

Disclaimer

These minutes reflect the actions taken by the Commission during its February 8, 2019 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 February 22, 2019.

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

MINUTES

February 8, 2019

Commissioners Present

Alan W. Avery Jr., Bob Barr, Paul E. Galletta, Jordan P. Howell, Jane Jannarone, Ed Lloyd, Mark Lohbauer, William Pikolycky, Richard Prickett and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Craig Ambrose and Deputy Attorney General (DAG) Kristina Miles.

Commissioners Absent

Candace Ashmun, Giuseppe Chila, D'Arcy Rohan Green and Gary Quinn.

Chairman Earlen called the meeting to order at 9:34 a.m.

DAG Miles read the Open Public Meetings Act Statement (OPMA).

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.

Minutes

Chairman Earlen presented the minutes from the January 11, 2019 Commission meeting. Commissioner Barr moved the adoption of the minutes. Commissioner Prickett seconded the motion.

The January 11, 2019 Commission meeting minutes were adopted by a vote of 10 to 0.

Committee Chairs' Reports

Chairman Earlen provided an update on the January 25, 2019 Policy and Implementation Committee:

The Committee adopted the minutes of the November 30, 2018 meeting.

The Committee recommended Commission certification of:

- Stafford Township Ordinance 2018-19, revising planned unit development standards in the Highway Medical Commercial Zone
- Winslow Township Ordinance O-2018-25, adopting the Maressa Redevelopment Plan.

The Committee recommended Commission approval of an amendment to the Pinelands Infrastructure Trust Fund (PITF) Master Plan.

The Committee received an update on a revised Memorandum of Agreement (MOA) with the South Jersey Transportation Authority and discussed potential offsets for the removal (as required by the Federal Aviation Administration) of the existing 290 acre grassland conservation area.

The Committee received an update on the Clayton mine in Woodland Township. The applicant has agreed to deed restrict approximately two-thirds of the 1,400 acre property for conservation. Expansion of the existing mine will be permitted on the remainder of the property.

Executive Director's Reports

ED Wittenberg updated the Commission on the following items:

- Staff is working on scheduling a meeting with the National Park Service now that the federal government shutdown has ended.
- The new Committee that will address energy and sustainability scheduled its first meeting. A number of staff members recently participated in a climate change webinar.
- Comments were submitted to the New Jersey Department of Environmental (NJDEP) Protection regarding its proposed stormwater rule.

Director Larry Liggett updated the Commission on the following:

- Commissioner Galletta requested that staff research whether the PITF could be revised to include Pinelands Town Management Areas. Such a change would require an amendment to the Comprehensive Management Plan (CMP) or the existing PITF legislation.
- In an effort to provide the Long Term Economic Monitoring Program data faster, the data can now be viewed on the Commission's website as it becomes available.

Director Chuck Horner provided information on the following regulatory matters:

- On January 30th, Commission staff held a seminar on the Pinelands rules at NJDEP for about 75 of its staff members. Commission staff provided an overview of the Commission's regulations and how they relate to NJDEP's rules.
- Staff met with the Medford Lakes Borough Clerk to discuss the application process as it relates to the Borough's locally designated historic district.
- In the fall of 2018, the Commission received a request from three major utilities to apply herbicides to some test plots. He said the three utility companies are the same utilities that participate in the Commission's electric transmission right-of-way (ROW) vegetation-management plan pilot program. Herbicides are not permitted in utility rights-of-way in the Pinelands. He said although the Executive Director is permitted to make modifications to the ROW Plan, it was determined that allowing herbicides is not a minor modification. He said that this coming fall, the pilot program will be reviewed for success and any adjustments to the plan can be discussed.
- On January 25th, a new application to remove trees surrounding the Bass River Fire tower was received from the NJDEP. It is anticipated that public comment will be heard at the March Commission meeting and action will be taken at the April Commission meeting.
- On February 22nd, staff will be meeting with the Department of Transportation to review the provisions of an existing MOA that allows for the limited use of herbicides in ROW's.

Chief Planner Susan R. Grogan wished the Commission a Happy Birthday. She said it was on this day 40 years ago that Governor Byrne signed an Executive Order creating the Pinelands Commission.

Communications Officer Paul Leakan provided an update on the following:

- The Certificate of Occupancy was issued for the exhibit center. A new webpage on the Commission's website was created which has additional information about the exhibit.
- A total of 375 people have registered for the 30th Annual Pinelands Short Course which will take place on March 9, 2019. The Pinelands Orientation for Newly Elected Officials is scheduled for July 23, 2019.

Commissioner Prickett asked if the Buena Borough wastewater treatment plant qualifies for PITF money.

Director Liggett said the plant is located in a Pinelands Town Management Area and therefore is not eligible for PITF. He noted that staff would be looking at the infrastructure needs of Pinelands Towns and the feasibility of a new funding source.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending approval of improvements to the New Brooklyn Lake Dam in Winslow Township.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2015-0066.003) (See Resolution # PC4-19-04). Commissioner Galletta seconded the motion.

