

Disclaimer

These minutes reflect the actions taken by the Commission during its November 12, 2021 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 22, 2021.

PINELANDS COMMISSION MEETING

MINUTES

**November 12, 2021**

*The November 12, 2021 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=th40OS8f2L4>*

Commissioners Participating in the Meeting

Alan W. Avery Jr., Shannon Higginbotham, Jerome H. Irick, Jane Jannarone, Ed Lloyd, Mark Lohbauer, William Pikolycky and Chairman Richard Prickett. Also participating were Acting Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Kristina Miles and Governor's Authorities Unit representative Rudy Rodas.

Commissioners Absent

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

Call to Order

Chairman Prickett called the meeting to order at 9:32 a.m.

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

Acting Executive Director (ED) Grogan called the roll and announced the presence of a quorum. Eight Commissioners participated in the meeting.

The Commission pledged allegiance to the Flag.

Minutes

Chairman Prickett presented the minutes from the Commission's October 8, 2021 meeting. Commissioner Higginbotham moved the adoption of the minutes. Commissioner Avery seconded the motion.

The minutes from the October 8, 2021 Commission meeting were adopted by a vote of 8 to 0.

#### Committee Reports

Chairman Prickett provided a summary of the October 29, 2021 Policy & Implementation (P&I) Committee meeting:

The Committee adopted the minutes of its September 24, 2021 meeting.

The Committee discussed the proposed addition of four septic systems to the Alternate Design Treatment System Pilot Program. The Committee voted in favor of presenting the proposal to the Commission.

The Committee received a presentation from Commission staff regarding comments for the proposed stormwater management amendments to the Pinelands Comprehensive Management Plan (CMP).

The Committee received a presentation from Commission staff regarding draft rules for the Electric Transmission Line Right-of-Way Maintenance Pilot Program.

The Committee discussed the priorities and schedule for CMP amendments after receiving a presentation from Commission staff.

Following a presentation from staff, the Committee discussed a list of potential CMP amendments.

Committee members were asked to prioritize the amendments they thought were important so that timelines and workplans could be developed.

#### Executive Director Search Committee Update

The Executive Director Search Committee met on October 19, 2021 and November 10, 2021.

The Committee reviewed the input that staff was asked to provide, on the attributes they thought an Executive Director should have.

The Committee is developing standardized questions to ask candidates selected to be interviewed.

From the 69 resumes submitted, the Committee is developing a pool of candidates for further consideration that best reflect the qualifications needed to accomplish the primary responsibilities of the Executive Director.

The Committee will meet next week on November 17, 2021.

#### Other

Commissioner Lohbauer noted the Climate Committee will meet on December 1, 2021.

Commissioner Avery said the Personnel and Budget Committee did not meet in October.

Chairman Prickett said that he and Commissioner Irick were provided with a tour of the Pinelands Commission buildings after Commissioner Irick requested to see the interior cracks in Fenwick Manor.

Commissioner Irick thanked staff for the comprehensive tour of the buildings and grounds. He noted that the buildings are very well maintained by staff. He said the water damage, two-story-deep cracked walls and peeling lead paint in Fenwick Manor need to be addressed. He requested that Governor's Authorities Unit Representative Rudy Rodas help the Commission in finding funding assistance to solve some of the ongoing problems with Fenwick Manor.

Commissioner Higginbotham said she visited the Commission property and met staff and agreed with Commissioner Irick about the importance of addressing the painting and structural issues at Fenwick Manor. She said she would hate to see things become worse.

Acting ED Grogan said she enjoyed the tours as well and said Jessica Lynch and her small staff do an excellent job of caring for the entire property.

She said Mr. Rodas arranged a meeting for Commission staff with the Department of the Treasury, who owns the Commission's buildings, and the NJ Department of Environmental Protection, which may have future grant funding available for the painting project. She said the call took place a few weeks ago and the discussion included the condition of the building, funding opportunities and maintenance responsibilities. Although the call was informative and productive, unfortunately Treasury does not have any funds designated for Fenwick Manor. The representatives from NJDEP suggested applying for a grant for a Preservation Plan or Historic Structures Report. Grant applications take a very long time to come to fruition and there is no guarantee, which we have learned in the past. The other suggestion made during the call was that the Commission with the guidance of the Governor's office should request a special appropriation in next year's budget for Fenwick Manor. Lastly, she noted that a contractor looked at the flashing on the roof of Fenwick Manor surrounding the chimney, and the contractor will be back to evaluate the issue in further detail.

