

Disclaimer

These minutes reflect the actions taken by the Commission during its March 11, 2022 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 March 18, 2022.

PINELANDS COMMISSION MEETING

MINUTES

March 11, 2022

The March 11, 2022 Pinelands Commission meeting was conducted remotely. All participants were present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=bZqYtYnOcjK>

Commissioners Participating in the Meeting

Alan W. Avery Jr., John Holroyd Jr., Jerome H. Irick, Theresa Lettman, Ed Lloyd, Mark Lohbauer, Jonathan Meade, Davon McCurry, Jane Jannarone, William Pikolycky, Gary Quinn and Chair Laura E. Matos. Also participating were Acting Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Nicolas Seminoff and Governor's Authorities Unit representative Janice Venables.

Commissioners Absent

Daniel Christy & Shannon Higginbotham.

Call to Order

Chair Matos called the meeting to order at 9:32 a.m.

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

Acting Executive Director (ED) Grogan called the roll and announced the presence of a quorum. Twelve Commissioners participated in the meeting.

The Commission pledged allegiance to the Flag.

Minutes

Chair Matos presented the minutes from the Commission's February 11, 2022 meeting. Commissioner Pikolycky moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes from the February 11, 2022 Commission meeting were adopted by a vote of 11 to 0. Commissioner Quinn abstained from the vote.

Committee Reports

Chair Matos provided an update on the February 25, 2022 Policy & Implementation (P&I) Committee meeting:

The Committee adopted the minutes of its November 19, 2021 meeting.

The Committee reviewed and recommended certification of an ordinance from Tabernacle Township that will permit solar energy facilities on former sand and gravel mines located in the Preservation Area District.

The Committee reviewed and recommended approval of a resolution requesting continued PILOT (Payment in Lieu of Taxes) funding for Pinelands municipalities.

The Committee received an update on upcoming policy and agenda content for the spring, including a new round of Pinelands Conservation Fund land acquisition and draft CMP amendments concerning the Electric Transmission Right-of-Way (ROW) Pilot Program and Kirkwood-Cohansey water supply policies.

Commissioner Lohbauer provided an update on the February 25, 2022 Climate Committee meeting:

The Committee received an update on the status of the Local Government Energy Audit and the rain garden project.

The Committee received an update on the following state initiatives that the Commission hopes to be involved in: the Governor's Interagency Council on Climate Resilience, Senator Smith's newly formed Forest Stewardship Task Force and the New Jersey Department of Environmental Protection (NJDEP) and New Jersey Department of Agriculture's Natural and Working Lands Strategy.

He said the Committee also discussed a resolution which incorporates climate change as it relates to the Pinelands Commission. He said that resolution is on today's agenda.

Staff Member Introductions

Acting ED Grogan introduced three new staff members who recently joined the Planning Office: Katie Elliot, Trent Maxwell and Steve Simone. She also introduced Devin Walker, who has joined the Regulatory Programs Office. She noted that another new employee will be joining the Regulatory Programs office at the end of March.

Acting Executive Director's Report

Acting ED Grogan provided information on the following matters:

- The Commission has received approval to replace two employees who are set to retire on June 1st and July 1st.
- The Governor has announced that state agencies can once again hold in-person public meetings as long as the same opportunity is afforded to members of the public. Staff will be meeting internally to discuss how it will conduct meetings going forward.
- The Commission has received a draft report from the consultant who performed the Energy Audit and a meeting has been scheduled with them to review the report before the issuance of the final report. The consultant provided two reports, one for the Richard J Sullivan Center and another for the historic buildings. A formal presentation on the findings of the reports will be shared at an upcoming Commission meeting.

