

Disclaimer

These minutes reflect the actions taken by the Commission during its September 9, 2016 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 September 23, 2016.

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

MINUTES

September 9, 2016

Commissioners Present

Alan W. Avery Jr., Bob Barr, Giuseppe Chila, Paul E. Galletta, Jane Jannarone, Ed Lloyd, Mark Lohbauer, Richard Prickett and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Tyler Yingling and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Candace Ashmun, Bill Brown, Joe DiBello, Ed McGlinchey, D'Arcy Rohan Green and Gary Quinn.

Chairman Earlen called the meeting to order at 9:34 a.m.

DAG Moriarty read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 9 Commissioners present.)

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

Minutes

Chairman Earlen presented the minutes from the August 12, 2016 Commission meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Barr seconded the motion.

The minutes of the August 12, 2016 Commission meeting were adopted by a vote of 9 to 0.

Committee Chairs' Reports

Commissioner Avery noted that the Personnel & Budget Committee did not hold a meeting this past month.

Chairman Earlen provided an update on the August 26, 2016 Policy & Implementation Committee meeting.

The Committee adopted the minutes of the July 29, 2016 meeting.

The Committee received a presentation on the Alternate Design Wastewater Treatment System pilot program and the recommendations included in the 2016 Annual Report.

The Committee received a presentation on the Kirkwood-Cohansey project summarizing the April 2016 meeting with experts to discuss planning for future water needs in the Pinelands.

Executive Director's Reports

Ms. Wittenberg provided an update on the following:

- A couple of months ago, Chief Scientist John Bunnell delivered a presentation to the Commission regarding a grant proposal "Point and Non-Point sources of Endocrine disrupting compounds and the potential effects on Fish and Frogs in the New Jersey Pinelands". The Academy of Natural Sciences notified Mr. Bunnell that the Commission was awarded that grant. The Commission, in collaboration with US Geological Survey New Jersey office, US Geological Survey West Virginia office and the West Virginia Cooperative Research Unit, will begin work in 2017. The work will span the course of four years. A resolution to accept the grant monies will be on the October agenda.
- At the October Commission meeting, Ms. Robyn Jeney will summarize her analysis of the GIS point data of sites in Wharton State Forest reported to have been damaged by Off-Road vehicles. In addition, Mr. Mark Texel, from the New Jersey Department of Environmental Protection (NJDEP) Director of Parks and Forestry, will be providing information on enforcement data at Wharton State Forest. Ms. Jeney has completed an extensive review of the data points of reported ORV-damaged sites. Ms. Wittenberg said Ms. Jeney noted that, after studying older aerial maps, many of the ORV sites had been damaged for years.

Mr. Larry Liggett updated the Commission on the following:

- Staff met with South Toms River Borough officials regarding the closure of the Borough's landfill.
- Mr. Liggett said he spoke with the 2016 class of LEADNJ. He said the class discussion was centered around recent events at Wharton State Forest and the closures of forest fire towers to the public.
- A meeting has been scheduled with Burlington County to discuss the future of the former Burlington County College campus in Pemberton Township.
- Staff continues to review the issues raised by the New Jersey Builders Association regarding the Pinelands Development Credit (PDC) enhancement proposal. The Farm Bureau is working on a formal response to the Commission but advised that the draft proposal is compatible in most aspects.

Mr. Chuck Horner updated the Commission on the following:

- A meeting has been scheduled with the NJDEP to discuss a forest fire project in a residential area in Ocean County.
- Staff has met with multiple utility companies to discuss upgrades to access roads. The type of development proposed by the utilities is different from what is permitted under the vegetation management plans for electric companies.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval of the following three public development applications: the reconstruction of a previously existing retail commercial building in Buena Vista Township, the development of a bicycle path in Medford Township and the resubdivision of a parcel in Buena Vista Township resulting in the development of one single family dwelling.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 2006-0054.004, 2010-0080.001 & 2016-0001.001)(See Resolution # PC4-16-28). Commissioner Lohbauer seconded the motion.

Commissioner Prickett asked if the Commission would review the septic system associated with the change of use application in Buena Vista Township (Application # 2006-0054.004).

Mr. Horner said that the County Health Department is responsible for the technical review of the septic system and that the system would need to meet the Comprehensive Management Plan's (CMP) groundwater quality standard.

Commissioner Prickett asked about the fifth condition in the report related to stormwater, that included a reference to Application Number 2009-0089.001.

