

Disclaimer

These minutes reflect the actions taken by the Commission during its July 12, 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 July 25, 2019.

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

MINUTES

July 12, 2019

Commissioners Present

Daniel Christy, Sean Earlen, Jerome H. Irick, Ed Lloyd, Mark Lohbauer, William Pikolycky, Gary Quinn and Chairman Richard Prickett. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Ed Caulfield (by telephone) and Deputy Attorney General (DAG) Kristina Miles.

Commissioners Absent

Candace M. Ashmun, Alan W. Avery Jr., Jordan P. Howell, Jane Jannarone and D'Arcy Rohan Green.

Chairman Prickett called the meeting to order at 9:33 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 eight Commissioners who participated in the meeting.)

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

Election of the Vice-Chairman

Chairman Prickett said Commissioner Avery currently serves as Vice- Chair of the Commission.

Commissioner Earlen re-nominated Commissioner Avery to serve as Vice Chair.

Commissioner Pikolycky seconded the motion.

Chairman Prickett asked if there were any other nominations and there were none.

The Commissioners all voted in favor of Commissioner Avery remaining as Vice Chair.

Committee Assignment

Chairman Prickett said the list of Committee Assignments for 2019/2020 will be circulated to all Commissioners.

Minutes

Chairman Prickett presented the open session minutes from the June 14, 2019 Commission meeting and part 2 of the closed session minutes. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Christy seconded the motion.

The June 14, 2019 Commission meeting minutes, including part 2 of the closed session minute, were adopted by a vote of 8 to 0.

Chairman Prickett said part 1 of the closed session minutes from the June 14, 2019 Commission meeting will have to be voted on at later date. He said Commissioner Lloyd has to recuse from voting on the part1 closed session because of the South Jersey Gas matter. He said because of the recusal there are not enough votes to adopt the part 1 closed session minutes.

Committee Chairs' Reports

Chairman Prickett provided an update on the June 28, 2019 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the May 31, 2019 meeting.

The Committee discussed and endorsed the Pinelands Infrastructure Trust Fund (PITF) Master Plan Amendment for projects and funding. A public hearing on the amendment will be scheduled for July 31, 2019.

The Committee discussed draft Comprehensive Management Plan (CMP) amendments for coordinated permitting for those private development applications that qualify for Board of Public Utilities preemption from local review.

The Committee discussed draft Kirkwood/Cohansey water management goals and policies.

Executive Director's Reports

ED Wittenberg provided an update on the following items:

- Another union negotiation meeting has been scheduled for July 15th. Once the contract is finalized, it will cover the time period beginning on July 1, 2019 through June 30, 2023.

- The Land Use, Climate Impacts and Sustainability Committee will meet on July 17th.
- A number of staff members met with representatives from ESRI, a company that specializes in GIS mapping software to talk about future GIS needs.
- Commission Staff met with the New Jersey Department of Environmental Protection's (NJDEP) Land Use and IT offices to discuss how NJDEP manages online submissions and permitting. The Commission staff would like applicants to have the ability to make certain submissions in a digital format. The meeting offered valuable insight.
- Staff attended a meeting at NJDEP that was coordinated through Assemblyman Ronald Dancer's office regarding the Prescribed Burn Act, which the Governor signed last year. The NJDEP plans to do rule making. Staff advised the NJDEP that although prescribed burning is exempt from application to the Commission, forestry activities and land management are not exempt from review.

Chairman Prickett asked about the process by which staff reviews off-road vehicle events.

ED Wittenberg said Director Chuck Horner and Brian Szura will provide details on how the recreation permits are reviewed. She said the internal review process for recreation permits was evaluated and changed during the Plan Review process but no changes were made to the CMP.

Director Horner said the CMP requires that an application be filed for recreational vehicle events in the Pinelands. He said these are occasional events where enduro bikes, Jeeps or other off-road vehicles, such as quads, take place in a timed route. He said staff reviews the route to ensure that the motorized vehicles will remain on existing paved or sand roads or fire cuts and that the route is a sufficient width for the type of vehicle. He added that staff reviews the route for consistency with the Threatened and Endangered species standards of the CMP. He also said that in some instances staff does a site inspection, but because the routes are many miles long, it's only done occasionally. As part of the application process, the applicant is required to secure other permits from NJDEP and permission from private land owners.

