

Disclaimer

These minutes reflect the actions taken by the Commission during its December 10, 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 December 14, 2021.

PINELANDS COMMISSION MEETING

MINUTES

December 10, 2021

The December 10, 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=4c4PcDBoJ2c>

Commissioners Participating in the Meeting

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

Commissioners Absent

Gary Quinn, Jane Jannarone and D'Arcy Rohan Green.

Call to Order

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

DAG Seminoff 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 November 12, 2021 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Higginbotham seconded the motion.

The minutes from the November 12, 2021 Commission meeting were adopted by a vote of 8 to 0.

Chairman Prickett noted that today's agenda was reorganized to accommodate the schedules of several Commissioners.

Planning Matters

Chairman Prickett introduced a resolution to adopt amendments to the Comprehensive Management Plan (CMP).

Commissioner Avery made a motion to Revise and Adopt Proposed Amendments to the Comprehensive Management Plan (Stormwater Management) (See Resolution # PC4-21-31). Commissioner Lloyd seconded the motion.

Acting ED Grogan said the Commission is nearing the end of what has been a long but productive rulemaking process. She said the rule proposal was published in the New Jersey Register on July 19, 2021. A public hearing was held on September 1st. All public comments have been summarized in the adoption notice. Staff met with the New Jersey Department of Transportation (NJDOT) to address the Department's concerns and answer questions regarding the stormwater amendments.

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

Other Resolutions

Chairman Prickett introduced a resolution setting the schedule for Commission meetings in 2022.

Commissioner Lloyd made a motion Scheduling Regular Pinelands Commission Meeting dates for 2022. (See Resolution # PC4-21-32). Commissioner Lohbauer seconded the motion.

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

Public Development Projects and Other Permit Matters

Chairman Prickett introduced a resolution to approve two applications: construction of a recreational facility with a parking area in Egg Harbor Township and an electronic traffic advisory sign along Route 47 in Dennis Township.

Commissioner Avery made a motion Approving With Conditions Applications for Public Development (Application Numbers 1982-2904.003 & 2006-0322.002) (See Resolution # PC4-21-33). Commissioner Lohbauer seconded the motion.

Commissioner Lloyd asked if the Commission could encourage the applicant for the recreational facility in Egg Harbor Township to use a pervious surface for the proposed 62-space parking area.

Charles Horner, Director of Regulatory Programs, said the Commission's stormwater rules do not require an applicant to use pervious paving materials; however, the Commission can encourage the applicant to do so.

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

Chairman Prickett presented a resolution to approve with conditions the New Jersey Department of Environmental Protection's (NJDEP) application for forestry activities and a fuel break in Bass River Township and Little Egg Harbor Township (Application Number 2007-0318.001).

Commissioner Lohbauer made a motion to table the application for one month. He stated that he has reservations about the application and would have to vote no on it at today's meeting. He provided the following reasons why he was not ready to vote on the application:

- The staff's report does not mention how threatened and endangered (T&E) snake species and snake study areas along Oswego Road will be protected. He noted that Rutgers University has permanent snake study areas stationed along Oswego Road where the firebreak is proposed.
- The proposed road grading and improvements combined with the vegetative clearing could permit traffic to increase their speed, which could harm T&E animal species. He recommended the applicant install speed bumps.
- The staff's report makes little reference to wetlands. He said there are vernal ponds located along Oswego Road and the clearing of this area could encourage off-road vehicle activity. He said barricades should be installed to protect the vernal ponds.
- The applicant is proposing the use of herbicides to control invasive species. He suggested prescribed burning to manage invasive species.

Lastly, Commissioner Lohbauer said he would like the Commission to have a discussion with the New Jersey Forest Service about pro-forestation versus forest thinning as a wildfire management technique. He said he believes the applicant can address his concerns without delaying the project because it is not planned to begin until April 2022.

Commissioner Irick seconded tabling the application. He said he would like to see the New Jersey Forest Fire Service's Master Plan for firebreaks.

Chairman Prickett noted that representatives of the New Jersey Forest Service were on the Zoom meeting.

Commissioner Lloyd said the Commission is supposed to be considering climate impacts. He said he would like to hear from the applicant if the proposed thinning will foster the retention of carbon. He said the staff's report does not provide the level of detail about herbicide use as what was contained in prior reports. Lastly, he noted that the phrase "the applicant represents" is used throughout the staff's report, which could be construed as an unsupported statement. He said it could be dangerous for the Commission to base its decisions on what the "applicant represents".