Mr. Horner said that as the review of this application unfolded, it was determined that stormwater management facilities associated with Application Number 2009-0089.001

were never constructed. Mr. Horner said that Application Number 2009-0089.001 was approved by the Commission in 2015 and is related to the tourist railroad station in Richland Village that was constructed without application to the Commission. He said staff asked Buena Vista Township about the status of the parking improvements and stormwater management facilities. He said the Township advised that they were in the bid process for the contract and that they planned to construct the stormwater management facilities in conjunction with the change of use development. Mr. Horner said staff agreed it was important for Buena Vista Township to install the stormwater facilities and that is why it was included as a condition of Application Number 2006-0054.004.

Commissioner Prickett asked if there are any other violations on the site.

Mr. Horner said not on this parcel.

Commissioner Lohbauer asked about the claim raised by a member of the public who said the parcel was located in a historically-sensitive area.

Mr. Horner explained that when the application review process begins, each standard in the CMP is evaluated. He said in this instance, the application was reviewed by the staff archeologist who determined a cultural resource survey was not necessary because the application is for the reconstruction of a previously existing structure, and the area was already disturbed.

The Commission adopted the resolution by a vote of 9 to 0.

Chairman Earlen presented a resolution recommending the approval for the construction of a 100-space parking lot in Waterford Township.

Commissioner Barr moved the adoption of a resolution Approving With Conditions an Amended Application for Public Development (Application Number 2003-0319.002)(See Resolution # PC4-16-29). Commissioner Lohbauer seconded the motion.

Chairman Earlen asked for an explanation about why the application was pulled from the agenda the past two months.

Mr. Horner said Commission staff met with Waterford Township officials several years ago about the development of a parking area across the street from Atco Raceway. The Township continued to proceed with that application process, and when the application was deemed complete, Commission staff issued a report recommending approval of the parking lot. An appeal was filed by a resident of Waterford Township who lives adjacent to the proposed parking lot. He said the appeal had no standing and was ultimately denied. The Township then amended the application specifying that the parking lot was for municipal purposes only, but requested that the application be deferred to the September Commission meeting.

Chairman Earlen asked Mr. Horner to confirm that the proposed parking lot is specifically for municipal parking.

Mr. Horner said yes. He added that under the Commission's rules, the parking lot is a permitted use and it does not matter who uses the parking lot.

Commissioner Lloyd asked Ms. Stacey Roth to talk about the standing issue.

Ms. Roth said in this case there was no statutory right or sufficient particularized property interest, thus the appeal was denied. She said the issues raised were not relevant under the CMP. She said the decision was made in collaboration with the Attorney General's office.

Commissioner Chila said some of the documents he read mentioned a cell tower. He asked if staff could provide further information.

Mr. Horner said that staff is currently reviewing an application for a cell tower on the parcel.

The Commission adopted the resolution by a vote of 9 to 0.

Chairman Earlen presented a resolution recommending the approval of a Waiver of Strict Compliance for the development of a single family dwelling in Manchester Township.

Commissioner Avery moved the adoption of a resolution Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 1996-1374.001)(See Resolution # PC4-16-30). Commissioner Lloyd seconded the motion.

Commissioner Prickett commented on the location of the proposed septic system in comparison to the surrounding dwelling's wells.

Mr. Horner said the proposed development required a Waiver from the groundwater quality standards and the proposed dwelling will be utilizing an alternate design septic.

The Commission adopted the resolution by a vote of 9 to 0.

Public Comment on Agenda Items and Pending Public Development Applications

Theresa Lettman, Pinelands Preservation Alliance commented on Application Number 2000-0071.006. Ms. Lettman questioned whether the use has already been established and raised concerns about stormwater management facilities.

Ordinances Not Requiring Commission Action

Chairman Earlen asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Barnegat Township Ordinance 2016-16
- Maurice River Township Ordinance 652

- Upper Township Ordinance 11-2016

No members of the Commission had questions.

Permanent Land Protection Annual Update

Ms. Susan Grogan said she distributed a map depicting protected lands in the Pinelands today. She said the map will be posted on the website early next week.

Ms. Grogan reviewed the number of acres protected from July 2015-June 2016 through the Commission's various programs for a total of 835 protected acres. She said the majority of the acreage protected through the Pinelands Conservation Fund is located in the Forest Area. She said that 52,194 acres have been protected through the Pinelands Development Credit Program, with the majority of the acreage in the Preservation Area District. She reviewed the percentage of each land protected by Management Area. She said 49% of the Pinelands Area is protected.

Ms. Grogan pointed out areas on the permanent land protection map where Stockton University recently protected land as part of its master plan agreement. She also pointed out an area near Exit 144 on the Garden State Parkway in Galloway Township that was preserved by Atlantic County. Lastly, she noted recent acquisition projects by the NJDEP in Belleplain State Forest, including properties in Maurice River and Dennis Townships. (See attached presentation slides.)

