

Disclaimer

These minutes reflect the actions taken by the Commission during its May 8, 2020 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 May 21, 2020.

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

MINUTES

May 8, 2020

The May 8, 2020 Pinelands Commission meeting was conducted remotely. All participants were present via Zoom conference and the meeting was livestreamed through YouTube.

Commissioners Participating in the Meeting

Alan W. Avery Jr., Sean Earlen, Jordan P. Howell, Jerome H. Irick, Jane Jannarone, Ed Lloyd, Mark Lohbauer, William Pikolycky and Chairman Richard Prickett. Also present were Executive Director Nancy Wittenberg and Deputy Attorney General (DAG) Kristina Miles and Governor's Authorities Unit representative Craig Ambrose.

Commissioners Absent

Candace M. Ashmun, Daniel Christy, D'Arcy Rohan Green and Gary Quinn.

Chairman Prickett called the meeting to order at 9:34 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.

The Commission pledged allegiance to the Flag.

Minutes

Chairman Prickett presented the minutes from the Commission's March 13, 2020 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Jannarone seconded the motion.

The minutes from the March 13, 2020 Commission meeting were adopted by a vote of 9 to 0.

Policy and Implementation Committee Meeting

Chairman Prickett provided an update on the April 24, 2020 Policy and Implementation Committee:

The Committee adopted the minutes of the February 28, 2020 meeting (open and closed session).

The Committee received a presentation and recommended Commission approval of an extension of the Garden State Parkway Secondary Impacts Agreement for Exit 44 with Atlantic County for acquisition of additional lands to meet the County's obligation.

The Committee reviewed draft CMP amendments related to coordinated permitting. These "gap" rules would establish the application process for infrastructure projects that do not receive municipal approvals. Committee members expressed interest in revising public notice, comment and hearing procedures. The Committee will have further discussions at its next meeting and requested that the Commission's DAG be present.

The Committee met in closed session to discuss a litigation matter.

Executive Director's Report

ED Wittenberg provided an update on the following items:

- Commission employees have been working from home since the middle of March; all work is being completed remotely; including pre-application meetings, processing of applications and discussions with Pinelands towns.
- A new accounting firm, Smolin, Lupin & Co. will prepare the financial statements and assist with certain accounting services. The Office of Legislative Services is ready to begin the Fiscal Year 2019 Audit.
- Staff has been monitoring each Covid-19 related Executive Order and how it relates to the Commission. Staff is closely watching Senate Bill S2350 which allows for the furlough of certain state employees.
- Staff participated in a call with the New Jersey Department of Environmental Protection (NJDEP) regarding an off-shore wind project in the Pinelands National Reserve.
- Staff continues to work on the grant application for the painting of Fenwick Manor which is due the beginning of June. As part of that application, staff had to get permission from the Department of Treasury as part of the application because the

Department owns the building. The Commission voted on the resolution to apply for that grant in March.

- Staff is beginning to work on the FY 21 budget. Application fees for FY 20 are significantly under the anticipated amount.

Chairman Prickett asked about the National Park Service grants which fund the science office projects.

Business Manager, Jessica Lynch said the money is located in a federal account and the money is drawn down.

Chairman Prickett asked if the budget would have impacts on painting Fenwick Manor.

ED Wittenberg said money has been budgeted to paint Fenwick Manor.

Susan R. Grogan, Director of Planning added that the only adjustment to the grant application has been the extension of the deadline to June 4th.

Commissioner Avery requested that as part of the upcoming budget, staff analyze the potential for application fees in relation to the amount of vacant land remaining in the Regional Growth Areas. He added that the Commission needs to re-evaluate the way it does application fee projections going forward so that we will have better estimates to include in the budget.

Director Grogan provided an update on the following Planning activities:

- The Pine Barrens Scenic Byway national designation application was submitted to the Commission's state contact at the Department of Transportation. She noted that it was an extensive application and took many staff members to complete. She said the application will undergo some fine-tuning before a revised application is submitted. Many letters of support were received including letters from the Pinelands Municipal Council, New Jersey Conservation Foundation, South Jersey Chamber of Commerce and the U.S. Biosphere Network.
- Activity in municipalities has been slow, and that has allowed staff to focus on other initiatives, including rulemaking. She said the NJDEP adopted new stormwater rules in early March. Staff is currently reviewing the rules to determine how it affects the Commission's stormwater rules. Staff is also reviewing the draft rules to implement Kirkwood-Cohansey water supply recommendations.
- Staff had a conference call with the Infrastructure Bank, NJDEP and municipal officials from Monroe Township regarding a project to which Pinelands Infrastructure Trust Fund monies were allocated.

