

Disclaimer

These minutes reflect the actions taken by the Commission during its March 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 March 19, 2021.

PINELANDS COMMISSION MEETING

MINUTES

**March 12, 2021**

*The March 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=SdliQdb6H4k>*

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 Executive Director Nancy Wittenberg and Deputy Attorney General (DAG) Kristina Miles and Governor's Authorities Unit representative Rudy Rodas.

Commissioners Absent

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

Call to Order

Chairman Prickett called the meeting to order at 9:38 a.m.

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

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

The Commission pledged allegiance to the Flag.

Minutes

Chairman Prickett presented the minutes from the Commission's February 12, 2021 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

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

#### Resolution to Retire into Closed Session

DAG Miles read a resolution to retire into closed session to discuss collective bargaining agreements.

Commissioner Avery made the motion to meet in closed session. Commissioner Lloyd seconded the motion. All were in favor and the Commission agreed to meet in closed session at 9:42 a.m.

#### Return to Open Session

The Commission entered back into open session at 10:13 a.m. DAG Miles provided a summary of the closed session. She said the Commission was provided an overview of the three contract agreements.

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. (See Resolution # PC4-21-08). Commissioner Lohbauer seconded the motion.

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

#### Committee Reports

Chairman Prickett provided an update on the February 26, 2021 Policy and Implementation (P&I) Committee meeting:

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

The Committee received a presentation on the draft stormwater rules, designed to harmonize CMP stormwater provisions with the New Jersey Department of Environmental Protection's (NJDEP) new stormwater management rule in a manner best suited for the Pinelands Area. A complete draft rule proposal is being prepared for the Committee's March meeting.

The Committee received a presentation on redevelopment in the Pinelands, a tool used increasingly in recent years, often to assist municipalities in meeting their affordable housing obligations.

The Committee discussed bringing agricultural issues before either the P& I or the Land Use, Climate Impacts and Sustainability (LUCIS) Committee on a regular basis. The State Agricultural Development Committee has offered to serve as a resource in that endeavor.

He added that the Pinelands Municipal Council (PMC) held its annual installation meeting in Estell Manor on March 9<sup>th</sup>. He said Senator Testa delivered a presentation and swore in the Council's officers.

Commissioner Lohbauer said the Land Use, Climate Impacts and Sustainability Committee will hold its next meeting on Wednesday, March 17, 2021.

Commissioner Avery provided an update on the February 23, 2021 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the November 17, 2020 meeting. Staff provided an update on employee actions and check registers.

The Committee met in closed session to discuss contract negotiations, which the Commission voted on today.

Commissioner Avery thanked the staff members involved in settling the union contract.

#### Executive Director's Report

ED Wittenberg said it has been almost one year since Commission staff members have been working from home. She said staff members have adapted remarkably well. She said it's a very busy time as staff continues to work on two rule proposals. She said she joined the PMC meeting by phone and noted that the virtual component for the Council's meetings has been successful in ensuring a quorum.

Chairman Prickett requested that a meeting be arranged between Commissioners and Acting Commissioner of NJDEP Shawn LaTourette.

ED Wittenberg said she could request a meeting but wanted to draft an agenda first.

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

- A Certificate of Filing was issued to Atlantic City Electric for the replacement of 122 wooden utility poles with 54 steel monopoles.
- Staff continues to work with Pemberton Township regarding sewerage two existing schools. The schools are located in a Rural Development Area. In order for the sewer line to reach the school, it would traverse through the Agricultural Production Area. Sewer is only permitted in the Rural Development and Agricultural Production Areas if it is demonstrated that there is a public health problem. The application would come before the Commission for a vote.

- The change of use application for the Atco Dragway continues to be heard by Waterford Township.
- Staff held a pre-application conference with an applicant proposing an automobile auction on a 100- acre site in Winslow Township.
- Staff has been discussing a proposed subdivision with the New Jersey Conservation Foundation (NJCF). They plan to acquire a 238-acre parcel in Southampton Township but plan to subdivide it first since there are two existing homes on the parcel.

Director Grogan provided an update on the following Planning matters:

- There will be two speakers at the March 17<sup>th</sup> LUCIS Committee meeting presenting information related to forest management. Staff will also discuss recommendations for a new round of land acquisition.
- The Commission's in-house stormwater team continues to work on the draft stormwater rules and is currently incorporating the feedback and comments received from the public and the P&I Committee. Staff is also working on the impact statements and background information associated with the rule proposal which will be discussed at the March 26<sup>th</sup> P&I Committee meeting. It was noted that the NJDEP has been a great resource to Commission staff throughout the stormwater rule making process.
- The Pine Barrens Byway has officially been awarded national designation. Staff reached out to the New Jersey Department of Transportation to determine what the designation will mean as far as funding and grant opportunities for the municipalities and counties along the Byway route. In the coming months a Pine Barrens Byway stakeholder meeting will be scheduled to figure out the next steps.
- Staff will be participating in a new watershed advisory committee effort for communities in southern Ocean County. The committee is headed by the Jacques Cousteau National Estuarine Research Reserve, and it is funded by the NJDEP. The Committee will be discussing stormwater runoff, green infrastructure and sea level rise.
- Staff is working to update two internal databases: one that stores the Permanent Land Protection data and one that tracks Pinelands Development Credit (PDC) Bank transactions. Upgrading these systems will help with efficiency and accuracy.

Stacey Roth, Chief of Legal and Legislative Affairs, informed Commissioners that the State Ethics Commission will be sending out an email regarding filing 2021 Financial Disclosure Statements (FDS). She added that as information becomes available she will be providing information to Commissioners about ethics constraints related to the licensing of cannabis.