Chuck Horner, Director of Regulatory Programs, provided information on the following regulatory matters:

- Tabernacle Township has determined that its current municipal building is structurally unsafe and has requested emergency authorization from the Commission to permit the placement of three office trailers on the existing parcel to use in the interim. The Township has been in discussions with staff about potential sites for the construction of the new municipal building.
- Staff is currently reviewing an application for a 205,000 square foot cannabis growing facility in Galloway Township at the former site of Lenox china plant.
- An application was submitted proposing the construction of 350 single family dwellings on an abandoned sand mine in Manchester Township. Previously there was an interest to develop a large warehouse on the site but that would have required a zoning change.

Commissioner Irick asked about the Commission's ability to participate on Senator Smith's Forest Stewardship Task Force.

Stacey Roth, the Commission's Chief of Legal and Legislative Affairs, said staff has reached out to the legislative aide to the Senate Environmental and Energy Committee regarding the Commission's interest in participating on the Task Force. She added that she has been in contact with Senator Smith's aide and he is aware of the Commission's interest as well.

She noted that the State Ethics Commission will be sending an email out soon regarding filing Financial Disclosure Statements. She said the deadline to file is May 15th.

She said the Executive Director of the State Agricultural Development Committee met with the P&I Committee a few years ago to discuss special occasion events at preserved farms. She said a bill is moving through the Legislature, and the February Management report includes details on how the number of events is calculated.

Paul Leakan, the Commission's Communications Officer, said more than 400 participants have registered for the 33rd Annual Pinelands Short Course.

He said the drawings for the rain garden may be completed later this month, with the hopes of installing the garden this spring. He said he shared a list of native Pinelands plants with the design team.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution recommending approval for the construction of a 10,240 square foot maintenance building and two storage yards at the Atlantic County Institute of Technology High School in Hamilton Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1981-2437.017) (See Resolution # PC4-22-09). Commissioner Irick seconded the motion.

Director Horner said in addition to the development of the maintenance building, the application resolves a violation regarding the establishment of storage yards used for vegetative debris.

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

Chair Matos said the next resolution is for the construction of six tolling stations along the Atlantic City Expressway, the construction of a fire station in Monroe Township and the installation of four wind cones at the Atlantic City International Airport.

Commissioner Irick made a motion Approving With Conditions Applications for Public Development (Application Numbers 1984-0655.033, 1987-1058.083 & 1986-1336.004)(See Resolution # PC4-22-10). Commissioner Lohbauer seconded the motion.

Director Horner explained that South Jersey Transportation Authority (SJTA) is constructing tolling stations along the Expressway, and the structures span across the travel lanes to capture E-ZPass information.

He said Monroe Township is proposing to demolish its existing fire station and rebuild a larger fire station on the same parcel. He said the Commission has received a number of letters from the Township supporting the application for the reconstruction of the fire station.

He said as part of SJTA's other development application, they are proposing to remove four existing wind cones from the airport and replace them with four new wind cones away from the runway for safety concerns. He said the wind cones are used by pilots to determine wind speed and direction. He said the report outlines the specific steps that must be taken to protect the threatened and endangered bird species at the airport.

Commissioner Lohbauer said the Commission recently permitted some changes to its Memorandum of Agreement (MOA) with SJTA and he doesn't consider this application to be new construction or tied to the performance of the MOA but he wants SJTA to be aware that the Commission is paying close attention. He asked if there are any updates on the progress of the new Grassland Conservation Management Area (GCMA).

Ms. Roth said all the structures at the former horse farm have been removed. She said an application to regrade and construct the new GCMA has been submitted to the Commission. She said SJTA continues to submit their monthly status reports. She added that the MOA covers specific development, and the wind cones were not subject of the MOA. She said the MOA specifically states that the Authority can submit a public development application for any development not covered by the MOA, and that is what they have done in this instance.

Director Horner said that Ernest Deman of the Regulatory Programs Office recently conducted a site inspection at the future site of the new GCMA and he can provide a quick overview of what he saw.

Mr. Deman said he visited the site to review the wetlands line. He said concrete slabs of where the structures sat remain. He added that the regrowth of the grasses in the open areas looks very promising.

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

Planning Matters

Chair Matos introduced a resolution to certify Tabernacle Township's Ordinance 2021-10.