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

- Staff held a conference call with an applicant interested in installing a 29-acre solar facility on the closed and capped Big Hill landfill in Southampton Township.
- Staff held a conference call with Manchester Township to discuss placing solar on its closed landfill. The Planning Office participated in the call to discuss Manchester's Redevelopment Plan.
- Staff held a pre-application conference with a contract purchaser of Atco Raceway to discuss the potential change use of the raceway to an automobile storage and auction facility. The applicant anticipates submitting an application to the Commission in June.
- Staff had a conference call with the NJDEP about converting the former Green Bank School in Washington Township into NJDEP offices. The school is currently served by an onsite septic system. An approach to meet the groundwater quality standards was discussed.
- Staff participated in a conference call with Monroe Township officials regarding a reconfiguration of an existing firehouse.
- Staff had a conference call with Jersey Central Power & Light, Public Service Electric & Gas and Atlantic City Electric regarding their interest to use herbicides on select portions of the rights-of way (ROW).

Chairman Prickett asked about the status of the clearing that occurred at Atco Raceway.

Director Horner said approximately 17 acres at the raceway were cleared for an agricultural use several years ago. He said there was a rumor that the cleared area was actually for additional parking at the raceway. To date, an agricultural use has never been established and the area has not been reforested. During, the pre-application meeting, the contract purchaser said that there was a plan to reforest the area.

Commissioner Avery said staff may want to evaluate the benefit of creating a managed grassland in the cleared area rather than reforesting it.

Commissioner Lohbauer asked if Director Horner could provide additional information about the utilities' interest in using herbicides.

Director Horner said the utilities have expressed an interest in using herbicides on and off for the last decade. He said the Comprehensive Management Plan (CMP) prohibits the use of herbicide in ROWs. He added that the utilities advised that they would like to selectively use herbicides as a safety measure for personnel and to reduce the impacts to soil. He said the Executive Director asked the utilities to provide additional information about what type of herbicide they are considering using, how often it would be applied and where it would be applied.

Paul Leakan, Communications Officer, said his office has sought to make the most out of the past two months by doing some important housekeeping, while expanding our ability to raise awareness and appreciation of the Pinelands and the Pinelands Commission's work. Work completed includes a comprehensive review of hundreds of pages on the Commission's website, updating information where possible, adding photos and videos and

testing every link. Three educational videos were created and posted on the website, including an overview of the Commission, one that highlights the success of the Pinelands Conservation Fund and one that focuses on timber rattlesnakes. All have been shared with the public. Also created were 10 educational, Pinelands-themed puzzles that can be accessed on the Commission's website and Facebook page. They will become part of a new Junior Pinelands Naturalist Program that is being developed. A new Instagram account has also been created. Staff is planning for educational webinars since both the March and summer editions of the Pinelands Short Course were cancelled.

Chairman Prickett said the NJDEP recently announced a number of New Jersey waterways had been upgraded to Category One. He asked if it affected Pinelands water classifications in any way.

Stacey Roth, Chief of Legal and Legislative Affairs said that all Pinelands waters are already classified as PL-1 waters and there is no higher level of protection.

She added that deadline for filing Financial Disclosure Statements has been extended by Executive Order, with a new deadline of July 31, 2020.

Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution for the demolition of a single family dwelling in Buena Vista Township.

Commissioner Pikolycky made a motion Approving With Conditions an Application for Public Development (Application Number 2009-0089.002) (See Resolution # PC4-20-12). Commissioner Lohbauer seconded the motion.

Director Horner said this application is for the demolition of a single family dwelling. He noted that the Township requested that the Executive Director authorize an emergency approval and because the structure was a public safety hazard, the approval was granted. He said to date, the house has not been demolished. The Commission received one public comment related to redevelopment which staff found irrelevant to the application. He said the application meets all the standards of the CMP. A picture of the dwelling was shared on the screen (See attached photo). He said the Cultural Resource Planner found no evidence of cultural significance at the site, including the dwelling.

Commissioner Lohbauer said at the last Commission meeting the commenter requested that the DAG provide legal advice on this application. He asked if that had been done.

DAG Miles said as an employee of the Division of Law, she is statutorily restricted from providing anyone other than state agencies, boards and commissions with legal advice. She noted that she passed Mark Demitroff's comments on to the Attorney General's citizen services offices.

Ms. Roth said that Mr. Demitroff's comments regarding the Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1 are not pertinent to the application that is before the

Commission, which seeks authorization to demolish a single family dwelling owned by the municipality that is presenting an imminent threat to public safety.

