

Disclaimer

These minutes reflect the actions taken by the Commission during its September 13, 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 September 26, 2019.

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

MINUTES

September 13, 2019

Commissioners Present

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

Commissioners Absent

Candace M. Ashmun, Daniel Christy, Jane Jannarone, Gary Quinn and D'Arcy Rohan Green.

Chairman Prickett called the meeting to order at 9:37 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. (Eight Commissioners participated in the meeting.)

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

Minutes

Chairman Prickett presented open session minutes from the August 9, 2019 Commission meeting. Commissioner Earlen moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The open session minutes from the August 9, 2019 meeting were adopted by a vote of 8 to 0.

Chairman Prickett said the closed session minutes from the August 9, 2019 will have to be voted on at a future meeting because there are not enough votes to adopt them due to a recusal.

Committee Chairs' Reports

Chairman Prickett provided an update on the August 23, 2019 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the July 26, 2019 meeting.

The Committee recommended Commission adoption of the July 2019 Pinelands Infrastructure Trust Fund (PITF) Master Plan amendment for project selection and funding levels.

The Committee received an update on the Garden State Parkway Interchange 44 Secondary Impacts Agreement and successful land acquisition efforts by Atlantic County. The County has acquired 326 acres thus far.

The Committee received an update on a 1998 Memorandum of Agreement (MOA) with Atlantic County for the Park at Lake Lenape and authorized staff to proceed with work on an amendment that would allow reconfiguration of an existing dock and construction of a second dock at the Western Lakeshore Area.

Commissioner Avery provided an update on the August 9, 2019 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the May 3, 2019, meeting.

The check registers, electronic disbursements and application fees covering April, May and June were reviewed. It was noted that the Fiscal Year 19 application fees have exceeded the budgeted amount by 57%.

The HR manager provided an update on employee actions.

Staff presented a draft Fiscal Year 2020 Budget. Commissioner Avery added that issues and projects raised by Commissioners during the Executive Director's evaluation have been budgeted for this fiscal year.

There was no public comment.

The Committee met in Closed Session for an update on Communication Workers of America (CWA) contract negotiations.

Honoring Commissioner Bob Barr

Chairman Prickett read a resolution into the record recognizing Commissioner Robert Barr's work at the Commission.

Commissioner Pikolycky made a motion Expressing the Commission's appreciation to Robert Barr for his service as a member of the Commission between March 2015 and June 2019 (See Resolution # PC4-19-31). Commissioner Lloyd seconded the motion.

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

Executive Director Wittenberg added that Commissioner Barr was an engaged Commissioner and she will miss having him on the board.

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

Executive Director's Reports

ED Wittenberg provided an update on the following items:

- A paper copy of the monthly management report has been distributed. She said this is the third month of the new format and hopefully next month the report will be emailed prior to the Commission meeting.
- On September 9th, staff met with representatives from South Jersey Gas (SJG). SJG requested the meeting. Staff explained the procedural options for a pipeline project in the Forest Area including a private application, public development application and waiver of strict compliance for a compelling public need. SJG did not specify or present information related to a specific project.

Commissioner Lloyd asked about the amount of time staff spends processing the Open Public Records Act (OPRA) requests noted in the August monthly management report.

ED Wittenberg said that it depends on the specific request, but some requests can take a substantial amount of time. She noted that some of the OPRA requests are actually file review requests.

Commissioner Pikolycky asked for additional information on the Governor's Interagency Work Group.

ED Wittenberg said the group includes a number of state agencies working to reconstitute the efforts of the New Jersey State Planning Commission.

Director Larry Liggett added that the State Designated Centers located in the coastal areas are set to expire in 2020. He said plan endorsement is a lengthy and expensive process.

Commissioner Lohbauer said the Commission has an obligation to take action on the SJG remand. He said the Commission would not be able to take an action today due to the lack of a quorum. He urged his fellow Commissioners and staff to make an effort to have a quorum at the next regular Commission to settle the matter through a resolution for both the applicant and the public.

Commissioner Irick asked if SJG recognized that the application is no longer valid.

ED Wittenberg said that topic was not discussed. She said SJG came in to talk about moving forward with a new application.

Director Liggett provided an update on the following:

- Staff is finalizing a few revisions to the Kirkwood-Cohansey policies that the P&I Committee requested back in June. He said the policy will be presented to the P&I Committee again and then staff will meet with stakeholder partners.
- Staff continues to explore ways in which solar opportunities in the Pinelands can be expanded.
- Staff continues to refine the list of climate change topics that the Commission could choose to focus on.

