

Disclaimer

These minutes reflect the actions taken by the Commission during its April 8, 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 April 22, 2016.

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

MINUTES

**April 8, 2016**

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, Bill Brown, Giuseppe Chila, Paul E. Galletta, Jane Jannarone, Ed Lloyd, Mark Lohbauer, Ed McGlinchey, Richard Prickett, D'Arcy Rohan Green and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Amy Herbold and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Joe DiBello and Gary Quinn

Chairman Earlen called the meeting to order at 9:36 a.m.

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

DAG Sean Moriarty read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 13 Commissioners present.)

### Minutes

Chairman Earlen presented the open and closed session minutes from the March 11, 2016 Commission meeting. Commissioner Barr moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes of the March 11, 2016 Commission meeting were adopted by a vote of 12 to 0. Chairman Earlen abstained from the vote.

### Committee Chairs' Reports

Commissioner Galletta provided an update on the March 24, 2016 Policy and Implementation Committee meeting. The Committee:

- Adopted the minutes of the February 26, 2016 meeting;
- Recommended Commission approval of eligibility for the Limited Practical Use program for a parcel in Hamilton Township's Forest Area;
- Received a presentation on sign regulations in the Pinelands, one of a series of recommendations from the Plan Review report that may lead to rule changes. Further discussion will occur at future meetings; and
- Received an update on the Department of Environmental Protection's efforts to protect the resources of Wharton State Forest while allowing participation by various user groups.

Commissioner Lohbauer added that at the last P&I Committee meeting Commissioner Galletta requested that Superintendent Rob Auermiller be invited to speak to the Commission about Wharton and the motorized vehicle matter.

### Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- Staff met with Kevin Walsh with the Fair Share Housing Center on affordable housing. Staff also met with representatives from the League of Municipalities regarding affordable housing. She said both meetings were positive and now the Commission has an understanding of what is happening with affordable housing and both Fair Share and the League understand that the Commission has concerns and specific requirements for Pinelands municipalities. Ms. Stacey Roth will continue to follow the Courts and Ms. Susan Grogan will assist the towns.
- Staff recently met with the Governor's policy office to discuss possible enhancements to the Pinelands Development Credit program.

Ms. Wittenberg provided an update on Wharton State Forest as it relates to Motorized Vehicle Access:

- On March 15<sup>th</sup>, she and John Bunnell were joined by Commissioner DiBello, Commissioner Lohbauer and Commissioner Prickett for a tour of Wharton guided by Superintendent Rob Auermiller.

- On March 22<sup>nd</sup>, the NJDEP held its Stakeholder meeting. Commissioner Galletta and Commissioner Lohbauer also attended. The NJDEP categorized all the public comment received into four categories: road maintenance, enforcement, protection of special areas and offers for volunteerism. The NJDEP answered a variety of questions; they discussed what they have done and what they plan to do. The NJDEP reviewed the State Park Police administrative code that clearly states no vehicles are permitted off-road on state lands. The NJDEP plans to put up signs at 64 entrances to Wharton State Forest detailing park rules and citations. Signs will also be placed at certain environmentally sensitive areas. This will help the NJDEP combat illegal users. The NJDEP has relocated Park Police and now have six officers stationed at Wharton. Commission staff continues to work on identifying areas at Wharton that need protection. She said staff has the data layer of areas identified by the Pinelands Preservation Alliance; staff is reviewing those based on the criteria established in the CMP. The NJDEP knows the Commission is working on identifying additional areas and they are supportive.

Commissioner Lohbauer said he is encouraged by what the NJDEP is undertaking at Wharton, but he feels there needs to be a designation of roads because some trails appear to be roads but they are not. He said he believes the Commission needs to be involved in developing a map and designating roads.

Commissioner McGlinchey asked if there was any discussion about providing signage at other state parks.

Ms. Wittenberg said the conversations were specific to Wharton.

Commissioner Prickett asked if it was possible to get a monthly enforcement update on Wharton. He raised concerns over damage on the banks of the Mullica River and stressed the importance of keeping Pinelands rivers unspoiled.

Ms. Wittenberg said she would request a monthly update. She also said she would ask the NJDEP if the list of areas it is protecting can be shared with Commissioners. She said the staff would share their internal list with Commissioners once it's finalized.

Mr. Larry Liggett updated the Commission on the following:

- The Pinelands Development Credit (PDC) Program Enhancements proposal will require broad based support of impacted stakeholders to ensure its success. He said the rule proposal will require a public hearing. He said Ms. Grogan will draft the rule, and he said the Commission has not seen a PDC related rule proposal since 2009.

