

Disclaimer

These minutes reflect the actions taken by the Commission during its November 8, 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 November 25, 2019.

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

MINUTES

November 8, 2019

Commissioners Present

Alan W. Avery Jr., 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) Kristen Heinzerling.

Commissioners by Phone

Candace M. Ashmun and D'Arcy Rohan Green

Commissioners Absent

Daniel Christy, Sean Earlen, Jane Jannarone and Gary Quinn.

Chairman Prickett called the meeting to order at 9:36 a.m.

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

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum.

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

Minutes

Chairman Prickett presented the minutes from the October 11, 2019 meeting and the closed session minutes from the September 13, 2019 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The minutes from the October 11, 2019 meeting and the closed session minutes from the September 13, 2019 meeting were adopted by a vote of 9 to 0.

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

The closed session minutes from the August 9, 2019 meeting were adopted by a vote of 8 to 0. Commissioner Lloyd recused from voting on the minutes.

South Jersey Remand Resolution

Commissioner Prickett presented the Resolution Addressing the Remand of the South Jersey Gas Company Application Due to a Significant Change in Material Fact.

Commissioner Lloyd said he would be recusing from the South Jersey Gas matter and left the dais.

Commissioner Lohbauer made a motion to allow public comment prior to considering the resolution. Commissioner Irick seconded the motion. All were in favor.

Jeff Tittel of the Sierra Club said the Sierra Club was a litigant in this matter and he would like to see the South Jersey Gas approval rescinded. He said there is no longer justification for the pipeline because the B.L. England plant is closed. He said the resolution needs to be strengthened so South Jersey Gas cannot amend its pipeline application and reapply to the Commission.

Rhyan Grech of the Pinelands Preservation Alliance said she was pleased to see the South Jersey Gas remand matter on the agenda. She expressed dismay over the language in the current resolution. She compared the language in today's resolution to the one drafted in April and said the resolution should be revised to specifically state that Resolution # PC4-17-03 is no longer valid.

Georgina Shanley of Ocean City, NJ said she agrees with the two prior commenters regarding the South Jersey Gas resolution. She said the current resolution leaves room for challenge. She read a transcript of the Executive Director's report from the September Commission meeting regarding the meeting staff had with South Jersey Gas. She said she was disappointed that staff met with South Jersey Gas.

Commissioner Prickett said the Comprehensive Management Plan (CMP) encourages applicants to meet with staff.

Arnold Fishman of Medford Lakes Borough, NJ said this Commission has the opportunity to adopt a resolution to end the South Jersey Gas matter. He said the current resolution is equivalent to a stop work order. He said the resolution needs to be amended to include language to rescind the original South Jersey Gas approval.

Agnes Marsala of Chesterfield, NJ said she would like to see stronger language in the resolution. She suggested tabling the resolution until new Commissioners can be appointed or revising the current language.

Joanne Pannone of Robbinsville, NJ said she would like for Governor Murphy to put a moratorium on all fossil fuel projects.

Executive Director Wittenberg said the language in the resolution was agreed upon by a working group of Commissioners.

Commissioner Irick said he wanted to vote on the resolution today.

Due to issues with telephone connections, the Commission was not able to gain a quorum to vote on the South Jersey Gas resolution. The Commission decided to move on to other agenda items.

Public Development Projects and Other Permit Matters

Commissioner Rohan Green rejoined the meeting by phone.

Chairman Prickett presented a resolution recommending approval for the construction of a municipal building in Medford Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development and Certificate of Appropriateness (Application Number 2018-0186.001) (Construction of a 23,516 square foot municipal building in Medford Township). Commissioner Pikolycky seconded the motion.

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

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

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 1985-0204.009 (Construction of a playground and associated recreational improvements at a middle school in Hamilton Twp.), 2018-0029.001 (Construction of a stormwater management basin at the intersection of U.S. Route 322 and Cologne Avenue) & 2019-0115.001 (Demolition of a single family dwelling in the Town of Hammonton). Commissioner Avery seconded the motion.

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

Commissioner Lohbauer suggested that the Commission not take action on the South Jersey Gas resolution today due to difficulties with Commissioners participating in the meeting by phone. He said a discussion on the matter cannot take place if Commissioners are having trouble hearing and staying on the line.

Commissioner Irick disagreed. He said if the Commission is able to regain a quorum, the Commission should vote on the South Jersey Gas resolution. He said it has been postponed long enough.

The Commissioners engaged in a discussion about whether the resolution should be tabled or should the meeting proceed. The Commission decided to move through the remainder of the agenda.

The Commission lost its quorum at 10:25 a.m.

ED Wittenberg said staff made every effort to get a quorum for today's meeting. She apologized for the problems with the phone system.