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

Chairman Earlen presented a resolution recommending approval of road improvements to Dehirsch Avenue in Woodbine Borough.

Commissioner Pikolycky said he would be recusing from the vote on this application and left the dais.

Stacey Roth noted that Commissioner Pikolycky is recusing from this matter because he is the Mayor of Woodbine Borough.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2018-0098.001) (See Resolution # PC4-19-05). Commissioner Barr seconded the motion.

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

Commissioner Pikolycky returned to the dais.

Chairman Earlen presented a resolution recommending approval for a Waiver of Strict compliance for the construction of a single family dwelling in Jackson Township.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for an Amended Waiver of Strict Compliance (Application Number 1987-0127.001)(See Resolution # PC4-19-06). Commissioner Lohbauer seconded the motion. The Commission adopted the resolution by a vote of 10 to 0.

Planning Matters

Chairman Earlen presented a resolution to certify an ordinance from Stafford Township.

Commissioner Galletta moved the adoption of a resolution Issuing an Order to Certify Ordinance 2018-19, Amending Chapter 211 (Zoning) of the Code of Stafford Township(See Resolution # PC4-19-07). Commissioner Barr seconded the motion.

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

Chairman Earlen presented a resolution to certify an ordinance and Redevelopment Plan from Winslow Township.

Commissioner Galletta moved the adoption of a resolution Issuing an Order to Certify Winslow Township Ordinance O-2018-025, Adopting the Maressa Redevelopment Plan (See Resolution # PC4-19-08). Commissioner Jannarone seconded the motion. The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution regarding amendments to the Pinelands Infrastructure Master Plan.

Commissioner Barr moved the adoption of a resolution To Adopt an Amendment to the Pinelands Infrastructure Master Plan (See Resolution # PC4-19-09). Commissioner Pikolycky seconded the motion.

Commissioner Lohbauer requested a brief overview of the comments received at the public hearing and asked what types of projects municipalities are looking to fund.

Director Liggett said staff asked for input concerning the proposed grant and loan percentages and did not receive much feedback. He said the amendment requires 50% grant, 40% loan and 10% local share. He said staff would like to see the fund regenerate rather than deplete. He described the steps in the lengthy process, of identifying, approving and funding projects.

Resource Planner Gina Berg added that two members of the public attended the hearing, one was in favor of the amendment and one was not. She said municipalities are primarily interested in sewer and transportation projects.

Commissioner Lloyd asked, speaking hypothetically, if the CMP were amended to include projects in Pinelands Towns, would the criteria in the PITF need to be changed and would the Buena Borough treatment plant qualify for money through PITF.

Director Liggett said he did not think the PITF would need to be changed and the wastewater facility could be eligible for funds. He also noted that during the amendment process, staff spoke with either the township planner or the township engineer in most Regional Growth Area towns to discuss municipal needs.

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

Public Comment on Public Development Applications and Items where the record is open

No one from the public spoke.

Ordinances Not Requiring Commission Action

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

- Egg Harbor City Ordinance 15-2018
- Egg Harbor Township Planning Board Resolution HE/FS 01-18 and Ordinance 51-2018
- Evesham Township Planning Board Resolution 18-15 and Ordinance 25-12-2018
- Manchester Township Ordinance 18-34
- Medford Lakes Borough Ordinance 657
- Stafford Township Ordinances 2018-23, 2018-24, 2018-26, 2018-28, 2018-29 and 2018-31
- Upper Township Planning Board Resolution 05-2018 and Ordinance 019-2018
- Wrightstown Borough Ordinance 2018-09

No members of the Commission had questions.

Presentation: Wharton State Park Update

ED Wittenberg said a member of the public raised two issues related to Wharton during the January Commission meeting. She said due to the wet weather, unimproved roads have experienced significant flooding at Wharton. She said the NJDEP issued a press release on the road closures. She also said a Superintendent at Wharton was threatened and the State Police are investigating the incident. She said the NJDEP is currently working on a road assessment and continues to prioritize its work based on need.

ED Wittenberg said Chief Scientist John Bunnell will present the Science Office's study on ponds in the Pinelands.

Chief Scientist Bunnell said that as part of an Environmental Protection Agency (EPA) funded study the science office was able to assess natural ponds and created wetlands (excavated ponds and stormwater basins). He said the presentation will examine the relationship between these wetlands and off-road vehicle (ORV) damage. The slides included pictures of both natural ponds and excavated ponds in the Pinelands. He displayed a photo of a heavy wooden barrier protecting a wetland. He said the wooden barriers have worked at keeping ORVs out. He said the ponds were mapped and certain variables were used in a model to predict ORV damage. He said the study has found the following five variables as important predictors in ORV damage: pond size, percentage of water and herb cover, distance to nearest sand or paved road and distance to the nearest damaged pond. The slides from the presentation are attached. The full presentation can be viewed at <https://www.youtube.com/watch?v=CkYLLkILm4w>.