Commissioner Lohbauer made a motion Issuing an Order to Certify Ordinance 2021-10, Amending Chapter XVII (Zoning) of the Code of Tabernacle Township (See Resolution # PC4-22-11). Commissioner Avery seconded the motion.

Acting ED Grogan said the Township has made zoning map changes specifically in its Infill District. She said when the Commission certified Tabernacle's ordinance in the mid-1980's, the town created an unusual Infill Commercial District that has caused problems over the years. The Township has decided to eliminate the Infill Commercial District and rezone a portion to the Infill Residential District and one lot to the Preservation Area District. The Township has elected to permit solar energy facilities on the lot that is being rezoned back to a Preservation Area District. The Township has adopted an ordinance that outlines a set of standards for solar facilities and is similar to what is required by the Comprehensive Management Plan (CMP) but included other standards related to setback, firebreaks, facility size limitations and other related local issues.

She said non-developed portions of the solar energy facility site will be permanently preserved through a deed restriction. She added that the Township is using the municipal flexibility provision of the CMP. She said siting a solar energy facility on a parcel that is under a restoration obligation is typically not permitted. She said based on the unique approach the Township has taken – which included tailoring certain standards – while still maintaining the goals of the CMP, staff is comfortable with the outcome of Tabernacle's approach. She noted that restoration on the parcel will occur on the portion of the parcel not being utilized by the solar energy facility. She said restoration on the solar energy facility portion of the lot will occur when the solar facility ceases operation.

Commissioner Meade ask for clarification about the placement of solar energy facilities.

Acting ED Grogan said the entire site is 60 acres. Approximately 14 acres of the already disturbed area will be used for the solar energy facility. She said the entire site is subject to the CMP's restoration requirements. She said this is a good outcome. She said that encouraging solar facilities on already disturbed land while meeting the CMP's environmental standards is challenging.

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

Public Comment on Public Development Applications and Items Where the Record is Open

Chair Matos read the list of applications up for comment. No comment was provided.

Ordinances Not Requiring Commission Action

Acting ED Grogan said there were no ordinances or master plans to note this month.

Other Resolutions

Chair Matos introduced a resolution to approve the Commission's 2021 Annual Report.

Commissioner Irick made a motion To Approve the Pinelands Commission's 2021 Annual Report (See Resolution # PC4-22-12). Commissioner Lohbauer seconded the motion.

Acting ED Grogan said the Annual Report is required by the Pinelands Protection Act and Executive Order. A few presentations slides were displayed to show the many highlights of 2021, which included the adoption of stormwater amendments, National Scenic Byway designation of the Pine Barrens Byway, Pinelands Development Credit (PDC) activity, development applications reviewed by the Regulatory Programs office, educational and social media activity, and the celebration of the CMP's 40th anniversary. (See attached presentation slides.)

The Commission adopted the resolution by a vote of 11 to 0. Commissioner McCurry abstained from the vote.

Chair Matos introduced a resolution authorizing the submission of a grant application to the New Jersey Historic Trust.

Commissioner Avery made a motion To Authorize the Acting Executive Director to Submit an Application to the New Jersey Historic Trust for a 2022 Preserve New Jersey Historic Preservation Fund Grant and to Certify the Availability of Matching Funds (See Resolution # PC4-22-13). Commissioner Lohbauer seconded the motion.

Acting ED Grogan said two years ago the Commission applied for a capital fund grant to the New Jersey Historic Trust, which it did not receive. It was suggested the Commission apply for a different grant in hopes of hiring consultants to prepare a preservation plan for Fenwick Manor. The plan will detail the long-term maintenance of both the interior and exterior of the building and hopefully assist with future grant funding. She added that the Commission has also submitted a request to the Governor's office for a special appropriation for Fenwick Manor in the FY 2023 or 2024 budget.

Commissioner Avery thanked Chair Matos for agreeing to bypass the Personnel & Budget Committee's review and recommendation and place this on today's agenda.

