

Disclaimer

These minutes reflect the actions taken by the Commission during its October 9, 2020 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 October 21, 2020.

PINELANDS COMMISSION MEETING

MINUTES

October 9, 2020

The October 9, 2020 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=NWWIJUovwI>

Commissioners Participating in the Meeting

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

Commissioners Absent

Daniel Christy, Sean Earlen, Gary Quinn and D'Arcy Rohan Green.

Chairman Prickett called the meeting to order at 9:38 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.

The Commission pledged allegiance to the Flag.

Minutes

Chairman Prickett presented the minutes from the Commission's September 11, 2020 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Jannarone seconded the motion.

The minutes from the September 11, 2020 Commission meeting were adopted by a vote of 8 to 0.

Committee Reports

Chairman Prickett provided an update on the September 25, 2020 Policy and Implementation (P&I) Committee Meeting:

The Committee adopted the minutes from the August 28, 2020 meeting.

The Committee recommended Commission certification of Manchester Township Ordinance 20-022, adopting a Redevelopment Plan for the Whiting Landfill Redevelopment Area and Winslow Township Ordinance O-2020-019, adopting a Redevelopment Plan for the Churchill Redevelopment Area.

The Committee received an update on the 1990 Monroe Township Municipal Utilities Authority monitoring agreement for Kirkwood-Cohansey water discharge from the Atlantic to the Delaware River Basin. The monthly reports submitted to staff indicate the wastewater discharge is within the agreement parameters.

The Committee received a presentation on recommended Comprehensive Management Plan (CMP) amendments related to stormwater management. The amendments incorporate the recently adopted New Jersey Department of Environmental Protection (NJDEP) stormwater rules while customizing and enhancing them for the Pinelands Area. Staff will prepare a rule proposal to review with the Committee at an upcoming meeting.

Commissioner Lohbauer provided an update on the October 7, 2020 Land Use, Climate Impacts and Sustainability (LUCIS) Committee meeting:

The Committee heard a presentation from Vince Mazzei, Assistant Commissioner, Watershed and Land Management at the New Jersey Department of Environmental Protection (NJDEP) about sea level rise, increased precipitation and the severity of flooding in New Jersey.

The Committee also discussed a draft resolution that would allow the Commission to consider the effects of climate change in future policy decisions and potential CMP amendments.

Commissioner Avery provided an update on the September 29, 2020 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the March 3, 2020 meeting.

The check registers, electronic disbursements, application fees and employee actions were reviewed. It was noted that the Fiscal Year (FY) 2021 application fees are currently at 31% of the anticipated amount.

Staff delivered a presentation on Application Fee Projections.

There was a discussion regarding the preparation and planning for the FY21 Pinelands Commission budget.

The Executive Director gave an update on the status of the state audit.

There was no public comment.

The Committee met in Closed Session for an update on CWA contract negotiations and a personnel matter.

Executive Director's Report

ED Wittenberg provided an update on the following items:

- Staff is currently preparing the FY 2021 Budgets, which will include initiatives, and anticipate presenting the Budgets at the December Commission meeting.
- Staff is finalizing the logistics of the site visit for the Commissioners that were interested in seeing where the inadvertent returns occurred along the Southern Reliability Link in the Pinelands Area.

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

- As noted at the September Commission meeting, staff met with NJDEP's Fish and Wildlife personnel to discuss an existing Memorandum of Agreement (MOA) between the two agencies.
- Staff spoke with Monroe Township's Council President and invited him to attend today's Commission meeting via Zoom. Staff extended the invitation after a lengthy discussion at the September Commission meeting about Monroe Township's addition to an existing fire house and wetlands buffer violations on the property. The Council President indicated regret over the violation and advised that the Township is working to resolve the issue.
- Staff held a pre-application conference with NJDEP's Forest Fire Service about a forestry application for Timber Stand Improvement on approximately 1,000 acres in Bass River State Forest.
- Staff issued a letter to South Jersey Gas (SJG) advising that the replacement of approximately 6,000 linear feet of natural gas main is exempt from Commission review. SJG will employ horizontal directional drilling for about 1,000 feet of gas main underneath the Atlantic City Expressway. The natural gas main is being replaced in the vicinity of the Hamilton Mall and is exempt from review because the development it will serve has received all necessary permits and approvals.

Chairman Prickett asked what SJG would be doing with the old pipe.

Director Horner said he believes that SJG is removing the old pipe, but will confirm that information.

Commissioner Lohbauer asked if the pipe would be placed through any bodies of water.

Director Horner said there are no surface waters but there are wetlands and wetlands buffers in the vicinity of pipeline. He added that the pipeline will be placed in the disturbed, maintained shoulder of the road.