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

Chairman Prickett presented a resolution recommending approval of a Waiver of Strict Compliance for the development of one single family dwelling in Jackson Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 1983-5274.003) See Resolution # PC4-20-13). Commissioner Jannarone seconded the motion.

Director Horner said the applicant is seeking a waiver from the minimum buffer to wetlands and the minimum depth to the season high water table of five feet standards.

Chairman Prickett said he was pleased that the applicant is required to use an alternate design septic system and a crushed stone driveway.

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

Public Comment on Public Development Applications and Items where the record is open
Chairman Prickett read the list of Public Development applications up for comment. There were no public comments.

Ordinances Not Requiring Commission Action

Chairman Prickett read the list of ordinances not requiring Commission action. No questions were raised.

- Berkeley Township Ordinance 2019-15-OAB
- Hamilton Township Ordinance 1923-2020
- Town of Hammonton Ordinance 013-2019

Other Resolutions

Chairman Prickett presented a resolution to extend the time frame for Atlantic County to complete its acquisition of lands associated with the expansion of Exit 44 on the Garden State Parkway.

Commissioner Lloyd made a motion Authorizing the Executive Director to Execute an Extension of the Time Period for Atlantic County to Acquire the Remaining Acreage to Complete its Obligations Under the Secondary Impacts Agreement for Interchange 44 of the Garden State Parkway (See Resolution # PC4-20-14). Commissioner Irick seconded the motion.

Ms. Roth said that the Commission entered into a Secondary Impacts Agreement with Atlantic County in 2014 when the New Jersey Turnpike Authority completed Interchange 44 on the Garden State Parkway, the Pomona Road exit. She said expansion of existing interchanges are permitted in the Parkway Overlay District so long as the development does not result in secondary impacts, i.e. the development does not induce changes in the location, pattern or intensity of land use that would be inconsistent with the existing Pinelands management program as implemented through Commission certified municipal master plans and land use ordinances. Ms. Roth said staff determined there would be secondary impacts associated with the Interchange 44 project, because of likely pressure to change the existing zoning within 1.5 miles of the development. She said the County has been diligently acquiring land in the Tier 1 area (within 1.5 miles of Interchange 44) and to date has purchased 327 acres. Ms. Roth displayed a map showing the 3 Tiers in which the County could have memorialized the current zoning and satisfied its obligation under the agreement and another map depicting the parcels that have been acquired by the County through August 2019 (See attached maps).

The County had requested an 18-month extension to complete its obligation under the agreement, 29 acres, of which the County is currently working on the acquisition of 15 acres. The Agreement authorizes an extension in order to afford the County additional time to complete its obligation to memorialize current zoning with a demonstration that such obligation would be completed within the extension period. Ms. Roth noted that although the Agreement contains a provision which would allow the County to pay a non-profit, governmental entity or college/university fair market value of the acreage for which memorialization of zoning was still required to acquire PDCs or undertake a water quality improvement project, given the County's diligence, its acquisition of the lands in fee, rather than just memorializing current zoning through an easement or other legal vehicle, and the small amount of acreage left to be addressed, staff was recommending that the extension be granted. She added that due to the pandemic, rather than the 18 months requested by the County, staff was recommending a two-year extension of the acquisition deadline under the Secondary Impact's Agreement.

Chairman Prickett asked if the County has plans for the acquired land.

Director Grogan said the County has inquired about the possibility of using a portion of the properties for low intensity recreation for public use.

Commissioner Lohbauer said he was in favor of granting the two-year extension.

Chairman Prickett said he was also in support of the extension.

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

Chairman Prickett presented a resolution to approve the Commission's 2019 Annual Report.

Commissioner Lloyd made a motion To Approve the Pinelands Commission's 2019 Annual Report (See Resolution # PC4-20-15). Commissioner Lohbauer seconded the motion.

ED Wittenberg said the report highlights the work the Commission completed in 2019.

Mr. Leakan added that it's nice to have one document to summarize what the Commission accomplished during a specific time period. He said the Commission's Annual Reports are also an important source of information that is used during the Plan Review process.

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

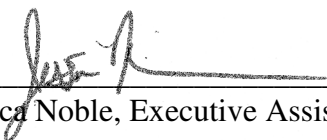
General Public Comment

Fred Akers of the Great Egg Harbor Watershed Association said the National Wild and Scenic river designations defer to state water quality standards. He said that the Pinelands waters are afforded equivalent protection to C1 waters in the rest of State, with 300 foot buffers required.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Earlen seconded the motion. The Commission agreed to adjourn at 10:52 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: May 21, 2020