Director Horner shared maps on the screen depicting the location of the proposed fuel break and forestry activities (See attached). He noted that staff has been working with the New Jersey Forest Fire Service on the application since September 2020. He noted that the application is one of the larger forestry applications the Commission has reviewed. He said the proposal includes a 30-foot-wide forest firebreak along both sides of Allen Road and Oswego Road. He said staff guided the applicant based on the CMP. He said some of the issues raised by Commission members today are not addressed by the Commission's regulations. He said it puts the applicant and staff in a difficult position when issues are raised that are new or not in the CMP.

Acting ED Grogan suggested that it would not be productive or appropriate to ask the New Jersey Forest Service representatives participating in the Zoom meeting to respond to the concerns expressed by Commissioners or changes recommended to the application at this morning's meeting. Staff will discuss the application with NJDEP following the meeting.

Commissioner Lohbauer said that the staff had done a fine job reviewing the application and had followed the CMP. However, he believes that the Commission meeting offers an opportunity for open debate.

Chairman Prickett said he recalled seeing the very dense forest of pine trees along the road when he travelled to Bass River State Park this summer to see the clearing that occurred at the fire tower. He said if we don't manage the forest, all the carbon that has been sequestered can be lost in a massive forest fire.

Commissioner Lohbauer said he isn't opposed to the concept of firebreaks to control or prevent wildfire. He said his concerns were about the design and he believed the applicant can address them. He added that he isn't convinced that forest thinning is a more effective wildfire management tool than proforestation. He said the application deserves a full discussion by more Commissioners than were in attendance at today's meeting.

Chairman Prickett called for a vote on the motion to table the application.

All Commissioners voted in favor of the motion, with the exception of Commissioner Pikolycky who abstained. With only seven votes, the motion to table did not pass.

Chairman Prickett asked for a motion to approve the NJDEP Forest Fire Service forestry and firebreak application.

Commissioner Avery made a motion Approving With Conditions an Application for Public Development (Application Number 2007-0318.001) (See Resolution # PC4-21-34).
Commissioner Higginbotham seconded the motion.

Commissioner Avery: Yes.

Commissioner Christy: Yes.

Commissioner Higginbotham: Yes.

Commissioner Irick: Abstain. He said the Commission needs more information

Commissioner Lloyd: Abstain. He agreed with Commissioner Irick.

Commissioner Lohbauer: No.

Commissioner Pikolycky: Yes.

Chairman Prickett: Yes.

The resolution did not pass.

Public Comment on Public Development Applications and Items where the record is open

No one from the public provided comment during this time.

Commissioner Lohbauer asked about the proposed city park in Egg Harbor City.

Director Horner said the park will be located on the corner of Philadelphia Avenue and the White Horse Pike. He said it is approximately 10,000 square feet in size and will include an electronic sign posting community events, benches, and passive walkways.

Ordinances Not Requiring Commission Action

There were no ordinances to report this month.

General Public Comment

Rhyan Grech of the Pinelands Preservation Alliance spoke about a 400-acre park in Egg Harbor City that includes a campground and a lake. Most of the park is located in a Pinelands Forest Area. She said the City is currently determining if the area is in need of redevelopment. *Please note, Ms. Grech lost connection to the meeting before completing her comments.*

Jason Howell of the Pinelands Preservation Alliance said the city park public development application on the agenda for comment sounds good. He said the larger park redevelopment proposal in Egg Harbor City referred to by Ms. Grech does not sound good.

Mr. Howell suggested that a canoe/kayak launch dock be included as part of the Lake Lenape Dam application. He said he appreciated the Commission's conversation about the Oswego and Allen Road firebreak project.

Committee Reports

Chairman Prickett provided a summary of the November 19, 2021 Policy & Implementation (P&I) Committee meeting:

The Committee adopted the minutes of its October 29, 2021 meeting.

The Committee received an update from Commission staff regarding adoption of the proposed stormwater management CMP amendments.

The Committee received an update 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.

The Committee discussed environmental justice measures after receiving a presentation from Commission staff on NJDEP's map of overburdened communities.

Chairman Prickett provided an update on the Executive Director Search Committee:

The Committee met on November 30, 2021 to finalize interview questions and establish the protocol for interview sessions.

The Committee interviewed three candidates on December 3, 2021.

The Committee suspended the interviews scheduled for December 7, 2021 and December 9, 2021 because of pending Senate action and needed direction from the Governor's Office.

Commissioner Lohbauer provided an update on the December 1, 2021 Climate Committee.

The Committee adopted the minutes of its September 15, 2021 meeting.

The Committee received an update on the application for the energy audit of the Commission property.

The Committee received information related to the design and installation of a rain garden.

The Committee discussed meeting dates for 2022.

Lastly the Committee discussed a resolution for the full Commission to consider regarding the following: incorporation of the Global Warming Response Act into the CMP, consideration of climate impacts on development applications and the Commission's own impacts on greenhouse gases.