Mr. Chuck Horner updated the Commission on the following:

- Repairs to the Chatsworth Lake dam are almost complete. The lake is vital to the Forest Fire Service and the Woodland Volunteer Fire Department.
- South Toms River has applied to the Commission for a high-density residential development on municipally owned land.
- Waterford Township has applied to the Commission to construct a municipal parking lot across from the Atco Raceway. The development is a permitted use and does not appear to raise any environmental issues. Residents have been calling the Commission to complain about the project.
- A pre-application meeting is currently being scheduled for a proposed 50-space park and ride lot adjacent to the Garden State Parkway in Little Egg Harbor.
- A meeting has been scheduled with a utility company to discuss development associated with the Right-of-Way Vegetation Management Plan.

Ms. Grogan said staff met with the Joint Base's Planner and consultant about a study the Base is conducting known as Installation Complex Encroachment Management Action Plan (ICEMAP). As part of the study the base is meeting with surrounding municipalities and counties to identify potential encroachment issues, noise concerns and monitor development approvals. She said the ICEMAP study will build on the existing joint land use study from a couple of years ago.

Ms. Wittenberg asked Paul Leakan to provide an update on the Interpretive Center.

Mr. Leakan said he is working to identify Pinelands artifacts to be displayed as part of the exhibit. He has contacted the New Jersey State Museum about borrowing certain artifacts through a loan agreement. He said he has discussed obtaining artifacts from Double Trouble State Park and Batsto. He said we may be able to borrow or obtain artifacts such as an original Mason jar, wooden cranberry scoops, bog ore and a bog iron cannon ball. He asked Commissioners to contact him if they had other ideas for obtaining additional artifacts.

Mr. Leakan said that earlier this week staff met John Anderson who asked for the Commission's support in his efforts to have the Rancocas Creek designated as a National Water Trail through the National Park Service. He said it would be New Jersey's first National Water Trail.

Ms. Stacey Roth said that the State Ethics Commission has sent an email with details for filing Financial Disclosure Statements. She said the deadline to file is May 15<sup>th</sup>.

#### Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval for a compelling public need Waiver for Stafford Township.

Commissioner Avery moved the adoption of a resolution Approving an Application for a Waiver of Strict Compliance (Application Number 1993-0732.012)(See Resolution # PC4-16-12). Commissioner McGlinchey seconded the motion.

Chairman Earlen thanked staff and Stafford Township for their work.

Mr. Horner reviewed the Waiver of Strict Compliance based on a compelling public need for Stafford Township.

Mr. Horner said that the last time the Commission considered a Waiver of Strict Compliance based on a compelling public need was in 2003. He said since 1981 the Commission has only approved a total of 34 compelling public need waivers. On the Smartboard Mr. Horner displayed the Comprehensive Management Plan requirements that an applicant must meet to qualify for a compelling public need Waiver.

He said there is an existing residential development in Stafford Township known as Ocean Acres. He said when Ocean Acres was initially approved and developed in the 1970's and 1980's there was inadequate stormwater management. He said through the years Stafford Township has made stormwater-related improvements to the area. He explained that currently stormwater is collected from within Ocean Acres and discharged into Neptune Basin. Once the stormwater is collected in Neptune basin, it is discharged through pipes under Route 72 to an unnamed stream tributary. He said Stafford Township is proposing a basin on the south side of Route 72 to help alleviate existing drainage problems in the Ocean Acres residential development. He said Neptune basin is located in a Regional Growth Area, but the proposed basin is located in a Forest Area and is not a permitted land use. As stormwater rises in Neptune basin, stormwater will flow into the new basin via a proposed box culvert (pipe) under Rt. 72. Mr. Horner noted that there is no new stormwater outlet from the proposed basin and no change to the existing stormwater discharge from Neptune Basin that currently occurs under Rt. 72 to the unnamed stream tributary. All the stormwater from the existing and proposed basins will continue to discharge from the existing basin to the unnamed stream tributary as it does today. He displayed additional slides to show the existing basin and the proposed basin and how the new basin will work in conjunction with Neptune basin.

Commissioner Earlen asked about the Commission's ability to have its own expert review this application.

Mr. Horner said Stafford Township was required to provide an escrow to the Commission and Najarian Associates was retained to review the Township's engineering analysis and the alternatives identified. He said as noted in the Waiver report, Najarian Associates agreed with the Township's basin proposal.