Director Chuck Horner provided information on the following regulatory matters:

- Seasonal agricultural employee housing issues have once again been the topic of a newspaper article. He said the latest article mentioned failing septic systems. He said the employee housing issue is two-fold. First, the repair or replacement of an on-site waste water disposal system (septic) is exempt from Commission review. He said when an agricultural operation changes the use of a storage barn into housing it requires an application to the Commission. Currently, the Commission is reviewing about 10-15 change of use application for seasonal agricultural employee housing.
- Staff attended a public forum in Stafford Township to address drainage issues in and around the Ocean Acres residential development. A number of years ago the Commission approved a compelling public need waiver of strict compliance which permitted Stafford Township to construct a stormwater basin on the Southside of Route 72. He noted that the basin was never constructed.
- Commission staff continues to field inquiries regarding growing cannabis. Growers are currently seeking use variances in various municipalities. Growing an agricultural crop in the Pinelands is exempt from review. He noted that processing a crop into a product requires an application to the Commission.
- The Commission issued a Certificate of Filing for a large residential private development application in Jackson Township. At this time, the applicant is seeking municipal approvals. He noted that members of the public can offer comment during the municipal review process. He said once the Township issues an approval, it is sent to the Commission for review. He said staff reviews the stormwater, wetlands, public comment and threatened and endangered species reports. He said after review of the municipal approval, the Commission issues a document that allows the permit to take effect or schedules a hearing because the

application no longer meets a standard in the Comprehensive Management Plan (CMP).

Commissioner Howell raised concerns about the intensity with which cannabis is grown and asked Director Horner if the cannabis was to be grown in an industrial building, would it still be exempt from the Commission's review.

Director Horner said the way the rules are written in the CMP, growing an agriculture crop does not require an application regardless if the crop is grown in a field or a building. He added that degradation of water quality is not permitted in the Pinelands and he would be happy to provide further information about this at the Commission's October meeting.

Commissioner Lohbauer had concerns about how much more water cannabis needs than other crops.

Stacey Roth, Chief, Legal & Legislative Affairs, reminded Commissioners that all development including farming must meet the environmental standards of the CMP as they proceed through the local review process. She said the New Jersey Department of Environmental Protection (NJDEP) handles water allocation issues, including wastewater.

Commissioner Lohbauer added that the Commission may want to speed up adopting the Kirkwood Cohansey policy changes to protect Pinelands aquifers if industrial agricultural is a possibility in the near future.

Chairman Prickett recommended exploring how different growing cannabis is from other vegetables and leafy greens.

Commissioner Irick said the Department of Agriculture and Rutgers are drafting Best Management Practices for growing cannabis and should have standards next spring.

Chairman Prickett asked about the status of the Land Use, Climate Impacts and Sustainability Committee (LUCIS).

ED Wittenberg said staff continues to work internally to identify specific items that the Commission can address. She said she has a list of potential speakers that include both government and private entities. She said she and Chief Planner Susan Grogan will be attending a meeting with Sustainable Jersey to discuss the possibility of coordinating efforts to combat climate change through stormwater management, energy efficiency and building codes. Staff thought this was a better approach than the rule making process.

Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution proposing the construction of a paved access driveway, 11-space parking lot and the installation of a rubberized surface on an existing playground at an educational complex in Hamilton Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1989-0089.012) (See Resolution # PC4-19-32). Commissioner Earlen seconded the motion.

Commissioner Lloyd asked if the rubberized surface was permeable.

Director Horner said the surface is not permeable.

Chairman Prickett asked about the underground infiltration system.

Director Horner said he would like to check the stormwater management plans but it probably consists of a stone bed with underground recharge pipes.

Chairman Prickett said he would vote on the application regardless, he was just interested in learning about the proposed drainage.

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

Chairman Prickett presented a resolution recommending approval for the demolition of a service building and the construction of a new service building at the Forked River Rest Area on the Garden State Parkway.

Commissioner Avery made a motion Approving With Conditions an Application for Public Development and Certificate of Appropriateness (Application Number 1990-0450.006) (See Resolution # PC4-19-33). Commissioner Earlen seconded the motion.

Chairman Prickett said staff is recommending recordation to preserve the image of the structure. He said he looked at the structure on-line and it's a glass building.

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

Chairman Prickett presented a resolution recommending a Waiver of Strict Compliance for the development of a single family dwelling in Manchester Township.

