 2013 meeting Commission staff made a presentation that identified South Jersey Gas' proposed pipeline was not a permitted use in the Forest Area.

Mr. Wolfe said he attended the Board of Public Utilities public hearing on the South Jersey Gas matter. He asked that Commissioners review the tape of the hearing. He said the statements made by the Board are in conflict with information provided in the resubmission of the South Jersey Gas application regarding the reliability of the grid and resilience of gas infrastructure. He said he urged the Board not to move forward until they discussed the matter with the Pinelands Commission.

Mr. Wolfe said since the gas that will be fueling the BL England plant is coming from fracked wells, a life cycle assessment is necessary as part of the application review.

He asked if staff had assessed forest damage in the Pinelands after the June 23rd weather event. He said the storm was tied to climate change.

Chairman Lohbauer asked Mr. Wolfe to hold the remainder of his comments to the “general public comment” portion of the meeting since his comments were not related to agenda items.

Other Resolutions

Ms. Wittenberg said that the revised Personnel Policies originally on today’s agenda will be deferred to another meeting.

Ms. Wittenberg presented the Fiscal Year 2016 Budgets. She said the state appropriation is \$30,000 more than last year. She first reviewed the Operating budget. She said application fees were higher than expected in FY 2015, so the anticipated fees for FY 2016 were increased. She reviewed each category of the Operating fund expenditures. She noted that the money to paint Fenwick Manor has been carried over from last year’s budget.

Commissioner Ashmun asked why the state isn’t paying to paint the building.

Ms. Wittenberg said she will look at grant opportunities for historic buildings and hopes that the state will help pay for the painting of Fenwick Manor.

Commissioner McGlinchey suggested seeking help from the Pinelands Preservation Alliance or a historical society for the painting project.

Regarding the Kirkwood Cohansey (KC) budget, Mr. Liggett said additional information will be needed in order to implement the key ideas from the KC study. He said the remainder of the money will be used for further research. The Commission will team with the US Geological Survey (USGS) in an attempt to provide further information on designating watersheds and additional testing of well modeling (TIM approach).

Ms. Wittenberg reviewed the Pinelands Conservation Fund budget. She noted that there is \$350,000 in the budget for the installation and fabrication of the interpretive center.

She said there was slight increase in money from the National Park Service. She said staff will be working on a brochure and re-establishing a team of economic and environmental experts to re-look at and share information about the Long Term Economic and Environmental Monitoring program.

Ms. Wittenberg reviewed staffing levels and FY 2016 Initiatives (see attached presentation slides).

Chairman Lohbauer said he recognizes how hard staff works and the great things that get accomplished even with rising costs and low staff levels.

Commissioner Prickett moved the resolution To Adopt the Pinelands Commission’s Fiscal Year 2016 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund and the Pinelands Conservation Fund (See Resolution # PC4-15-17).

Commissioner Earlen seconded the motion.

Commissioner McGlinchey expressed his support of both the Kirkwood Cohansey and PCF Budgets but he said he could not support the Operating budget because there were no raises for staff.

The Commission adopted the resolution by a vote of 11 to 1, with Commissioner McGlinchey voting no.

Ordinances Not Requiring Commission Action

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

- Buena Vista Township Ordinance 4-2015
- Manchester Township Ordinance 15-004

No members of the Commission had questions.

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

Mark Demitroff of Buena Vista Township handed out two packets of information (See attached). He said Buena Vista Township's largest tree died due to poor stormwater management. He said the township continues to have flooding problems. He said that he was influential in having the Richland Hotel added to the National Register of Historic Places. He said if the Commission does not require such things as cultural resource survey and stormwater management, it will lose its charge to protect the Pinelands. He recommended that Ed Lloyd's recusal over the South Jersey Gas pipeline application be revisited.

Chairman Lohbauer said it was the State Ethics Commission who made the decision on Mr. Lloyd's recusal, not the Commission.

At 10:43 a.m. Commissioner Galletta signed off.

Dan Homan of Philadelphia said he would like to help the Commission. He quoted Henry David Thoreau. He said there seems to be a disagreement between those who want to take more of the Pinelands for themselves at the expense of those who love it.

Georgina Shanley of Ocean City said that the staffing levels at the Commission are dire. and that the \$750,000 for the interpretive center would be better spent hiring staff. She asked about the repercussions for Upper Township's development without application to the Commission.

Ms. Wittenberg said everyone is frustrated with the Commission's lack of enforcement power. She said Upper Township unfortunately made a mistake. She added that the majority of municipal, county and public agencies follow the appropriate protocol and apply to the Commission for development.

Ms. Shanley asked if it was possible to make the Township buy land in Upper or compensate the public and/or the Commission for not applying initially.

Chairman Lohbauer said there is nothing in the CMP that allows the Commission to demand compensation from violators.

Ms. Shanley asked about the status of the Certificate of Filing for the South Jersey Gas application.

Chairman Lohbauer said an incomplete letter was sent, adding that we have requested additional information and have not received anything from the applicant at this point.

Ms. Shanley said maybe Commissioner Barr should recuse himself from any pipeline vote because he is the Treasurer of the Cape May County Democratic party. She said the Democratic party receives a lot of contributions from trade unions, the same union members who would be constructing the pipeline.

Commissioner Barr said he is no longer the Treasurer of that organization.

Bill Wolfe said there is an upcoming BPU public hearing on the New Jersey Natural Gas pipeline. He said the Commission should consider an administrative moratorium on all pipelines based on the gap in the Commission's current regulations. He suggested the Commission use the Delaware River Basin Commission's moratorium as a model. He read paragraph 19 from the Pope's encyclical.

Marianne Clemente said that a five percent salary increase is not practical. She said the money would be better spent to increase staffing levels or hire an engineer.

Fred Akers provided information on the \$400 million dollar redevelopment of the BL England plant. He said the Commission might want to look at the impacts the redevelopment would have on the Pinelands National Reserve.

Commissioner Ashmun asked if Mr. Akers had seen any data on the discharge.

Mr. Akers said he has not come across any yet.

Adjournment

Commissioner Barr moved to adjourn the meeting. Commissioner Brown seconded the motion. The Commission agreed to adjourn at 11:10 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: July 17, 2015