

Disclaimer

These minutes reflect the actions taken by the Commission during its March 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 March 18, 2019.

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

MINUTES

March 8, 2019

Commissioners Present

Alan W. Avery Jr., Bob Barr, Paul E. Galletta, Mark Lohbauer, William Pikolycky, Richard Prickett and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Craig Ambrose and Deputy Attorney General (DAG) Kristina Miles.

Commissioners by Phone

D'Arcy Rohan Green

Commissioners Absent

Candace Ashmun, Daniel Christy, Jordan P. Howell, Jane Jannarone, Ed Lloyd and Gary Quinn.

Chairman Earlen called the meeting to order at 9:35 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. (There were 8 Commissioners who participated in the meeting.)

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

Minutes

Chairman Earlen presented the open and closed session minutes from the February 8, 2019 Commission meeting. Commissioner Avery moved the adoption of the minutes. Commissioner Prickett seconded the motion.

The February 8, 2019 Commission meeting minutes (open and closed sessions) were adopted by a vote of 8 to 0.

Committee Chairs' Reports

Chairman Earlen provided an update on the February 22, 2019 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the January 25, 2019 meeting.

The Committee discussed potential offsets for the elimination of the grassland conservation habitat at the Atlantic City Airport. Pending adoption of a revised Memorandum of Agreement (MOA), the South Jersey Transportation Authority (SJTA) is offering \$500,000 in order to proceed with mowing prior to April 15. The details of the necessary offset would be negotiated, during which time no development applications would be approved.

The Committee received a presentation on how the Project Review office identifies and deals with violations. The Committee discussed ways in which it might increase its enforcement authority.

Commissioner Prickett asked about the status of the SJTA MOA.

Stacey Roth said a public hearing has been scheduled for March 19, 2019. She said the Atlantic County Freeholder Director, the County Executive and the Mayor of Egg Harbor Township have been notified. She said the draft MOA, the Executive Director's report and a summary of the public comment will be reviewed by the P&I Committee and then will go to the full Commission for a vote.

Commissioner Avery provided an update on the February 26, 2019 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the June 19, 2018 meeting.

Staff reviewed the check registers, electronic disbursements and application fees covering June 2018 to January 2019. Fixed assets for disposal and surplus were also explained. An update on employee actions was also provided.

The Committee met in closed session to discuss the finalization of a personnel matter via settlement and the tentative agreement with the CWA Local 1040.

Executive Director's Reports

ED Wittenberg updated the Commission on the following items:

- Gloucester County has appointed Daniel Christy as Commissioner. He will replace Commissioner Chila who now serves as Gloucester County Surrogate. Mr. Christy is expected to attend the April Commission meeting.
- The SJTA MOA amendment is following a very rigid schedule. Public comment will be accepted on a number of options rather than limited to just one. This will allow staff to continue to work out the details of a suitable offset while addressing the safety concerns associated with the grassland habitat's proximity to the runway at the Atlantic City Airport.
- There was a recent legal filing related to the South Jersey Gas matter. R.C. Cape May Holding, an intervener in the case, notified the Court that it will not repower B.L. England. Oral argument has been rescheduled until the end of May. The Commission sent a letter to South Jersey Gas advising them that since the pipeline will not be supplying natural gas to B.L. England, the approval is no longer valid and a new application would need to be submitted for any amended projects.

Director Larry Liggett updated the Commission on the following:

- Staff is assisting both Winslow Township and Estell Manor on landfill closure plans. Staff wants to ensure that the plumes associated with the landfills have the least negative effects on the Pinelands.
- Staff is working on a master list of climate adaptations. The Environmental Protection Agency website is a great resource for adaptation information. The EPA is promoting educational initiatives to combat climate change.
- The Kirkwood-Cohansey rule proposal will be discussed at an upcoming P&I Committee meeting. The rule focuses on protecting the watershed and wetlands.
- Staff met with an applicant to discuss community solar and where it's permitted in the Pinelands Area.
- The Commission will be soliciting proposals for infrastructure capital projects that will be eligible for funding through the Pinelands Infrastructure Trust Fund.

Commissioner Galletta asked if the aquifer had been measured after the unprecedented amount of rainfall.

Director Liggett said the aquifer has not been recently measured.

Commissioner Prickett questioned if the Commission's dilution standards were strong enough with the amount of rainfall NJ has received.

Director Liggett said the rainfall does have an impact and it can be added to the climate change master list.

Director Chuck Horner provided information on the following regulatory matters:

- On February 27th staff met with Hammonton municipal officials. At that meeting, they discussed options associated with applying treated wastewater to a parcel located adjacent to the Boyer Avenue Wastewater Treatment facility.
- Staff has been involved in a matter in Winslow Township where a property owner has engaged in off-site soil removal without application to the Commission. An application was filed just before the matter was scheduled to be heard in municipal court. Based on the amount of soil removal, the CMP required an application to be filed even though the activity is associated with an agricultural operation.
- An attorney for a developer advised the Commission that they are no longer proceeding with a large residential development in Galloway Township, also known as Blue Heron East. The Commission issued a Certificate of Filing many years ago. The applicant imposed threatened and endangered species deed restrictions on the parcel. Staff is working with the applicant to determine if the deed restrictions can be lifted and the process to do so.
- The Pinelands Municipal Council held a meeting on March 5th, at which time officers of the Council were sworn in by Assemblyman Amato.