Chief Scientist Bunnell answered questions from Commissioners.

Commissioner Barr asked about using drones to catch ORV users who are damaging state lands. He said he was very bothered by the damage to the ponds and would like to come up with a mechanism for preventing further damage. He also raised the question whether educating the public about the lasting effects of improper ORV use would be beneficial.

ED Wittenberg said staff continues to work with the NJDEP about these issues by sharing data and information and working to protect the most at risk sites with barriers. She said the data from the vulnerability study can be used as an education tool.

Chairman Earlen asked if any additional wooden barriers have been installed recently and, if not, he was curious why.

Chief Scientist Bunnell said he recently asked about installing additional barriers and was advised that there was no funding or staff resources at this time. He added that Terry Schmidt from the NJDEP deserves much of the credit for getting the wooden barriers installed, she coordinated the volunteers and machines necessary. The Commission's role was to advise which ponds needed the protection.

ED Wittenberg suggested that it might be a good time for some Commissioners to meet with the NJDEP Commissioner and upper level staff.

Commissioner Lohbauer said he is interested in attending that meeting with NJDEP. He also said data from the pond vulnerability study can be used to help with enforcement.

Chairman Earlen said he was happy to see there was no correlation between damaged ponds and enduro routes. He said it shows that the organized groups that apply to the Commission for recreation permits are not part of the problem.

ED Wittenberg introduced Olivia Glenn, Director of Parks & Forestry at the NJDEP, to the Commission.

Several Commissioners raised questions related to the cost of the wooden barriers and wooden barriers versus metal barriers. Commissioners and staff also discussed fines related to illegal ORV use, impoundment, the state's motor vehicle code and damage to state land.

Commissioner Lloyd suggested inviting the New Jersey Department of Transportation into the conversation.

Commissioner Lohbauer raised concerns about the roads in Wharton that traverse through ponds and the possibility of limiting access on these roads.

ED Wittenberg said staff would need to take a closer look at where the roads lead. She said closing roads is complicated, as a result, there may be unintended loss of access.

Commissioner Jannarone left the meeting.

General Public Comment

Commissioners and staff discussed when the public comment period opens for a public development application.

Carol Bitzberger of Bass River Township said its interesting that a Commissioner suggested using drone technology to find ORV users at Wharton State Park. She questioned the schedule for the Bass River Fire Tower application. She also asked the Commission to define interested party. She said she hopes the Commissioners will look at the statistics of the Oregon Forest Fire Service and its success of using camera technology.

Director Horner offered guidance about the Commission's public comment process.

Paula Yudkowitz of Oaklyn Borough said families cannot get into the interior of the Pinelands. She said there should be additional park police working when organized vehicle events take place at Wharton.

Rose Sweeney of Bass River Township asked the Commission if members of the public are permitted to make presentations to the Commissioners. She also asked if there was a timeframe for the Governor's appointments.

Tom Hedden of Tabernacle said he helped install the barrier at Mt. Misery, along with a group of 15 volunteers and three members of park personnel. He said the material costs were shared. He said Open Trails NJ is ready to do more projects with the intent to protect certain areas at Wharton. He said he was happy that there was no correlation between enduro routes and damaged ponds.

Rhyan Grech of the Pinelands Preservation Alliance wished the Commission a Happy Birthday. She commended the Pinelands staff on the pond study. She said the Alliance has tools, a budget, specific sites in mind and volunteers ready to install more barriers at Wharton. She said the only thing necessary is permission from the NJDEP. She encouraged the Commission to continue to have the ORV matter on the agenda.

Dave Dempsey of Shamong Township said he belongs to multiple Jeep groups. He said he has been promoting education and responsible use of the forest to groups of people. He said he has seen an increase in park police patrolling at Wharton. He said the barrier at Jemima Mt. has been successful.

Jennifer Curley, CWA Local 1040 Staff Representative, read a statement into the record (see attached).

Jason Howell of the Pinelands Preservation Alliance said the pond study was well done and hopes that more barriers to protect ponds can be installed soon.

Resolution to Retire into Closed Session

DAG Miles read a resolution to enter into closed session to discuss litigation and a number of attorney client privilege matters.

Commissioner Lohbauer made a motion to enter into closed session. Commissioner Avery seconded the motion. The Commission agreed to retire into closed session by a vote of 9 to 0, beginning at 11:22 a.m.

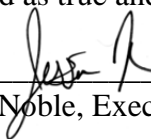
Return to Open Session

The Commission entered back into open session at 12:01 p.m. DAG Miles provided a summary of the closed session. She said the Commission discussed union negotiations, a personnel matter and litigation regarding two pipeline applications.

Adjournment

Commissioner Pikolycky moved to adjourn the meeting. Commissioner Barr seconded the motion. The Commission agreed to adjourn at 12:02 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: February 21, 2019