Director Horner said there have been instances where violations have been reported to the Commission after the event takes place. He said because the Commission does not have enforcement authority, it partners with NJDEP. The NJDEP has issued sanctions on some organizations.

Commissioner Lloyd asked the distance of the events.

Environmental Specialist Brian Szura said the events range from about 70-80 miles and are determined by the national group.

Commissioner Lohbauer asked if the applicant is required to remove the markers from the route after the event is held.

Director Horner said the Commission does not require the removal of the markers. Environmental Specialist Brian Szura said as part of the organization's special use permit issued by the New Jersey Park Service the applicant is required to clean up and remove any signage or markers, including raking any spillover debris from turns.

The Commissioners engaged in a conversation about the best way for the Commission to address violations related to enduro and other off-road vehicle events.

Commissioner Christy asked how violations are addressed, given that the Commission has no enforcement authority.

Director Horner said there is no provision in the CMP that provides the Commission with enforcement authority. He added the Commission cannot issue fines and cannot issue stop work orders. However, the Commission works with the municipal zoning officer, construction code official and the municipal attorney to resolve and address violations related to land development activities.

Stacey Roth, Chief, Legal & Legislative Affairs, said that the Pinelands Protection Act calls for joint regulation of development in the Pinelands between the municipalities and the state. She said the Commission does not have civil administrative penalty assessment, like the NJDEP. She said in instances when the violation is extreme, the Attorney General's Office is able to initiate litigation in Superior Court to seek damages on behalf of the Pinelands.

Ms. Roth said the language in the CMP regarding "route maps" for organized off-road vehicle events is very limited and vague.

ED Wittenberg said that all recreational vehicle permits issued by the Commission include certain conditions.

Mr. Szura added that applicant is required to notify the state police and the towns in which the event will take place. He said the applicant is also required to add the Commission to the insurance policy for the off-road vehicle event. He said that the number of participants for these events range from 100-150.

Chairman Prickett said a number of years ago there was a problem related to an enduro event. He thanked staff for the update.

Commissioner Earlen said it's not the enduro community that is creating the damage in the forest, it's the bad actors.

Chairman Prickett asked about Barnegat Township Ordinance 2019-8, which is noted in the June 28, 2019 No Substantial Issue Findings memo. He said the ordinance amends the stormwater requirements of the Town's code directing stormwater from homes into the street. He said he was under the impression towns preferred to keep stormwater out of the street.

Director Larry Liggett provided background on how municipal ordinances are reviewed. He said each land use ordinance must be reviewed by the Commission before it can take effect. Ordinances are grouped into three categories: those that raise no issue; those with substantial issues that are brought before the P&I Committee and then the Commission for formal approval; and those that raise no substantial issue such as this Barnegat ordinance. Commission staff reviews all major development applications to ensure consistency with CMP stormwater standards. He noted that Barnegat addresses stormwater in two different sections of its land use ordinance. Ordinance 2019-8 was not inserted in the Pinelands stormwater section that requires consistency with the CMP. If there is any conflict with the ordinance and the Pinelands standards, the stricter standard applies. When the Commission reviews major development, it looks at how stormwater is managed so any conflicts can be addressed during that review. Commission staff reviews all major development applications to ensure consistency with CMP stormwater standards. He noted that this ordinance applies only to new development.

Director Chuck Horner provided information on the following regulatory matters:

- Included in this month's packet were two Pinelands Development Credit (PDC) Letters of Interpretation (LOIs) that were issued to Ocean County and allocated nearly 70 PDC's to over 6,500 acres.
- Last month the Commission was provided with an overview about a park expansion in Egg Harbor Township. The Township applied to Green Acres for a grant to expand a municipal park, however the parcel was deed restricted. The Township was able to resolve the matter by transferring the deed restriction to a nearby parcel that it currently owns.
- For many years staff took into consideration the Permit Extension Act when reviewing development applications. Now staff is faced with working with some municipalities that do not consider some parcels to be subject to zoning changes.

Director Liggett provided an update on the following:

- Staff continues to work on drafting rules to implement the Kirkwood-Cohansey aquifer study.
- Staff is preparing for the public hearing on the Pinelands Infrastructure Trust Fund (PITF) that prioritizes the projects and allocates funding. The hearing is scheduled for July 31st. Currently, no public comment has been submitted.
- The staff archeologist has been in contact with the Whitesbog Preservation Trust about a partnership to test the new Ground Penetrating Radar equipment that was recently purchased. The equipment will be used to find remnants of the immigrant villages of Rome and Florence.