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

Chair Matos introduced a resolution expressing its appreciation to the Governor for restoring PILOT funds to Pinelands municipalities.

Ms. Roth, Ethics Liaison Officer, asked that Commissioner Pikolycky be placed in a Zoom waiting room while the resolution is discussed since he is the Chairman of the Pinelands Municipal Council and the resolution is associated with the Council.

Commissioner Lloyd made a motion Expressing the Pinelands Commission's Gratitude for the Restoration of Payment in Lieu of Taxes Funding to Pinelands Municipalities in Fiscal Year 2022 and Supporting the Pinelands Municipal Council's Request for Continued

Funding in Future Fiscal Years (See Resolution # PC4-22-14). Commissioner Irick seconded the motion.

Acting ED Grogan said so many Pinelands municipalities have a large amount of land in state ownership and don't receive the tax revenue they need.

Commissioner Lohbauer thanked Commissioner Pikolycky for his role on the Pinelands Municipal Council.

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

Commissioner Pikolycky rejoined the meeting.

Chair Matos introduced a resolution related to the Commission's climate change goals.

Commissioner Jannarone made a motion Amending and Supplementing Resolution PC4-20-37 to Clarify the Objectives of the Pinelands Commission Relative to Climate Change in the Pinelands Area and the Responsibilities of the Pinelands Climate Committee (See Resolution # PC4-22-15). Commissioner Lohbauer seconded the motion.

Commissioner Lohbauer said this resolution supplements a resolution the Commission adopted in 2020 to make reference to the Global Warming Response Act, which calls for the reduction of greenhouse gas emissions. He said going forward this resolution will help define goals for the Commission and the Climate Committee and let the public and applicants know this Commission takes climate change seriously.

The Commission adopted the resolution by a vote of 11 to 0. Commissioner Meade was muted during the vote.

Guest Speaker

Chair Matos welcomed New Jersey Department of Environmental Protection (NJDEP) Commissioner Shawn LaTourette.

Commissioner Shawn LaTourette said he was excited to see some familiar faces and welcomed the new Commissioners. He said the NJDEP and the Pinelands Commission share an important common mission: protection of the environment and the maintenance of natural resources and public lands. He introduced Sean Moriarty, who serves as his first Deputy and previously served as the Commission's Deputy Attorney General.

Commissioner LaTourette said he has an environmental law degree and spent 20 years working in the private sector. He said he joined the NJDEP about three years ago when Commissioner McCabe asked him to serve as Chief Counsel. He said the NJDEP has an obligation to the people of New Jersey. He said our natural resources belong to the people.

Commissioner LaTourette noted some of NJDEP's key priorities:

- Reduce and respond to the climate crisis. He said he recently provided testimony to the Senate Environmental and Energy Committee about the Global Warming Response Act and the goals of reducing emissions. He said every agency has a role and everyone needs to be engaged in fighting the climate crisis. He said \$20 million was recently invested in an Atlantic White Cedar restoration project. He said saltwater intrusion destroyed numerous spans of Atlantic White Cedar and that is why the planting was pushed inland. He said nature sends us important messages.
- Lower income, minority and indigenous communities have suffered the most environmental injustice, even though the pollution was created by all. He said environmental agencies in New Jersey should create policy together to achieve maximum good.
- NJDEP and the Commission should consider execution of a new Memorandum of Agreement to identify shared priorities and better align regulations on such matters as the protection of wetlands, threatened and endangered species and water quality. Having a consistent approach is important.

Commissioner LaTourette noted that NJDEP has almost no land use authority. By contrast, he said the Commission has significant land use and zoning power over a large portion of the State. Therefore, the Commission can likely achieve things that NJDEP cannot.

Commissioner Lohbauer noted that NJDEP has enforcement capabilities that the Commission does not have.

Mr. Moriarty said he is excited to be working with the Commission again and said that aligning policies is a good step forward.