Executive Director's Reports

ED Wittenberg provided an update on the following items:

- A meeting was held at Assemblyman Ronald Dancer's office, where representatives from Jersey Central Power & Light and Commission staff discussed the existing Right of Way Plan pilot program and their desire to use herbicides. ED Wittenberg provided some background on the pilot program; she said three utilities currently participate in the pilot program. The purpose of the pilot was to adhere to a specific vegetation management plan to maintain and protect Pinelands habitat. A report including recommendations on the pilot will be presented to the Commission soon.

Chairman Prickett said information on the meeting is detailed in the monthly management report.

ED Wittenberg noted that some items that were previously included in the Commission packet have been moved to the monthly management report.

Director Larry Liggett provided an update on the following:

- Staff attended a New Jersey Department of Environmental Protection (NJDEP) stakeholder meeting regarding the Pinelands Infrastructure Trust Fund. A question was raised about what amount a time an awarded project should be given to commence work before another project is chosen.
- Staff met with the NJDEP on the Kirkwood/Cohansey draft water management rule changes. The NJDEP asked if there was enough water for the future and raised questions about thresholds for well size and wetland impacts included in the Commission's proposed rule.

Director Chuck Horner provided information on the following regulatory matters:

- The applicant for a large residential development in Galloway Township, commonly referred to as Blue Heron East, has decided to abandon the project. The applicant is going through the process to rescind municipal approvals. The applicant is also in the process of removing a conservation deed restriction that was placed on the parcel in order to comply with the CMP's threatened and endangered species standards and Township related issues. A public hearing regarding the removal of the deed restriction took place in Galloway Township.
- Staff met with Pemberton Township officials to discuss an approach for developing recreational fields at a park that is severely restricted by wetlands. Staff has met with the Township on this matter before.
- Staff received an inquiry regarding the disposal of dredge spoils in the Pinelands. The placement of dredge spoils constitutes development and requires an application to the Commission. If it can be demonstrated that the dredge spoils have no contaminants and will not degrade Pinelands water quality, the placement of the spoils can be permitted.
- A pre-application meeting was held to discuss the establishment of a soccer facility in an Agricultural Production Area in Shamong Township.

Commissioner Irick said dredged spoils don't belong in the Pinelands. He asked what could be done to avoid the repository of dredge spoils.

Director Horner explained the rules regarding the placement of fill materials. He said it's not much different from the placement of dredge spoils. He added that due to the nature of dredge spoils, it is very difficult to meet the standards of the CMP.

Commissioner Irick said his real concern is the potential to place large volumes of dredge spoils in the Pinelands Area without other development.

Commissioner Lloyd said he would like fire prevention to be included in the Right of Way discussions with the utilities.

ED Wittenberg agreed.

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.

Ordinances Not Requiring Commission Action

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

- Barnegat Township Ordinance 2019-13
- Corbin City 2018 Master Plan Reexamination Report
- Corbin City Housing Element and Fair Share Plan
- Egg Harbor Township Ordinance 23-2019

- Town of Hammonton Ordinance 014-2019

No members of the Commission had questions.

Climate Projections and Potential Actions By NJ Pinelands Commission

Commissioner Lloyd introduced Speaker Michael Gerrard, who is the Founder and Director of the Sabin Center for Climate Change Law at Columbia University. He has numerous publications, one of which is Legal Pathways to Deep Decarbonization in the United States. The slides of Professor Gerrard's presentation are attached and can be found on the Commission's Land Use, Climate Impacts and Sustainability Committee webpage. After the presentation, Professor Gerrard answered questions from members of the public.

Commissioners thanked Professor Gerrard for attending the meeting.

Commissioner Lohabuer made a plea to Senate President Stephen Sweeney to act on the Governor's nominees to the Pinelands Commission.

General Public Comment

Denise Garner of Jackson Township, NJ, spoke about the surge of residential development in Jackson Township. She blamed the development on the Southern Reliability link pipeline. She raised concerns about impacts the development will have on the local watersheds.

Fred Akers of the Great Egg Harbor Watershed Association said he reviews Army Corps of Engineers permits. He said a recent permit was for the placement of dredge spoils located in the Pinelands National Reserve portion of Corbin City, not the state-designated Pinelands Area. He said he alerted the Commission staff about the dredged materials. He thanked ED Wittenberg for sending a letter of support on the matter.

Patricia Hansen, an Evesham Township Councilwoman, thanked the Commission on behalf of Mayor Jaclyn Veasy. She said she looks forward to working with the Commission in the future.

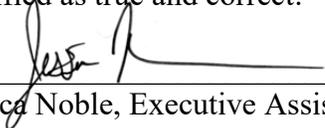
Agnes Marsala of Chesterfield, NJ suggested having an intern or volunteer assist the Commissioners who cannot be present at the meetings.

Adjournment

Paul Leakan, Communications Officer, said approximately 200 students participated at this year's World Water Monitoring Challenge. He informed the Commission about the upcoming Pinelands Speaker Series presentations.

Commissioner Irick moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 12:06 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: November 19, 2019