

Disclaimer

These minutes reflect the actions taken by the Commission during its October 11, 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 October 28, 2019.

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

MINUTES

October 11, 2019

Commissioners Present

Sean Earlen, Jordan P. Howell, 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 Craig Ambrose and Deputy Attorney General (DAG) Kristina Miles.

Commissioners by Phone

Candace M. Ashmun

Commissioners Absent

Alan W. Avery Jr., Daniel Christy, Jane Jannarone and D'Arcy Rohan Green.

Chairman Prickett called the meeting to order at 9:32 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. Commissioner Ashmun joined the meeting to vote on Resolution # PC4-19-37.)

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

Minutes

Chairman Prickett presented the open session minutes from the September 13, 2019 Commission meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Irick seconded the motion.

The minutes from the September 13, 2019 meeting were adopted by a vote of 8 to 0.

Chairman Prickett announced that the closed session minutes from the August 9, 2019 Commission meeting would need to be voted on in November due to lack of a quorum.

Committee Chairs' Reports

Chairman Prickett provided an update on the September 25, 2019 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the August 23, 2019 meeting.

The Committee received an update on Section 502 funding.

The Committee recommended the Commission approve the New Jersey Department of Environmental Protection's (NJDEP's) request to convey State-owned lands acquired with 502 funds to Ocean County to expand the County's holdings in the vicinity of the historic Cedar Bridge tavern.

The Committee received an update by NJDEP representatives on continuing efforts to protect public lands within the Pinelands Area from off-road motorized vehicle damage.

NOTE: Due to quorum issues, the original meeting agenda was shifted to adopt a resolution in support of a property exchange between the NJDEP and Ocean County.

Other Resolutions

Commissioner Quinn left the room.

Chairman Prickett said the next resolution is related to a proposal to exchange lands between the NJDEP and Ocean County.

Commissioner Lohbauer made a motion To Concur with the New Jersey Department of Environmental Protection's Conveyance of State-Owned Lands in Barnegat Township Acquired with Section 502 Funding to Ocean County (See Resolution # PC4-19-37). Commissioner Lloyd seconded the motion.

DAG Miles said Commissioner Quinn is recusing on this matter because he is an Ocean County Freeholder.

Commissioner Lohbauer asked if there was a public hearing process by the NJDEP associated with the land conveyance.

Judeth Yeany, Chief Legal Services and Stewardship for the Green Acres Program, said all conveyances involving properties greater than one acre require a public hearing. She said properties over five acres are required to have two public hearings. She said the hearings were held in the municipality and in Trenton and were widely advertised.

Commissioner Ashmun joined the meeting by telephone.

Mark Villinger, Supervising Planner Ocean County Planning Department, explained that the exchange of lands will better support the Cedar Bridge Tavern.

Timothy Hart, Ocean County Historian, said the property was once home to two taverns dating back to 1740, when Europeans first occupied the site. He said one of the taverns no longer exists but remnants were found through Monmouth University's three field schools, including fire crack rock, which indicates that Native Americans once inhabited the area. He said the site is also home to the last documented lands engagement of the Revolutionary War.

The Commission adopted the resolution by a vote of 8 to 0. Commissioner Quinn recused from the vote.

Commissioner Ashmun ended the call.

Commissioner Quinn rejoined the meeting.

Executive Director's Reports

ED Wittenberg provided an update on the following items:

- Stacey Roth is attending oral argument for Robert T. Winzinger, Inc. v. New Jersey Pinelands Commission, Docket No. BUR-L-00087019, which is an inverse condemnation case related to an ongoing mining application.
- Two meetings were held over the past month regarding agricultural employee housing at blueberry farms in the Town of Hammonton and Mullica Township. Director Chuck Horner attended one of the meetings, which he will provide an update on later in the meeting. ED Wittenberg attended a meeting with the NJDEP, Department of Agriculture and farmers to discuss wastewater compliance for next year's growing season.
- Chief Planner Susan R. Grogan and ED Wittenberg met with the Executive Director of Sustainable Jersey. ED Wittenberg said Sustainable Jersey is working with many municipalities and schools through its certification program. She said less than 20 Pinelands Area towns are participating. She added that staff is currently determining how the Commission and Sustainable Jersey can work together.
- A list of potential speakers for the Land Use, Climate Impacts and Sustainability Committee has been shared with the Chairman. She said she would circulate the list to the Committee.