Commissioner Galletta asked if PDCs are considered severed or extinguished when a farm enters into the Farmland Preservation Program.

Ms. Grogan said the Commission would allocate the farm a certain number of PDCs, and if the farm enters into an agreement with the State Agriculture Development Committee or a County Farmland Preservation program, the credits are extinguished and the credits are then subtracted from the supply list.

Commissioner Avery asked about the amount of money remaining in the Pinelands Conservation Fund (PCF).

Ms. Grogan said there is about \$500,000 in the acquisition portion of the PCF. She said at this time, there are no definite plans on how the money will be spent.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Commissioner Galletta said he plans to make comments on the PDC enhancements during the public comment portion. He left the dais and sat in the audience.

Paula Yudkowitz of Oaklyn, NJ, said she participated in a volunteer effort at Wharton State Forest this past Labor Day in an attempt to deter Off-Road Vehicle damage. She said in three hours she witnessed three incidents that required a call to Park Police. She said Park Police never responded. She said a total of 12 incidents were called in to the Park Police

on Monday and Park Police did not respond to any of them. She expressed her disappointment over the recent closure of Apple Pie Hill fire tower.

Randy DePasquale of Marlton, NJ, said a map is necessary to help gain control of the ORV situation at Wharton State Forest. He said the issuance of Recreation Permits by the Commission at Wharton State Forest is not compatible with the Commission's mission.

Dan Bailiff of Haddon Heights, NJ, spoke about the importance of protecting the Pinelands from pipelines and ORV damage. He said he was disappointed to hear about the 12 ORV incidents and no enforcement.

Stephanie Monahan with New Jersey Conservation Foundation said the ORV situation is becoming worse throughout the Pinelands. She said enforcement and education are necessary to stop the damage to Pinelands wetlands and forests.

Jason Howell with the Pinelands Preservation Alliance, said the NJDEP needs to create a motorized access plan so the Park Police at Wharton State Forest can effectively do their job. He said it needs to happen soon because the damage caused by the ORV users is only getting worse.

Emily Smith of Upper Township, NJ, said she was part of the Labor Day volunteer effort at Wharton to deter ORV users. She described three wetland areas that she viewed that day. She said Park Police need to issue more tickets to ORV users who are causing the destruction of the forest. She said the signs posted at Wharton are not enough to protect it.

Theresa Lettman with the Pinelands Preservation Alliance said she supports Jay Mounier's comments from the July 29th Policy and Implementation meeting on PDCs. She said the farmers are waiting for the Commission to take action and improve the program. She expressed dismay over a pending ordinance in the Borough of South Toms River that would change municipal land to a residential zone. She said the ordinance has no PDC component. She said all Regional Growth Areas (RGA) should have a PDC requirement. She asked the Commission to move more quickly on the PDC enhancements.

Ms. Grogan said that the Commission staff has not seen the South Toms River ordinance. She said that she has advised the Borough time and again that there needs to be a PDC requirement built into the new residential zoning. She said if there is no PDC component when staff reviews the ordinance, it will need to be revised before it could be recommended to the Commission.

Ms. Lettman added that there is no mention of the Pinelands Commission in the ordinance.

Commissioner Avery asked about the base density assigned by the CMP to the RGA in the Borough of South Toms River.

Ms. Grogan said she believes it is 3.5 units per acre.

Allen Crawford of Mt. Holly, NJ, said the damage created by ORV users is a theft from law-abiding citizens and future generations.

Albert Horner of Medford Lakes, NJ, said a culture has been developed that the Pinelands is only good for motorsports. He said this stems from the issuance of recreation permits by the Commission for off-road events. He said people come from out of state to ride in the Pinelands. He said the Commission needs to stop issuing Recreation Permits.

Paul Galletta of Hammonton, NJ, provided comments supporting the PDC enhancement proposal. (See attached comments.)

Adjournment

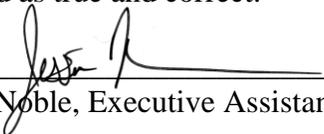
Commissioner Lohbauer thanked staff for its continued efforts on the Wharton ORV issue, and he also thanked the volunteers working to protect Wharton from further ORV damage.

Commissioner Lloyd asked if staff could provide the NJDEP with a summary of comments about Park Police response issues at Wharton State Forest.

Ms. Wittenberg said she would inform the NJDEP.

Commissioner Barr moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 10:55 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: September 20, 2016