Commissioner Avery asked if Route 72 has suffered from flooding because of the Neptune basin.

Mr. Horner said that Route 72 has been jeopardized during severe storms that produce a lot of rain in a very short timeframe.

Commissioner Ashmun said that many of the stormwater problems are pre-Pinelands.

Commissioner Lohbauer said the proposed basin will not resolve the flooding issues. He said the Najarian report said an alternative basin in the Regional Growth Area (RGA) was better but more expensive. Commissioner Lohbauer said cost is out of the Commission's purview. He said the existing culvert size in the Neptune basin is not adequate and that the proposed basin is not large enough, and for those reasons more work is necessary to resolve the stormwater problems associated with Neptune basin.

Ms. Wittenberg said that staff's decision regarding the alternative basin in the RGA was not based on cost but was based on the fact that the basin would require the pumping of stormwater. She said based on basic engineering principles and staff's research, pumping stormwater should be avoided. She said the NJDEP's maintenance manual recommends using the lowest maintenance possible when designing stormwater. She noted that Stafford Township has received a partial grant from the Environmental Infrastructure trust to fund this project. She said the proposed basin may not solve the entire drainage problem but it will eliminate the dangerous flooding that threatens public safety.

Commissioner Galletta said he has had experience with low lift pumps and he agrees with Ms. Wittenberg that pumping stormwater is not a good idea.

Chairman Earlen asked if Stafford Township owns the land across from Neptune basin because if they do it will save a lot of time and conflict.

Mr. Horner said yes.

Commissioner Avery said that this project is costing Stafford Township a lot of money. He said this basin is a practical decision and he supports the application.

Chairman Earlen asked Mr. Horner to review the PDC obligation referenced in the report.

Mr. Horner said that when a Waiver is granted the applicant must demonstrate that the proposed development will result in an overall improvement to the Pinelands Area. He said the proposed basin will reduce the stormwater surge, lessening the erosion and sedimentation currently flowing to the unnamed tributary and downstream toward the known threatened and endangered Swamp Pink. He said Stafford Township is also required to deed restrict at least 78 acres in the Pinelands Preservation Area District.

Commissioner Lloyd said he agrees with Commissioner Lohbauer's earlier comments, that this basin will not solve the problem. He said the Forest Area should not be compromised because of a problem in the Regional Growth Area. He said more work needs to be done to find a real solution.

Commissioner Ashmun said she agrees with Commissioner Lohbauer and Commissioner Lloyd. She said the proposed basin is a temporary fix.

Commissioner Rohan Green said its unfair that this Commission is being asked to sacrifice land that it worked hard to protect.

Commissioners discussed stormwater management in the Barnegat Township portion of the Neptune basin drainage area. Residential development in Barnegat Ocean Acres is ongoing. Mr. Horner confirmed that the development in Barnegat Ocean Acres is complying with CMP standards for on-site management of stormwater.

Chairman Earlen said he agrees this is not going to cure all of Stafford's stormwater issues. He thanked staff again for their work on this matter.

Ms. Jessica Noble called the roll.

Commissioner Ashmun: No.  
Commissioner Avery: Yes.  
Commissioner Barr: Yes.  
Commissioner Brown: Yes.  
Commissioner Chila: Yes.  
Commissioner Galletta: Yes.  
Commissioner Jannarone: Yes.  
Commissioner Lloyd: No.  
Commissioner Lohbauer: No.  
Commissioner McGlinchey: Yes.  
Commissioner Prickett: No.  
Commissioner Rohan Green: No.  
Chairman Earlen: Yes.

The Commission adopted the resolution by a vote of 8 to 5.

Chairman Earlen presented a resolution recommending the development of a stormwater basin in Stafford Township.

Commissioner Avery moved the adoption of a resolution Approving with Conditions an Application for Public Development (Application Number 1993-0732.012)(See Resolution # PC4-16-13). Commissioner Galletta seconded the motion.

Mr. Horner said the Commission just took action on the Waiver, now the Commission must vote on the actual public development application for the stormwater basin.

Ms. Jessica Noble called the roll.

Commissioner Ashmun: No.  
Commissioner Avery: Yes.  
Commissioner Barr: Yes.  
Commissioner Brown: Yes.  
Commissioner Chila: Yes.

Commissioner Galletta: Yes.  
Commissioner Jannarone: Yes.  
Commissioner Lloyd: No.  
Commissioner Lohbauer: No.  
Commissioner McGlinchey: Yes.  
Commissioner Prickett: No.  
Commissioner Rohan Green: No.  
Chairman Earlen: Yes.