- Carol Ebersberger, a new employee, was introduced. Ms. Ebersberger has joined the Business Services office.

Chairman Prickett reminded Commissioners that Ethics training must be complete through the on-line module.

Commissioner Prickett asked for an update on Hammonton's application for discharge of treated wastewater. (Director Horner provided an update later in the meeting.)

Chief Planner Grogan said she recently attended the second meeting of the Governor's interagency task force. She said the group is comprised of multiple state agencies and departments. She said at the first meeting, the discussion focused on the State Planning Commission, plan endorsement and expiring coastal centers. She said at the most recent meeting the group discussed ways in which to support the Governor's economic development objectives. She said the group is interested in what other agencies are currently doing to foster economic development, as well as opportunities for better coordination. She said the task force has a meeting scheduled for late October.

Commissioner Lloyd asked if climate change was discussed at the task force meetings.

Chief Planner Grogan said climate change came up, and the NJDEP said it would be focusing on coastal resiliency, including evaluating the boundaries of coastal centers and relocating future development.

Director Liggett provided an update on the following:

- Staff continues to work with the NJDEP on the Pinelands Infrastructure Trust Fund (PITF) projects. The NJDEP is preparing the Commission's projects and a number of its own projects for endorsement from the State Assembly and the Senate. He said the next step in the process is to notify the five municipalities that received funding for their projects and the municipalities that did not receive funding. He said staff continues to discuss possible solutions with the NJDEP for the water projects that need a separate approval process at the Department. He added that staff continues to investigate if more funds can be made available to PITF and if projects in Pinelands Towns can be added to the program.
- The Cape May County Municipal Utilities Authority (CMCMUA) is making revisions to its Landfill Management Plan. Initially, CMCMUA was interested in mining the landfill but because of the recyclable market collapse and odor problems associated with opening a capped landfill, they are now opting to reconfigure the landfill.

Director Chuck Horner provided information on the following regulatory matters:

- Staff issued a Certificate of Filing for the demolition of a single family dwelling in Southampton Township. The dwelling was constructed in 1785. According to the township ordinance and the Comprehensive Management Plan (CMP), the Township must issue a Certificate of Appropriateness, which will determine the treatment of the significant historic resource.

- Staff attended a meeting at NJDEP with the Department of Agriculture, regarding violation notices issued for failing septic systems related to seasonal agricultural employee housing at farms primarily in Atlantic County. Staff advised the NJDEP that the Commission's rules permit agricultural employee housing as long as CMP environmental standards can be met.
- Staff has been handling inquiries from the public concerning a large residential development application in Jackson Township. The public is being advised to participate in the local planning review process. He said once Jackson Township issues a determination on the application, staff will review it, including comments from the public.
- The Commission is reviewing an application for the demolition and reconstruction of a restaurant in New Gretna.
- Director Horner provided an update about the emergency approval issued to the Town of Hammonton for the removal of discharge pipe in response to Chairman Prickett's question earlier in the meeting. He said the Town submitted a formal application in July and on September 30th submitted additional information to complete the application.

Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution recommending approval of the following three public development applications.

Commissioner Earlen made a motion Approving With Conditions Applications for Public Development (Application Numbers 1984-1345.008 (installation of a ground mounted solar facility in Jackson Twp.), 1990-0450.007 (construction of a gasoline station and convenience store at the Forked River Service Area on the Garden State Parkway) & 1990-0809.003 (demolition of a building in the Town of Hammonton) (See Resolution # PC4-19-38). Commissioner Lohbauer seconded the motion.

Director Horner provided an overview of the solar energy facility. He said Jackson Township is proposing to install 13.7 acres of ground mounted solar panels on a soil capped landfill. He noted that the landfill was closed prior to the Commission was established. He said the solar array was reduced and relocated due to the large population of the threatened and endangered plant Sickle-leaved golden aster on the landfill. He said the Township is imposing a conservation deed restriction on 45.48 acres of the parcel.

Commissioner Lloyd asked where the solar facility will connect to the grid.

Director Horner said there is an existing Jersey Central Power & Light easement on the western portion of the property. The applicant is proposing to connect with a pole line from the array and on to the utility line.

A brief discussion took place about the future of the Sickle-leaved golden aster habitat.

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

Chairman Prickett presented a resolution recommending approval for two road improvement projects in Galloway Township.