#### Acting Executive Director's Report

Acting ED Grogan provided information on the following matters:

- The Commission's six vacant positions were advertised. Applicants were able to submit resumes through October 17<sup>th</sup>. Approximately 200 resumes were received for the Environmental Specialist positions. Candidate selection has begun, and interviews will be scheduled soon.
- Application fees received for the month of October were around \$47,000. In four months, the Commission has met 72% of its projected application fees for the entire fiscal year.
- Beginning on November 29<sup>th</sup>, all Pinelands staff will be expected to be working back in the office five days a week. Currently, there are no plans to open to the public or hold in-person Commission or Committee meetings.
- The P&I Committee will be reviewing CMP amendment priorities at its meeting on November 19<sup>th</sup>. Commissioners and staff have been asked to rank the amendments in an attempt to reach a consensus.
- Staff continue to discuss the proposed stormwater amendments with the NJ Department of Transportation (DOT), which had raised concerns regarding public road projects. It is anticipated that the amendments will be on the December 10<sup>th</sup> Commission meeting agenda.
- Included in the October monthly report was a link to the State's new Climate Change Resilience Strategy, recently issued by the Interagency Council on Climate Change. The Council was created by Executive Order in 2019 and only recently was the Commission, along with a few other state agencies, asked to be a principal member. Staff member Ed Wengrowski will participate in monthly working group meetings of the Council.

Commissioner Irick offered his support to the Acting Executive Director as the Commission continues to look for ways to fund the painting project. He said Fenwick Manor cannot withstand three years of inaction.

Commissioner Avery said the Personnel & Budget Committee will pursue the painting of Fenwick Manor to protect the wood. He said he hopes that by adjusting the language in the painting Request for Proposal, the cost will decrease.

Commissioner Lloyd asked if it was possible to use money from the Pinelands Conservation Fund (PCF) to paint Fenwick Manor.

Stacey Roth, the Commission's Chief of Legal and Legislative Affairs, said she does not think it's possible to use the PCF money because of how the PCF policy document is written but said she would look into it.

Acting ED Grogan said Treasury has a portfolio that consists of 34 facilities and Fenwick Manor is not in the portfolio. She noted that she would explore the possibility of funding from the National Park Service to assist with the painting project.

Mr. Rodas said that should the Commission want to pursue an appropriation in the state budget, he could facilitate that request.

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

- Staff participated in a municipal court matter for a long-standing violation matter in Galloway Township. The matter involved the clearing and development of approximately six acres without application to the municipality or the Commission. The violator pled guilty and has been ordered to complete applications before April 2022.
- Staff met with the Pinelands Preservation Alliance, which has partnered with Pemberton Township to establish trails. Some of the trails are within wetlands and wetlands buffers. In order for the trails to be compliant with the Americans with Disabilities Act, paving must occur. However, the CMP does not permit paving in wetlands or buffers. Constructing boardwalks is an alternative to crossing wetlands.
- Staff sent a letter to Pemberton Township to offer suggested techniques to discourage unauthorized off-road vehicle use that is occurring on a deed-restricted parcel in Presidential Lakes.
- Staff participated in a meeting, at the request of the NJDEP, regarding an offshore wind project. The project involves onshore cable routes through the Pinelands National Reserve. Staff provided information related to environmental standards and permitted land use requirements. The cables will be connecting at the former Oyster Creek site and the former BL England electrical generating site.

Ms. Roth said the State Ethics Commission is requiring state officers to complete a cannabis briefing based on the enactment of the Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act (CREAMMA). Additionally, Commissioners must complete online, annual ethics training before November 22, 2021. Next year, the cannabis briefing and ethics training will be combined in one module.

Ms. Roth said that South Jersey Transportation Authority (SJTA) has contacted the Commission about constructing an airfreight facility at the Atlantic City Airport due to the uptick in online ordering. She added that a new or amended Memorandum of Agreement (MOA) may be necessary to permit the facility. She added that SJTA is moving forward with its 20-year plan and will be attending a future meeting to further discuss the proposed facility.

Ms. Roth said she has been in discussions with Stockton University about its Deed of Conservation Restriction, which implemented its 2010 Master Plan. The University is interested in removing lands from that Deed to allow the University to grow as it carries out the goals of its latest Master Plan. The University is interested in pursuing an Amendment to its MOA.

Paul Leakan, the Commission's Communications Officer, said that Joel Mott of the Commission's staff has been busily securing presentations for the Pinelands Short Course.

The event will be held at Stockton University on March 12, 2022. He also noted that the Commission hosted two webinars last month and will host a webinar on rain gardens on November 18<sup>th</sup>.

Mr. Leakan said he is overseeing the project to explore the possible installation of rain gardens at the Commission's headquarters. He has arranged for an expert from the Rutgers Cooperative Extension to visit the office and assess possible rain garden sites on November 22<sup>nd</sup>. Mr. Leakan also said that staff has been working hard to prepare the 2022 Pinelands National Reserve wall calendar. He said more than 800 calendars will be printed this year.