The Commission adopted the resolution by a vote of 8 to 5.

Mayor Spodofora of Stafford Township thanked the Commission.

Chairman Earlen presented a resolution recommending the development of two public development application, one in Mullica Township and another in Shamong Township. Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 2015-0016.001 & 2015-0150.001)(See Resolution # PC4-16-14). Commissioner Barr seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0. (Commissioner McGlinchey was not present at the time of the vote.)

Chairman Earlen presented a resolution recommending the development of a municipal storage garage in Hammonton.

Commissioner Avery moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1988-0706.020) (See Resolution # PC4-16-15). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0. Commissioner Galletta recused himself from the vote.

#### Planning Matters

Commissioner Ashmun moved the adoption of a resolution Determining the Eligibility of a Parcel of Land for Acquisition by the Department of Environmental Protection Pursuant to the Limited Practical Use Program (See Resolution # PC4-16-16). Commissioner Lohbauer seconded the motion.

Ms. Grogan provided a brief overview of the Limited Practical Use Program. She said the NJDEP handles the acquisition of the parcel and that is the next step in the process.

The Commission adopted the resolution by a vote of 13 to 0.

Public Comment on Agenda Items and Pending Public Development Applications

Margo Pellegrino of Medford Lakes, NJ, said she was disappointed with the outcome of the Stafford Township basin matter.

Georgina Shanley of Ocean City, NJ, expressed disappointment over the Stafford Township basin matter since it will only fix part of the problem.

Marianne Clemente of Barnegat Township, NJ, said she was disappointed by the vote of the Commission in favor of the Stafford Township waiver. She said that Barnegat and Stafford Townships should consolidate municipal functions in an effort to save money. She said Commissioners need to “do the right thing”.

Sal Sorce of Stafford Township, NJ, said he did not agree with the vote for the Stafford Township basin application. He said the Commission is benign because it has no enforcement authority.

Marilyn Miller of Toms River, NJ, said she was disappointed by the Stafford Township basin application. She applauded the Commissioners who voted no.

Bob Filipczak of Linwood, NJ, said that stormwater basins do not work and that natural drainage is a more effective solution. He displayed photographs of stormwater management basins on the Garden State Parkway.

Margit Meissner-Jackson with the Ocean County Sierra Club questioned the protection of Swamp Pink in the vicinity of the Neptune basin.

Ordinances Not Requiring Commission Action

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

- Barnegat Township Ordinance 2016-02
- South Toms River Borough Ordinance 12-15

No members of the Commission had questions.

Grant Proposal Presentation

Mr. John Bunnell requested the Commission’s endorsement to proceed with a grant proposal regarding the following: *Point and Non-point Sources of Endocrine Disrupting Compounds and the Potential Effects on Fish and Frogs in the New Jersey Pinelands*. He provided rationale for the study, a brief overview of the timeline for the study, the budget and supporters of the study. See attached presentation slides for further detail.

The Commission offered its support of the grant.

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

Jason Howell of the Pinelands Preservation Alliance said it is crucial to have a map depicting where users are permitted at Wharton.

Georgina Shanley of Ocean City, NJ said the only way to stop the vehicles from being in undesignated areas at Wharton is to designate roads. She said the CMP should address climate change.

Nathalie Neiss of Upper Township, NJ, spoke about a variety of Pinelands related issues.

Marianne Clemente of Barnegat, NJ, said it is important to designate roads at Wharton. She suggested partnering with a non-profit organization to make signs that are not paper.

Jamie Zaccaria of the NJ Sierra Club said that the NJ Sierra club remains concerned about the proposed pipelines through the Pinelands. She said the pipelines are dangerous and unnecessary.

Margo Pellegrino of Medford Lake, NJ, suggested partnering with the Leave No Trace organization, a movement that respects the land. She said she hopes the Commission receives the grant for the Endocrine Disrupting Compounds study and looks forward to hearing the results.

Jeff Victor of the Pinelands Preservation Alliance said it is important for the Commission to address climate change.

Marianne Clemente of Barnegat Township, NJ, asked about the ordinances referenced on the Commission's agenda.

Ms. Grogan said there is a description of each ordinance on the Commission's website and that they do not require formal Commission action.

Adjournment

Commissioner Prickett said staff did a wonderful job at the Pinelands Short Course.

Commissioner McGlinchey moved to adjourn the meeting. Commissioner Ashmun seconded the motion. The Commission agreed to adjourn at 12:35 p.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: April 19, 2016