Commissioner Pikolycky made a motion Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 2019-0064.001) (Single Family Dwelling) (See Resolution # PC4-19-34). Commissioner Lohbauer seconded the motion.

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

Director Horner said the stormwater management for the school complex in Hamilton Township (Application Number 1989-0089.012) will consist of stone trenches to be constructed underneath the pavement with perforated pipe to retain and infiltrate the stormwater.

Planning Matters

Chairman Prickett presented a resolution that establishes the project priority list for the Pinelands Infrastructure Trust Fund.

Commissioner Lohbauer made a motion To Adopt an Amendment to the Pinelands Infrastructure Master Plan to Set a Project Priority List and Recommend Funding Levels for Each Project (See Resolution # PC4-19-35). Commissioner Lloyd seconded the motion.

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

Chairman Prickett read the list of Public Development applications. No one from the public offered comment on the applications.

Marianne Clemente of Barnegat Township asked how many Commissioners need to be present to have a quorum.

Chairman Prickett said 8.

Ordinances Not Requiring Commission Action

Chairman Prickett asked if any Commissioners had questions regarding the ordinances not requiring Commission action.

- Berkeley Township Planning Board Resolution 19-06
- Monroe Township Ordinances O:26-2019, O:27-2019, O:28-2019, O:29-2019 and O:30-2019
- Pemberton Township Ordinances 22-2019 and 24-2019

No members of the Commission had questions.

Other Resolutions

Chairman Prickett said the next resolution is to adopt the Fiscal Year 2020 Budgets.

Commissioner Lohbauer made a motion To Adopt the Pinelands Commission's Fiscal Year 2020 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund, Katie Trust Fund and the Pinelands Conservation Fund (See Resolution # PC4-19-36). Commissioner Avery seconded the motion.

Commissioner Avery noted that the Personnel and Budget Committee reviewed all of the budget materials and recommended that the Commission take action on the FY2020 budgets.

ED Wittenberg said the Fiscal Year 2020 budget consists of four separate budgets: Operating Fund (\$5,915,074), Kirkwood-Cohansey Aquifer Assessment Study Fund (\$70,000), Katie Trust Fund (\$15,000) and the Pinelands Conservation Fund (\$618,255).

She said the state appropriation increased by \$150,000 from FY 2019 to FY 2020. She said the supplemental fund remains the same at \$687,000. She said this money is used to offset the fringe benefits, which cost the Commission 1.8 million dollars annually. She said application fees for FY 19 were up and helped fill gaps in the budget. She noted it is difficult to predict application fees because it depends on the development activity, which fluctuates based on the economy.

Commissioner Lohbauer said there is a \$120,000 reserved to paint Fenwick Manor; he asked if the building would be painted this fiscal year.

ED Wittenberg said Fenwick Manor will be painted this fiscal year.

ED Wittenberg reviewed the Operating Fund Expenditures.

Commissioner Lloyd suggested scheduling a meeting with someone from the Governor's office to discuss the shortfall with fringe benefits. He said labor counsel fees are high and it may be wise to explore other options.

Jessica Lynch, Business Service Manager, reviewed a donut graph that illustrates how the Commission's expenditures exceed its revenue.

ED Wittenberg reviewed the Kirkwood-Cohansey budget, which allocated money for salary and rule writing. Director Liggett said it might be necessary to contract with the United States Geological Survey depending on public comment and formal rule making.

ED Wittenberg said money in the Katie Fund will be used to enhance the current garden and include more native Pinelands species. She noted the garden project will not begin until after the Fenwick Manor has been painted. She said the garden will tie into the exhibit experience.

ED Wittenberg reviewed the Pinelands Conservation Fund (PCF), which consists of four components. Additional funds were added to PCF earlier this year from the South Jersey Transportation Authority Memorandum of Agreement offset.

ED Wittenberg reviewed the FY2020 Initiatives for each office. (See attached presentation slides).

Commissioners asked questions focused on the following initiatives: rule making, ORV's and topics the LUCIS Committee can undertake.

ED Wittenberg went into great detail about the LUCIS Committee. She said staff is identifying if the existing solar rules need to be amended to allow for more solar projects. She said staff continues to finalize the Kirkwood-Cohansey policy and research water conservation efforts. She said Sustainable Jersey affords towns the opportunity to become

more energy efficient and preserve water sources. She said the Pinelands Municipal Council might be able to assist.