Lastly, Mr. Leakan said he and Patrick Burritt of the Commission's Science Office recently used seining nets to catch native banded and blackbanded sunfish that will be displayed for in the 90-gallon aquarium in the Commission's headquarters. The Commission holds a permit that was issued by the New Jersey Division of Fish and Wildlife and allows for the collection and display of native fish for educational purposes.

#### Public Development Projects and Other Permit Matters

Chairman Prickett introduced a resolution to approve multiple applications: the construction of a dog park in Monroe Township, the widening of County Route 610 in Dennis Township, the paving within the Fifth Avenue right-of-way in the City of Estell Manor and the demolition of four single family dwellings in (50 years or older) in Winslow Township.

Commissioner Pikolycky made a motion Approving With Conditions Applications for Public Development (Application Numbers 2001-0236.002, 2016-0072.001, 2020-0162.001, 2021-0219.001, 2021-0220.001, 2021-0221.001 & 2021-0222.001) (See Resolution # PC4-21-28). Commissioner Lohbauer seconded the motion.

Commissioner Lloyd raised concerns about the clearing of trees associated with the development of the dog park and he asked if the design could have been modified to either eliminate or minimize cutting approximately four acres of trees.

Director Horner said he would need to confer with staff and suggested holding off on voting until later in the meeting.

Commissioner Lloyd said he planned to vote on the application, but he was just curious. He also asked about the size of the buffer to wetlands required for the paving project in Estell Manor.

Director Horner said he would find out, but he said wetlands buffer information is not included because the development is within the limits of the existing gravel road.

Commissioner Lloyd suggested including buffer information in future public development reports associated with paving.

Director Horner said staff can include such information going forward.

Chairman Prickett asked if Commissioners wanted to wait for the answers to the questions raised by Commissioner Lloyd. Several Commissioners indicated they were comfortable proceeding with the vote.

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

Rhyan Grech of the Pinelands Preservation Alliance (PPA) said Commissioners should ensure that SJTA has met the conditions and obligations of its amended MOA before the Commission approves the installation of four wind cones at the Atlantic City Airport. She said SJTA was required to create an off-site Grassland Conservation Management Area (GCMA) for the grasshopper sparrow and the upland sandpiper. SJTA must also enhance 12 acres of habitat at the airport for the frosted elfin butterfly. She asked whether the required deed restriction of the new GCMA had been put in place and whether the two bird species were actually using the area.

#### Ordinances Not Requiring Commission Action

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

- Egg Harbor City Ordinance 10-2021
- Egg Harbor Township Ordinance 39-2021
- Evesham Township Ordinances 13-3-2021, 15-3-2021 and 17-3-2021
- Hammonton Town Ordinance 008-2021
- Monroe Township Ordinance O:17-2021
- Vineland City Ordinance 2021-35

No questions were raised.

#### Other Resolutions

Chairman Prickett introduced a resolution to accept the Fiscal Year 2019 Audit Report.

Commissioner Lloyd made a motion to accept the Fiscal Year 2019 Audit Report. (See Resolution # PC4-21-29). Commissioner Avery seconded the motion.

Acting ED Grogan said there were no findings in the FY 2019 Audit and credited that to Jessica Lynch, the Commission's Business Service Manager. She added that state auditors have completed the FY 2020 audit and it was also a clean audit with no findings.

Commissioner Lloyd asked how much the Audit costs the Commission.

Ms. Lynch said it ranges from \$15,000 to \$25,000 based on what the state auditor requires and includes annual accounting services and bank reconciliation.

Commissioner Avery thanked the public members who serve on the Audit Committee.

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

Chairman Prickett introduced a resolution authorizing four new septic technologies into the Commission's alternate design septic pilot program.

Commissioner Lohbauer made a motion To Authorize the Participation of Four New Advanced Wastewater Treatment Technologies in the Pinelands Commission's Alternate Design Treatment Systems Pilot Program (See Resolution # PC4-21-30). Commissioner Jannarone seconded the motion.

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

#### General Public Comment

Joanne Pennone of Robbinsville, NJ, expressed how fond she is of the Pinelands. She commended Commissioner Lloyd for questioning the tree clearing associated with the dog park application. She said weather and climate factor drive forest fires and areas that have been logged burn more intensely.

Jason Howell of the PPA recommended defining what is permitted on the Presidential Lakes deed restricted property, rather than posting what isn't permitted. He said it has been proven effective and used Black Run Nature Preserve as an example of success. He suggested the Commission get ahead of deforestation projects, especially in instances where warehouses are proposed.