Stacey Roth provided additional information regarding the Winslow Township violation. She said a letter was sent to the judge advising that the matter should be heard and not transferred to the County Agricultural Board because it was not a farming matter and had nothing to do with the Right to Farm Act. She said she also asked for assistance from the Attorney General's enforcement section about the matter.

Chief Planner Susan R. Grogan said staff has been working with Pinelands Counties on Best Management Practices (BMPs) of roadside habitat for some time. The identified areas have specific mowing requirements related to the width of the span and height of the grass, including the timing of mowing and protection of rare plants. Staff has been eager to expand the program. Staff recently heard from the Department of Transportation (DOT), and it has agreed to implement a pilot program on specific segments of Route 206, Route 70 and Route 72 and adhere to the BMPs.

Chief Planner Grogan also said that Ocean County closed on the 8,000 acres in Lacey and Ocean townships in the Forked River Mountain area.

Communications Officer Paul Leakan provided an update on the following:

- Registration remains open for the 30th Annual Pinelands Short Course.
- The Pinelands Annual report has been distributed today and the report has been reformatted and professionally printed.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending a public development application.

Commissioner Galletta made a motion Approving With Conditions an Application for Public Development (Application Number 1987-1058.082) (construction of two parking

lots in Egg Harbor Township)(See Resolution # PC4-19-10). Commissioner Lohbauer seconded the motion.

Commissioner Prickett asked if the existing stormwater basins need to be modified for the development of the parking lots.

Director Horner said the existing basins have the capacity to accommodate the additional stormwater from the parking lots.

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 reminded the public that the comment period for the Bass River Fire Tower application (1990-0868.031) will close today at 5:00 p.m.

Howard Chew of Jenkins, NJ said he supports the cutting of the trees surrounding the Bass River Fire Tower. He said safety should come first and early fire detection is crucial. He said the Forest Service needs to be able to do its job.

Greg McLaughlin, NJ Forest Fire Service Chief, said the sole responsibility of the Forest Service is to protect life and property from wildfires. He said questions raised by the public and Commissioners were addressed in the application. He thanked the Commission for its consideration of the project.

Mark Herndon of Woodland Township, NJ said on behalf of himself and the Woodland Township Committee, they support the tree cutting surrounding the Bass River Fire Tower.

Kathy Gardiner said that Bass River Forest is New Jersey's first State Forest and home to Pine Barrens tree frog and timber rattle snake. She three-fourths of a mile of the Orange trail would be impacted. She asked Commissioners to vote no on this application. (A joint packet of information was submitted from K. Gardiner, R. Sweeney, R. Loeiswicz, K. Swanseen & C. Bitzberger)

Rose Sweeney of Bass River Township said her property is at risk of a forest fire. She spoke about the history of the Civilian Conservation Corps (CCC) as it relates to Bass River State Park. She said the Bass River Township Committee passed a resolution opposing the clear cutting. She said park personnel should be part of the conversation. She said the trees should not be cut.

Riki Loeiswicz said the DEP has submitted the same application as before. She provided the Commission with the following report "Fire Tower Study for the Adirondack Park" dated February 2010 https://www.dec.ny.gov/docs/lands_forests_pdf/ftowerstudy.pdf She said New Jersey is not embracing technology, the fire tower is structurally unsafe and the Commission should reject the application.

Karl Swansen said safety is very important as is the preservation of the Bass River Forest. He said he still does not know how much the clear cutting and restoration of the project will cost. He said the current fire tower can be moved to a different location. He also suggested building a new tower at a higher location. He pointed out that the wrong application number was used for the public notice. He said the application should be rejected.

Carol Bitzberger of Bass River Township said the tree cutting is only a temporary fix. She said New Jersey should be looking at the advanced camera technology available to detect smoke/fires. She said we should be asking the state for money to fund the advanced technology. She asked the Commission to please vote no.

Buddie Pino of Green Bank said he owns horses and livestock and he supports whatever will protect the Forest. He said the Forest Service does a great job.

Tom Doherty of Bass River/New Gretna thanked everyone for protecting the Pines, including former Commissioner Floyd West. He said having heard about the option of moving the tower, he concluded the trees do not need to be cut. He said the Commission needs to use its leadership to require the state to use current and viable practices to achieve public safety.

William Cutts said he is a cranberry farmer with land throughout the Pinelands. He said he has land near the fire tower. He spoke about the importance of locating and extinguishing a fire while it's small. He said cameras cannot triangulate, and the human element is very important in spotting smoke. He said the Forest Service are the experts and the public should defer to its expertise.

Christopher Brower of Bass River Township, and a former member of the Bass River Township Planning Board, said he appreciates the Forest Service but does not support cutting the trees. He said the DEP should either build a new tower or use camera technology to spot fires.