Commissioner Avery said the FY 2020 Audit Report, which had no findings, will be on the Commission's January agenda for adoption. He said application fees are already at 75% of the budgeted amount for FY 22.

Remembering Former Commissioner Jay Mounier

Jay Mounier served on the Commission for nearly seven years as a gubernatorial appointee. After his appointment was over as a Commissioner, he remained an engaged supporter of the Pinelands and was a fixture at Commission and Committee meetings as a member of the public. Mr. Mounier passed away on November 24, 2021.

Commissioners took a moment to share their fond memories of Mr. Mounier.

Commissioner Irick left the meeting at 10:27 a.m.

Commissioner Christy left the meeting at 10:29 a.m.

Acting Executive Director's Report

Acting ED Grogan provided information on the following matters:

- On November 29th, staff began working in the office full-time. It is still unclear when in-person public meetings will resume.
- Over the last week staff has conducted numerous interviews to fill the Commission's six vacancies, with a goal of new employees joining the Commission in early January.
- Former Commissioner Mounier was a proponent of the Pinelands Development Credit (PDC) Program. Shortly before his death, he was able to deed restrict his farm in the Agricultural Production Area, sever his PDC's and sell them at a great price.

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

- An application for a proposed communications tower in Chatsworth is scheduled for a Commission public hearing. The question remains whether the communication facility (tower) is accessory to an emergency services facility or considered a principal use for general cellular usage.
- Staff continue to work on three pending solar energy facility applications on landfills in Pemberton Township, Berkeley Township and Woodbine Borough. A common theme with these applications is balancing standards for protection of water quality and T&E species.
- At a prior Commission meeting, a member of the public raised concerns about off-road vehicle activity occurring in Estell Manor. Staff continues to look into the potential violation and will keep the Commission updated on the matter.

Paul Leakan, the Commission's Communications Officer, noted that the Commission distributed the 2022 Pinelands National Reserve wall calendars late last month. He said the calendars are available free-of-charge at Bass River State Forest, the Batsto Visitor Center,

Belleplain State Forest, Brendan Byrne State Forest and at the General Store at Whitesbog Village. He thanked staff for assisting with the project. He also thanked the National Park Service for funding the calendar, Rowan College at Burlington County for designing and printing the calendars, and the New Jersey Division of Parks & Forestry for distributing the calendars.

Mr. Leakan also provided information about the plans to design and install a rain garden at the Commission's headquarters. He noted the recent meeting with the Rutgers Cooperative Extension, which has provided a detailed proposal for designing and overseeing the installation of the rain garden. Mr. Leakan said the proposal is currently under review.

Chairman Prickett then read the following statement:

It has been a challenging year for the Pinelands Commission.

In June, we lost our Executive Director, Nancy Wittenberg, who had served the Commission for over a decade.

We struggled through a second year of the pandemic that has affected the "in person", human relationships so important to the Commission's work.

The Commission, as expected, has stepped up to the plate to meet the challenges during these trying times.

On the behalf of my fellow Commissioners, I would like to thank Sue Grogan for holding the Commission together for the last six months as Acting Executive Director and as the Director of Planning. Her vast experience and knowledge have enabled her to effectively oversee staff, regulatory processes, working with Commissioners and all the other responsibilities that keep the Commission functioning.

Also, I would like to recognize and thank all of our staff who implement the CMP and the PDC program, educate the public, maintain the grounds and website and work with the public. Without our wonderful and dedicated staff, whom Commissioners are very proud of, we could not protect the Pinelands.

It is an honor to serve on the Commission alongside so many distinguished and dedicated colleagues. I would like to thank them for volunteering their expertise and so much of their time to the Commission. I would especially like to thank those Commissioners who can be counted on to help us reach a quorum at our monthly meetings. Their dedication and experience is invaluable in protecting the Pinelands.

No matter how hard the Commission works, it cannot protect the water, land and natural resources of the Pinelands without the support of the public, local and county governments, the Governor's Office and the Legislature.

I am confident that Commissioners and staff will continue to work even more effectively with these groups in the New Year, implementing the rules of the Commission, and finding new ways to protect the Pinelands for the benefit of the residents of New Jersey, living here now and in the future.

This Season, I hope everyone celebrating Christmas, Kwanzaa, Hanukkah and Festivus have an opportunity to enjoy safely the company of family and friends that are vaccinated. And to get outdoors to appreciate the natural beauty of the Pinelands, which the Commission and its supporters have struggled to protect over the last 40 years through implementing the Comprehensive Management Plan.

On the behalf of the Commission, I wish you all a Happy and Healthy New Year.

Adjournment

Commissioner Higginbotham moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 10:49 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: December 14, 2021