Commissioner Irick asked if the Commission would be notified should there be any inadvertent returns.

Director Horner said there is a contingency plan in place and the Commission will be notified if there are any inadvertent releases of drilling fluid. He noted that the development does not require an application to the Commission.

Susan R. Grogan, Director of Planning, provided an update on the following matters:

- The Commission learned that it may not be notified about the possible designation of the Pine Barrens Byway as a National Scenic Byway until 2021.
- Staff believes that the Commission will be notified later this month by the New Jersey Historic Trust regarding the grant application to paint Fenwick Manor.
- Staff is preparing an adoption notice for the Septic Systems Pilot Program rule amendments. It is anticipated that the amendments will be on the November Commission meeting agenda.
- Staff recently participated in stakeholder meetings for two Barnegat Bay Partnership watershed management and restoration initiatives.

Paul Leakan, Communications Officer, displayed the recently launched Pine Barrens Byway Story Map. He said he hopes the tool will inspire people to explore the Pinelands. He provided information on the next round of webinars. He added that the 2021 Pinelands National Reserve calendar will focus on sites along the Pine Barrens Byway Route and the calendars will be made available at several new locations. Lastly, he provided information about this weekend's screenings of "The Pine Barrens" and "Pine Mud" documentaries.

Planning Matters

Chairman Prickett presented a resolution recommending approval to certify Manchester Township's Ordinance 20-022 adopting a Redevelopment Plan for Whiting Landfill.

Commissioner Avery made a motion Issuing an Order to Certify Manchester Township Ordinance 20-022, Adopting the Whiting Landfill Redevelopment Plan (See Resolution # PC4-20-32). Commissioner Lohbauer seconded the motion.

Director Grogan said the ordinance was discussed in great detail at the P&I Committee meeting. She said the Board of Public Utilities (BPU) recently announced its second round of applications for community solar facilities. She said the facility in Whiting was approved in BPU's first round of the community solar pilot program.

She noted that round two applications need to be submitted to the BPU by February 5, 2021 and bonus points will be given to applications proposing solar on landfills, brownfields and on existing impervious cover. She added that the Commission could see more redevelopment plans such as this one, if BPU approves additional community solar facilities in the Pinelands Area as part of the second round.

Chairman Prickett said this is only a plan and the solar installation will require a development application.

Director Grogan added that the ordinance and redevelopment plan allow solar as a permitted use. She said the Whiting landfill is in the Preservation Area District. The development application will have to include the appropriate closure of the landfill. The solar facility will have to meet all of the CMP's environmental standards.

Commissioner Lohbauer said he was pleased that the landfill will eventually generate sustainable energy and help fund the closure of the landfill.

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

Chairman Prickett presented a resolution recommending certification of Winslow Township Ordinance O-2020-19 and adoption of the Churchill Redevelopment Plan.

Commissioner Lohbauer made a motion Issuing an Order to Certify Winslow Township Ordinance O-2020-19, Adopting the Churchill Redevelopment Plan (See Resolution # PC4-20-32). Commissioner Howell seconded the motion.

Commissioner Lohbauer said he supports the Redevelopment Plan because it encourages development adjacent to existing development. He said he hoped that the assisted living and commercial components of the redevelopment will be linked so that residents will have access to medical offices and facilities.

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 said there are two Public Development applications, both of which are from Monroe Township, that the public can provide comment on.

Rhyan Grech of the Pinelands Preservation Alliance recommended that the Commission not take any action on public development applications submitted by Monroe Township until the town has fully resolved its violations.

Ordinances Not Requiring Commission Action

Chairman Prickett read the list of ordinances not requiring Commission action.

- Manchester Township Ordinances 20-026 & 20-031
- Ocean Township Ordinance 2020-11
- Shamong Township Ordinance 2020-7

No questions were raised.

Other Resolutions

Stacey Roth, Chief of Legal and Legislative Affairs, said the Commission and South Jersey Transportation Authority (SJTA) executed an amendment to an existing Memorandum of Agreement (MOA) in April 2019. The amendment permitted the mowing of a Grassland Conservation Management Area (GCMA) located at the Atlantic City Airport. The mowing was necessary due to safety concerns over bird strikes at the airport. As part of amendment to the MOA, SJTA was obligated to provide an offset. In addition to a series of annual payments to the Commission, SJTA was required to acquire land and create a new GCMA for two threatened and endangered bird species: the upland sandpiper and grasshopper sparrow. She said today SJTA is requesting additional time to finalize the acquisition for the new GCMA.