Richard Buzby, Chief of Police for Little Egg Harbor, said he respects everyone's opinion on the Bass River Fire Tower matter. He said the CCC planted the forest at Bass River State Forest because the original forest was destroyed by fire. He said cameras are not suitable. He said early detection of a fire is crucial to fighting it. He said he would support moving the tower but right now the tower needs to be operational. He urged the Commission to approve DEP's amended application.

Rhyan Grech of the Pinelands Preservation Alliance said the application meets the forestry standards of the CMP. She commended the public who provided testimony.

John Waldrop of Bass River Township said the tower has become obsolete and is 10 years past its service life. He said alternative technologies used to detect fire need to be researched.

Bill Brash of the NJ Fire Safety Council provided fire history data from 1927-2018 for Bass River Township, Little Egg Harbor Township and Eagleswood Township. He said the Pinelands is a fire-adapted system. He said the application to clear cut certain spans surrounding the fire tower meets the criteria in the CMP and was recommended by the Commission's staff.

Steve Lee said he is a cranberry grower and former blueberry farmer. He said his family has been involved in forest stewardship in the Pinelands for over 150 years. He said his family was conducting prescribed burns before it was permitted in New Jersey. He added that controlled burns are only one aspect of forest management. He said the forest needs to be manipulated, thinned and clear cut. He said the Forest Service needs this tower and fire season starts in 30 days. He asked the Commission to make the right decision. He said DEP needs better resources to manage its forests. He read a quote by Stephen Pyne from Arizona State University who was interviewed by Kyle Dickman for an article featured in Rolling Stone magazine about Wildfires in NJ. "Sooner or later, southern New Jersey will know the fire equivalent of Hurricane Sandy." "The cost could be in the billions. The loss of life could be unthinkable."

Jeff Tittel, Sierra Club, said the clear cutting of 16 acres violates the CMP. He said satellite, air monitors and infrared cameras are more effective than the human eye and nose in detecting smoke. He said the New Jersey Forest Service should seek the assistance of the US Forest Service in updating its technology. He encouraged the Commission to vote no on this application.

Don Gant, a union iron worker, said the fire tower is structurally impaired. He suggested constructing a new tower. He asked the Commission to not approve this application. He submitted a picture of the tower.

Ordinances Not Requiring Commission Action

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

- Beachwood Borough Ordinance 2019-02
- Egg Harbor Township Ordinance 2-2019
- Galloway Township Ordinance 2006-2019
- Mullica Township Ordinance 1-2019
- City of Port Republic Ordinance 01-2019

No members of the Commission had questions.

Other Resolutions

Chairman Earlen said the next resolution is to approve the Commission's 2018 Annual Report.

Commissioner Avery made a motion To Approve the Pinelands Commission's 2018 Annual Report (See Resolution # PC4-19-11). Commissioner Lohbauer seconded the motion.

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

General Public Comment

Rhyan Grech of the Pinelands Preservation Alliance said the Commission needs to revoke its two prior resolutions related to the South Jersey Gas matter, one approving the application and the other establishing the approval process.

Dave Dempsey, an off road vehicle enthusiast said there are only 3.5 miles of trails for off-highway vehicles in the entire state of NJ. He said between 1993-2015, the state has collected \$16 million through the Recreational Trails Program (RTP). He said of that funding, 30% is to be used for motorized trails. He questioned what the money has been used for. He said he would like the Commission's support in providing trails for off-road vehicles.

Paula Yudkowitz of Oaklyn Borough said poor road conditions remain at Wharton State Forest.

Jason Howell of the Pinelands Preservation Alliance said with the help of the NJDEP a snake nest was protected at one of the state parks. He suggested that certain roads at Wharton should be closed during wet periods in an effort to save the roads from becoming destroyed.

Commissioner Lohbauer said he was interested in the RTP data that Mr. Dempsey referred to and asked if he was able to provide it to the Commission.

Resolution to Retire into Closed Session

DAG Miles read a resolution to enter into closed session to discuss pipeline litigation and collective bargaining.

Commissioner Pikolycky made a motion to enter into closed session. Commissioner Barr seconded the motion. The Commission agreed to retire into closed session by a vote of 8 to 0, beginning at 11:30 a.m.

Return to Open Session

The Commission entered back into open session at 11:46 a.m. DAG Miles provided a summary of the closed session. She said the Commission discussed litigation related to the South Jersey Gas matter and collective bargaining.

Chairman Earlen presented a resolution regarding the union contract.

Commissioner Avery made a motion To Authorize the Executive Director to enter into New Collective Negotiations Agreements with the Communications Workers of America, Local 1040 and to Revise the FY 2019 Operating Budgets (See Resolution # PC4-19-12). Commissioner Barr seconded the motion.

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

Adjournment

Commissioner Prickett asked if the Forest Service could be invited to a future P&I Committee meeting to talk about fire ecology.

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Avery seconded the motion. The Commission agreed to adjourn at 11:54 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: March 15, 2019