Jamie Philpot of Shamong, NJ, said her family spends a lot of time outdoors in the Pinelands. She said she is concerned about increased activity in Wharton State Forest, including damages to wetlands, illegal fires and littering. She said she noticed that enduro bikes damaged reindeer lichen. She said she has contacted State Police, Park Police and the PPA. She asked Commissioners how they can help with this ongoing problem.

Fred Akers of the Great Egg Harbor Watershed Association said now that the election is over, it is time for the gubernatorial vacancies on the Commission to be filled, along with the open, federal designee position on the Commission.

Chairman Prickett said he is hoping that Camden County will be appointing a new Commissioner to serve as its representative. He also said he sent a letter to the Governor's office about the importance of filling the vacancies on the Commission. He said the public's support is crucial.

Rhyan Grech of the PPA stressed the importance of making Horizontal Directional Drilling (HDD) amendments a priority, since it is her understanding that the cables that Director Horner mentioned earlier will be using this technique for its offshore wind projects.

Agnes Marsala of Chesterfield, NJ, urged the Commission to act on climate change separate of what the state and the NJDEP are preparing to do. She said the EPA is fighting climate change and protecting public health by proposing plans to reduce methane from new and existing oil and natural gas sources. She noted the importance of protecting the Kirkwood-Cohansey aquifer. She asked that the Commission thoroughly monitor future HDD projects and hold applicants accountable.

Julie Akers said she along with the Great Egg Harbor Watershed Association reported an illegal motor cross track and land clearing violation to the Commission. She said she knows that the activity on the property is continuing. She is concerned about the amount of time it is taking to do a site inspection and meet with the property owner. She understands that this is not an easy situation and thanked staff for responding to her Open Public Records Act (OPRA) request.

Temma Fishman read comments by Georgina Shanley (See attached).

Director Horner said he appreciates the concerns raised by members of the public regarding violations in the Pinelands Area. He said pursuing a violation is a challenge since the Commission has no direct enforcement authority and cannot issue stop work orders. Also, staff do not have the right to access private land without property owner permission. The Commission relies heavily on municipal officials enforcing their ordinances. He said staff may not have an update on the matter until December.

Ms. Roth said SJTA provides monthly reports to the Commission. She said she could provide them to Ms. Grech if she is interested in reviewing them. She added that she can also invite SJTA to an upcoming meeting so they can update the Commission on the status of the threatened and endangered habitat.

#### Other

A brief discussion took place about the best time for an update regarding the Amended MOA with SJTA. Commissioner Lloyd said everything is important, but we have to prioritize. Commissioner Lohbauer said he would not feel comfortable voting on the wind cone application until SJTA can provide answers to the questions raised by Ms. Grech during public comment.

#### Follow up on Public Development Application Questions

Director Horner said there are wetlands located on both sides of the right-of-way in Estell Manor. He said there will be a 20-foot buffer from wetlands on one side of the right-of-way and on the other side of the proposed road, there will be a 50-foot buffer from wetlands.

He said future reports on public development paving projects will specify the wetlands buffers being maintained.

Director Horner said the dog park will be shaped like a dog bone. Half of the dog park will be in a wooded area and the other half will be in a field. Just over four acres will be cleared to accommodate the park. The dog park could have been located in another portion of the parcel; however, the Township chose to locate the proposed park adjacent to an existing municipal park. Because of its proximity to the existing park, less disturbance is required for the access road and other utilities.

He added that the CMP currently states development should avoid wooded areas where practical. He said staff reviewed the application based on past practice.

Commissioner Lloyd said that the dog park should have been designed in a way that minimized clearing and clearcutting of forest. He asked Director Horner to reach out to the town and encourage them not to cut so many trees.

Commissioner Lohbauer said the Commission should be looking for ways to save the trees. He said he did not do a good enough job of reviewing the report on the dog park and was now unhappy with his vote on that application. He also thanked the members of the public who provided comment at the meeting.

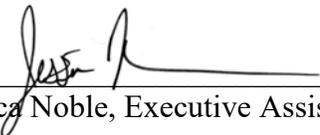
Commissioner Lohbauer spoke about his recent trip to Ireland and said he had been a proud representative of the Commission. He said while in Belfast he met with a former Lord Mayor who put him in contact with a group, Ulster Wildlife, who work to protect lands in Northern Ireland. He thanked Ulster Wildlife for the tour of the bog meadow and for letting him share information about the Commission. He hopes that one day they can visit the Pinelands.

Chairman Prickett thanked the members of the public for their input and feedback. He thanked staff for providing support to Commissioners and implementing the CMP every day. He said he looks forward to adopting the stormwater management amendments and future discussions related to the preservation of Fenwick Manor.

### Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Irick seconded the motion. The Commission agreed to adjourn at 11:24.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: November 22, 2021