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 2018-0036.001(road improvements in the Jimmie Leeds Road right-of-way in Galloway Twp. & 2018-0095.001(road improvements at an intersection in Galloway Twp.)(See Resolution # PC4-19-39). Commissioner Irick seconded the motion.

Chairman Prickett noted that there was an article in the press clips about the road widening of Jimmie Leeds Road.

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.

Ordinances Not Requiring Commission Action

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

- Beachwood Borough Planning Board Resolution 2019-30

No members of the Commission had questions.

Presentation- Fiscal Year 2019 Permanent Land Protection

Chief Planner Grogan outlined the number of acres protected in the Pinelands Area by source. She said a total of 9,128 acres were protected from July 2018 through June 2019. She said to date a total of 8,969 acres have been preserved through the Pinelands Conservation Fund. She provided an update on the land acquisition related to the Garden State Parkway Exit 44 Secondary Impacts Agreement. One of the slides displayed a map, depicting Ocean County's very large land acquisition in the Forest Area of Ocean and Lacey townships. One of the last slides exhibited the acres protected by Pinelands Management Area and it was evident that the conservation-oriented management areas are being preserved. See attached slides for additional details.

Commissioner Quinn applauded the taxpayers of Ocean County for continually voting in favor of the open space tax. He said it has allowed Ocean County to purchase and preserve lands in the Forked River Mountains. He said there are currently 23 additional acquisition projects in progress.

Chairman Prickett asked Commissioner Quinn if there is a visitor center at the Forked River Mountains.

Commissioner Quinn said the Ocean County Planning office in collaboration with the Sheriff's Department is working on an access plan that will include a visitor center, walking trails and special use areas. He said the success of Ocean County's parks and open spaces began with Ocean County Freeholder John Bartlett.

Stacey Roth, Chief Legal & Legislative Affairs said the Commission prevailed in its motion to dismiss, for failure to exhaust administrative remedies in the Winzinger matter. The CMP clearly states that there is a process that needs to be followed.

General Public Comment

Georgina Shanley of Ocean City, NJ, congratulated Ocean County and the Pinelands Commission on protecting so much land. She said she hopes that the South Jersey Gas pipeline does not come back. She said she was disappointed that it was not on today's agenda. She said she is working with a number of organizations to pressure the Governor to sign a moratorium on new fossil fuel infrastructure.

Chairman Prickett clarified that the Commission does not have a quorum and will not be entering into closed session today.

Margo Pellegrino of Medford Lakes, NJ, said she is happy to hear the Commission is addressing climate impacts on the Pinelands. She said she recently paddled the Mullica River, and the river was extremely low upstream. She said the river downstream was flooded. She said the New York Times recently ran an article about the impacts of sea-level rise on forests in various states along the Atlantic coast. She also said the United States needs to quit depending on fossil fuels.

Ryann Grech of the Pinelands Preservation Alliance expressed her frustration that yet another meeting has come and gone and the Commission has not addressed the South Jersey Gas remand. She said Commissioner Ashmun was on the phone and asked if she was needed for any other matters. She said the Commission told her no.

ED Wittenberg said at the last minute Commissioner Ashmun had an appointment and could not stay on the phone for the meeting. She noted that staff works hard to ensure there is a quorum.

Chairman Prickett said he takes responsibility for not having a quorum and he would be working on getting a quorum for the next meeting.

Commissioner Irick, in response to some of the public comments, said that nothing is happening behind the scenes with the South Jersey Gas application.

Arnold Fishman of Medford Lakes said he was frustrated that the Commission has not taken action on the South Jersey Gas remand.

Chairman Prickett said he hopes the South Jersey Gas matter can be resolved at the November Commission meeting.

Commissioner Lohbauer said the International Monetary Fund recently issued a report noting the detrimental effect climate change could have on the world, including human life. He said that makes the Commission's work on climate change even more important.

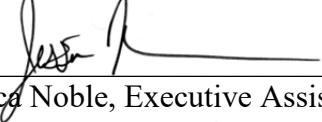
Commissioner Irick said the Department of Agriculture and Rutgers extension will be holding a program in November at Duke Farms entitled "Farming for Carbon".

Commissioner Irick added that he hopes an even greater effort is made at ensuring a quorum for the next Commission meeting.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Earlen seconded the motion. The Commission agreed to adjourn at 11:00 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: October 23, 2019