Commissioner Irick asked if any consideration was given to include Pinelands Towns and Pinelands Villages as areas in which projects could be awarded PITF monies.

Director Liggett said the issue was raised last year and staff is committed to considering Pinelands Towns as potential PITF areas. In order for that to happen, there would need to be new legislation, a new bond and the voters would have to be in favor of it. He added

that in many ways Pinelands Towns are similar to Pinelands Regional Growth Areas. He said the Villages are different. They were established during the initial conformance process and although sewers are permitted, the Villages were meant to stay less developed.

Commissioner Earlen said he has spoken with several South Jersey legislators who have expressed an interest in adding Pinelands Towns to the Infrastructure Trust Fund.

Commissioner Lloyd left the room so Ms. Roth could provide an update on the New Jersey Natural Gas matter.

Ms. Roth advised the Commissioners that the Pinelands Preservation Alliance (PPA) had made a motion to supplement the record in two of its three appeals involving the Commission's approval of the portion of New Jersey Natural Gas's pipeline project to be located within the Pinelands. Specifically, PPA sought to add the Appellate Division's recent remand order in the South Jersey Gas appeals to the record in PPA's third-party hearing denial appeal and its substantive appeal of the Commission's approval. The Appellate Division issued an Order denying PPA's motion on July 2, 2019.

Commissioner Lloyd returned to the room.

Ms. Roth said she has been involved in a matter with the Science office and the endocrine disruption study. She said the Medford Lakes Colony Club agreed to allow the Commission and its federal partner, the United States Geological Survey (USGS), to conduct water and fish samples back in 2017. Chief Scientist John Bunnell explained the study in great detail to the Colony Club. She said the Colony Club owns the water but not the fish. The lakes were chosen because one of them sits above the sewage treatment plant and is surrounded by development. This May, the Colony Club Homeowners Association advised that they were not permitting staff to conduct the sampling. We are continuing to work with the Colony Club and its representatives and hope to find resolution to the matter.

ED Wittenberg said she really wants to resolve this issue because it involves grant money.

Honoring Commissioner Paul Galletta

Chairman Prickett read a resolution into the record outlining Commissioner Galletta's work at the Commission.

Commissioner Pikolycky moved the adoption of a resolution Expressing the Commission's appreciation to Paul E. Galletta for his service as a member of the Commission between April 2007 and March 2019 (See Resolution # PC4-19-25). Commissioner Earlen seconded the motion.

Commissioners expressed their appreciation for Commissioner Galletta's service on the Commission.

Commissioner Irick suggested that we provide plaques to departing Commissioners.

The Commission adopted the resolution by a vote of 8 to 0.

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

No one from the public offered comment.

Ordinances Not Requiring Commission Action

Chairman Prickett asked if any Commissioners had questions regarding the ordinances not requiring Commission action. He noted that a number of the ordinances deal with flooding issues.

- Barnegat Township Ordinance 2019-8
- Barnegat Township Ordinance 2019-9
- Monroe Township Ordinance O:13-2019
- Washington Township Ordinance 2017-08
- Washington Township Ordinance 2018-4

No members of the Commission had questions.

General Public Comment

Rhyan Grech of the Pinelands Preservation Alliance asked if there was an update on the South Jersey Gas matter now that BL England has closed.

ED Wittenberg said the Commission has discussed a resolution regarding the matter but there were not enough Commissioners present to take action on the matter today.

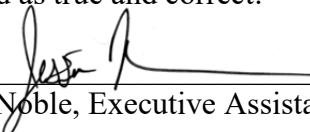
Adjournment

Chairman Prickett asked if there were any updates regarding the Summer Short Course. Communications Officer Paul Leakan said registration remains open and can be done on-line, over the phone or in person the day of the event.

Chairman Prickett announced that the Land Use, Climate Impacts and Sustainability Committee is scheduled to meet this Wednesday, July 17, 2019 at 9:30 a.m. He also noted that the Pinelands Orientation for Newly Elected Officials is scheduled for July 23rd at 4:00 p.m.

Commissioner Earlen moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 10:52 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: July 22, 2019