Commissioner Howell said he has worked with Sustainable Jersey and found that it works better in wealthy towns. He said Sustainable Jersey can't be the main strategy.

ED Wittenberg said determining the health of the forest, prescribed burns and no net loss of tree policy are potential forest management approaches.

Commissioner Lohbauer asked that the staff research the potential for solar at the Commission. He said if we are asking municipalities to become more energy efficient, it's only fair for the Commission to do the same.

ED Wittenberg said she reached out to the building authority but reminded Commissioners the Commission does not own the property.

ED Wittenberg reviewed the ORV initiatives. She said she would like to hold a technical conference where NJDEP, users and advocates can confer and brainstorm.

Commissioner Lohbauer suggested that the Commission create a resolution mirroring the Wharton resolution, for the other state parks in the Pinelands.

Commissioner Avery said he would like to meet with the NJDEP and hear from them on what works best to combat ORV illegal use and damage. He noted that it's the NJDEP's land and they are on the frontline. He said he supports the idea of task force because the issue is not only in the Pinelands, it's statewide and happens on both public and private lands. Commissioner Avery suggested that it may behoove the Commission to reach out to the Chief of Police Associations from each Pinelands county.

Commissioner Avery thanked Nancy and staff for the in depth budget and work plan presentations. He said some Commissioners requested more information on these items during the ED's evaluation.

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

General Public Comment

Richard Dann, staff representative from the CWA provided information related to the current contract negotiations (see attached statement) and provided a letter to Commissioners from some members of staff.

Marianne Clemente of Barnegat, NJ said there are a number of Pinelands Commission nominations sitting in the Senate. She suggested that the Commissioners help move those appointments. She said Sustainable Jersey is funded by fossil fuels. She said she was disappointed that a meeting was held with South Jersey Gas. She said there is a march scheduled from Bordentown/Chesterfield to Trenton to request that the Governor place a moratorium on fossil fuels.

Georgina Shanley of Ocean City, NJ, said Sustainable Jersey is supported by the fossil fuel industry. She said a scientist should speak to the Climate Committee. She said July was the hottest month on record and species are becoming extinct everyday. She said there should be a moratorium on all development in the Pinelands. She referred to the Executive Director's meeting with South Jersey Gas as "impropriety".

Temma Fishman of Medford Lakes, NJ, said she is disappointed that the Commission would not be voting on the South Jersey Gas resolution.

Ryann Grech of the Pinelands Preservation Alliance said the Alliance supports Pinelands staff and she hopes the contract is resolved quickly. She was pleased to hear about the possibility of an Off-Road Vehicle symposium. She expressed concern that the Commission has once again not rescinded the South Jersey Gas approval.

Hara Rola of Haddon Township, NJ, urged the Commission to rescind the approval of the South Jersey Gas pipeline and to not approve future pipeline projects.

Resolution to Retire into Closed Session

DAG Miles read a resolution to enter into closed session to discuss personnel matters. Commissioner Lloyd made a motion to enter into closed session. Commissioner Lohbauer seconded the motion. The Commission agreed to retire into closed session by a vote of 8 to 0, beginning at 11:38 a.m.

Return to Open Session

The Commission entered back into open session at 12:58 p.m. Stacey Roth said that in closed session the Commission discussed two personnel matters. She said the Commission was provided an update on the labor negotiation and the Commission also discussed the Executive Director's evaluation.

Commissioner Avery said some members of the public commented on the meeting the Executive Director had with South Jersey Gas representatives. Commissioner Avery said that the CMP in section 7:50- 4.2 affords applicants the opportunity to meet with the Executive Director prior to submitting an application. He reminded his fellow Commissioners and members of the public that the plan provides for these types of meetings.

Commissioner Earlen said a number of years back the Executive Director and Commissioners received disturbing material from an unknown individual. He informed Commissioners and members of public that the State Police arrested the person responsible and charged the person with terroristic threats and stalking.

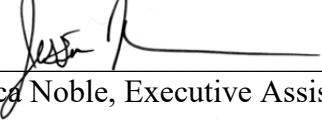
Commissioner Lohbauer said he took his grandchildren to meet Greta Thunberg when she recently arrived in Manhattan. He said that on September 20, 2019 the young Swedish activist will lead a climate strike.

Chairman Prickett announced that World Water Monitoring Day is scheduled for October 25, 2019.

Adjournment

Commissioner Pikolycky moved to adjourn the meeting. Commissioner Earlen seconded the motion. The Commission agreed to adjourn at 1:06 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: September 23, 2019