Commissioner Pikolycky thanked Commissioner LaTourette for restoring funds for open space projects. He asked Commissioner LaTourette if he could provide any guidance or financial assistance for the painting and restoration of historic Fenwick Manor.

Commissioner LaTourette said he would be happy to provide insight and assistance and welcomed the opportunity to visit the Pinelands headquarters.

Acting ED Grogan noted that Chair Matos left the meeting due to prior travel arrangements and that Commissioner Jannarone had also left the meeting.

Vice Chair Avery stepped in to conduct the remainder of the meeting.

Commissioner Lloyd said this is the first time a sitting NJDEP Commissioner has attended a meeting. He expressed his gratitude. He said he looks forward to working with the Department on common goals and he agreed with the Commissioner's earlier comment, that the Commission can do certain things that the Department does not have the authority to do. He added that he looks forward to working with the Department on environmental justice issues.

Commissioner LaTourette said there are many layers to environmental justice and the goal is to limit bad things in the first place. He said sea-level rise will impact the residents of the Delaware Bayshore this decade and the state will see the first climate refugees. He said environmental injustice is not always occurring in urban areas; it affects everyone.

Commissioner Lohbauer said he is encouraged for the future. He said the Commission and the Department should work collaboratively and take advantage of each agency's power and authority.

Vice Chair Avery said he would like to shift gears and discuss the Off-Road Vehicle (ORV) issue on public and private lands. He said he was curious if Park Police and Park Rangers ever requested or suggested a tool that would make their job easier to manage illegal ORV use.

Commissioner LaTourette said the Department is working on a three-point plan that includes:

- Enhanced mapping that highlights the permitted uses;
- An ORV permitting system; and
- Enforcement with progressive fines

He said the Department will embark on public engagement sessions this summer so that it can hear from the users.

Mr. Moriarty added that he recently met with the Pinelands Preservation Alliance and New Jersey Conservation Foundation on this issue. He said he would like to engage directly with Commissioners and staff in April to discuss and exchange ideas about NJDEP's proposed ORV permitting model.

Commissioner McCurry asked Commissioner LaTourette about the status of NJDEP's Natural and Working Land Strategy.

Commissioner LaTourette said the Department is still in the scoping phase but he offered that the Commission staff could be involved in an advisory group when that step comes.

Acting ED Grogan expressed her gratitude for the Commissioner and Mr. Moriarty spending time with the Commission today.

Commissioner LaTourette offered his appreciation to the Commission staff for their work.

General Public Comment

Fred Akers of the Great Egg Harbor Watershed Association said he was hoping to ask Commissioner LaTourette some questions. He asked if the Commissioner had plans to allocate funds to the Infrastructure Trust Fund to replenish the Pinelands Infrastructure

Trust Fund. He also said coastal soils should not be dredged and dumped in the Pinelands. He noted that it's a climate change issue.

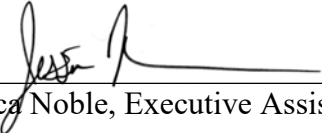
Rhyan Grech from the Pinelands Preservation Alliance said she appreciated the update from staff on the progress at the new GCMA site. She added that she hopes monitoring will occur to ensure that the created habitat is successful. She urged the Commission to require applicants to use independent experts rather than hire their own Threatened and Endangered (T&E) consultants. She added that survey methodologies may need to be reevaluated to best protect T&E species since the CMP offers little guidance. She said that she appreciates Commissioner LaTourette's willingness to partner with the Commission and hopes the Commission will push for application of the most rigorous standards to protect natural resources in instances where the NJDEP and Commission's rules overlap, particularly in the CAFRA area.

Julie Akers of Newtonville, NJ, provided comments about the importance of proper restoration of abandoned resource extraction mines. She said if the mines are not properly restored, ORV users target them for misuse. She said it is a good idea to identify beneficial uses that can be developed on such sites as a way of reducing damage and encouraging restoration.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Irick seconded the motion. The Commission agreed to adjourn at 11:39 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: March 18, 2022