Ms. Roth introduced Lou Cappelli, attorney to SJTA, Executive Director of SJTA, Stephen Dougherty and SJTA's Engineer, Steve Mazur. She said the MOA amendment permits one six-month extension for the completion of the acquisition which was granted and is set to expire on October 12, 2020.

She said the MOA is not structured to allow any additional extensions of time, and that is why the resolution is before the Commission. She further explained that based on SJTA's Memorandum of Understanding with Atlantic County and the property owners of the parcel in question, including the appraisals and the public acquisition process, the Commission staff is comfortable with the extension. She noted the Covid-19 pandemic has made the acquisition more complicated. She said SJTA has proven that they are diligently pursuing the acquisition for the new GCMA.

Mr. Cappelli thanked the Commission for its consideration. He said the acquisition is almost complete.

Commissioner Lohbauer made a motion Authorizing an Extension of the Time Period by which the South Jersey Transportation Authority is to Acquire a Site for Establishment of a New Grassland Conservation and Management Area as Required by the April 16, 2019

First Amendment to the February 26, 2004 Memorandum of Agreement Between the New Jersey Pinelands Commission and the South Jersey Transportation Authority. Commissioner Irick seconded the motion.

Commissioner Irick said Atlantic County has displayed good faith efforts with the progress of the acquisition.

Commissioner Lohbauer said he was pleased, that the original intent of the MOA will be achieved with the creation of the new GCMA and preservation of the property as open space.

The Commission adopted the resolution by a vote of 8 to 0, granting SJTA an extension of time until February 28, 2021 for completion of the GCMA acquisition.

Annual Update on Permanent Land Protection in the Pinelands Area

Presentation slides can be viewed at this link:

[https://www.nj.gov/pinelands/home/presentations/2020%20PLP%20Draft%20Presentation%20-%20jmp%20\(PLedits\).pdf](https://www.nj.gov/pinelands/home/presentations/2020%20PLP%20Draft%20Presentation%20-%20jmp%20(PLedits).pdf)

Director Grogan said a total of 1,076 acres were preserved in the Pinelands Area through a number of programs from July 2019 through June 2020. She said in the past the number has been higher and suspects it would have been higher, if not for the pandemic. She said the average price of a Pinelands Development Credit (quarter) in 2020 was \$9,700, although more recently the price has increased. She said 51% of the Pinelands Area has been preserved and 94% of those lands are in the conservation-oriented management areas as the CMP intended.

General Public Comment

Fred Akers of the Great Egg Harbor Watershed Association, said the best way to protect land is to purchase it. He said he is one of many volunteers who monitor rainfall everyday on his property and shares the data with a group known as Community Collaborative Rain, Hail & Snow Network (www.cocorahs.org). He said there is always a need for volunteers.

Rhyan Grech, of the Pinelands Preservation Alliance, enjoyed the Permanent Land Protection presentation. She noted that the public was not permitted to comment on the SJTA extension of time resolution. She also noted that the GCMA was mowed due to other birds and not the threatened and endangered species birds as mentioned. She said she hopes that SJTA is in compliance with the MOA. She said monthly status reports were required under the MOA and the creation of new habitat for the frosted elfin butterfly. Lastly, she said she was happy that some Commissioners were visiting the Southern Reliability Link route where the inadvertent returns occurred.

Chairman Prickett asked Ms. Roth about public comment on the SJTA resolution.

Ms. Roth said the SJTA resolution is a discretionary action and public comment was not required. She added that she misspoke earlier about the GCMA; she didn't mean just threatened and endangered birds. She noted that SJTA has been submitting its monthly reports, and the MOA allowed for three years for the frosted elfin butterfly enhancement project to be complete from the time the amended MOA was executed.

Commissioner Lloyd asked Ms. Roth if she considered the action today on the SJTA matter an MOA amendment.

Ms. Roth responded no, while noting that an amendment to the MOA would have required a public process. She said the Commission has the authority to grant an extension, especially in this instance, since SJTA is very close to completing the acquisition.

DAG Miles added that the Commission could use its discretion because the amended MOA is self-executing and it was about determining the appropriate mechanism to use.

Commissioner Irick raised concerns about Monroe Township's violations. He suggested the Commission may want to postpone acting on any future applications until the violations have been resolved.

Director Horner said the Township is required to have the violation resolved by November 30, 2020. The last time Director Horner spoke with Council President Joe Marino, he confirmed that the township would meet the deadline. Director Horner said he would touch base with Council President Marino and invite him to the November Commission meeting.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Pikolycky seconded the motion. The Commission agreed to adjourn at 11:19 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: October 21, 2020