Paul Leakan, Communications Officer, said that 20 Comprehensive Management (CMP) posts were shared in the past month, along with 109 corresponding photos and seven videos. Most of the posts highlighted plant and animal species. He said upcoming, daily posts will focus on cultural resources. He said the Commission's press release on the Pinelands Byway national designation generated at least 15 news and magazine articles. The

Commission's social media sites continue to thrive, noting that the Commission's Facebook page added 500 followers in February.

#### Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution recommending approval for the installation of a sanitary sewer main in Hammonton and the installation of a ground mounted solar facility also in the Town of Hammonton.

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 1988-0706.022 & 2000-0088.007) (See Resolution # PC4-21-09). Commissioner Jannarone seconded the motion.

Director Horner said the sewer extension will serve a number of existing homes near the Boyer Avenue wastewater treatment plant. He said it's a proactive step by the Town to avoid future groundwater issues.

Commissioner Lohbauer asked if there was any clearing associated with either solar energy project.

Director Horner confirmed that the solar will be installed on existing grassed areas and no clearing would take place.

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 Prickett read the list of Public Development Applications. No one provided comment on the applications.

#### Ordinances Not Requiring Commission Action

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

- Barnegat Township Ordinance 2021-1
- Evesham Township 2021 Housing Element & Fair Share Plan

No questions were raised.

#### Other Resolutions

Chairman Prickett presented the resolution to accept the 2020 Annual Report.

Commissioner Lohbauer made a motion To Approve the Pinelands Commission's 2020 Annual Report (See Resolution # PC4-21-10). Commissioner Irick seconded the motion.

ED Wittenberg said 2020 brought many challenges but the Commission persevered and worked on climate initiatives, a rule amendment and cultural resource activities. She said the report remembers two Pinelands leaders: Commissioner Candace McKee Ashmun and former Executive Director John C. Stokes, who both passed away in 2020.

Communications Officer Leakan said the report highlights the teamwork and determination of staff and how we turned to technology in 2020 to complete all of the agency's work.

Commissioner Jannarone commended staff for doing so much given the constraints of 2020.

Commissioner Lohbauer also commended staff especially for conducting successful Zoom meetings.

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

### General Public Comment

Rhyan Grech of the Pinelands Preservation Alliance (PPA) asked when the public can expect accountability for the Southern Reliability Line (SRL) pipeline incidents that happened in 2019, where six Inadvertent Returns (IRs) occurred during the construction in the Pinelands Area and Commissioners and the public were not informed. She said Commission staff met with New Jersey Natural Gas (NJNG) on February 13, 2019 but no meeting notes exist and the meeting was ineffective since another spill occurred on February 19, 2019. She said Commissioners did not have the chance to revoke the permit because the spills were not disclosed. She said there should be a full investigation of staff's decisions.

Patricia Caruso of Upper Freehold Township said that the construction of the SRL pipeline destroyed her neighbor's house. She asked Commissioners to hold NJNG accountable and that the SRL disaster be added to the agenda when meeting with the Acting NJDEP Commissioner.

Agnes Marsala asked the Commission to protect the Pinelands from encroaching development. She asked that Commissioners hold NJNG accountable. She added that high pressure methane should never flow through the SRL pipeline.

### Other

Chairman Prickett requested that the Inadvertent Return reports be posted to the Commission's website.

Commissioner Lohbauer said he agreed with the members of the public. He said they deserve to know about information related to the IR incidents. He said he would like to know how staff came to the determination to not inform Commissioners. He said had he known about the spills, he would have requested that the approval be revoked.

Commissioner Lloyd said he shares the concern that Commissioners were not made aware of the of the IR incidents. He asked ED Wittenberg if she reached out to the Chairman or Vice Chairman about the IRs.

ED Wittenberg said she discussed the matter with staff and NJNG. She said the public development approval acknowledged a specific protocol should IRs occur. She said the protocols were followed by NJNG.

Commissioner Lohbauer asked to see the record of the meeting that took place between staff and NJNG on February 13, 2019.

ED Wittenberg said there are no minutes from the February 13<sup>th</sup> meeting, as it was a conversation.

Ms. Roth said she would provide a copy of the Open Public Records Act (OPRA) request from PPA and share the responsive materials with Commissioners.

Commissioner Lloyd said Commissioners should have access to any documents and never have to file an OPRA request.

Commissioner Irick said he would like to hear from a hydro geologist about Horizontal Directional Drilling (HDD). He said there is more to know and learn about this technique, and he wants to be prepared the next time an application is proposing HDD. He added that IRs should not be treated as a normal occurrence. He said there should be policy and possibly even standards on HDD that the Commission should be following.

Commissioner Lohbauer said he agreed with the suggestion and said the Commission should look to third-party experts.

Commissioner Avery asked if the NJDEP was developing standards on HDD. He said maybe the HDD topic should be included on the agenda for the Commission's meeting with the Acting Commissioner.

ED Wittenberg said she believed that NJDEP is working on standards.

Commissioner Irick recommended that Commissioners be notified if an approval is in violation of one of its conditions.

Chairman Prickett said a decision needs to be made regarding what type of violations would trigger such notification. He said that staff is fully capable of handling violations associated with private development.

Commissioner Lohbauer said Commissioners need to be notified of a violation when it occurs or the Commission's authority and ability to respond is lost.

Commissioner Lloyd suggested adding these types of issues to the monthly management report.

Commissioner Lloyd said the Chairman should be notified of violations and suggested that, in addition, the violation should be noted in the monthly management report.

Commissioner Higginbotham agreed.

Chairman Prickett said the issue of violations will be added to a future Policy and Implementation Committee meeting agenda.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Jannarone seconded the motion. The Commission agreed to adjourn at 11:31 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: March 19, 2021