

Disclaimer

These minutes reflect the actions taken by the Commission during its May 10, 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 June 3, 2019.

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

MINUTES

May 10, 2019

Commissioners Present

Alan W. Avery Jr., Bob Barr, Daniel Christy, Jordan P. Howell, Jerome H. Irick, Jane Jannarone, 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, Ed Lloyd and Gary Quinn.

Chairman Earlen called the meeting to order at 9:39 a.m.

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

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

Oath of Office

DAG Miles administered the oath of office to Mr. Daniel Christy, who will serve as Gloucester County's appointee on the Commission.

Chairman Earlen welcomed Commissioner Christy to the Commission.

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 11 Commissioners who participated in the meeting.)

Minutes

Chairman Earlen presented the open and closed session minutes from the April 12, 2019 Commission meeting. Commissioner Avery moved the adoption of the minutes. Commissioner Prickett seconded the motion.

The April 12, 2019 Commission meeting minutes (open and closed sessions) were adopted by a vote of 10 to 0. Commissioner Christy abstained from the vote.

Committee Chairs' Reports

Chairman Earlen said the April 26th Policy and Implementation Committee meeting was canceled.

Vice-Chairman Avery provided an overview of the May 3, 2019 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the February 26, 2019, meeting.

Staff reviewed the check registers, electronic disbursements and application fees covering February and March. The application fees have reached 110%, exceeding the budgeted amount.

Staff provided an update on employee actions.

Staff presented a draft resolution authorizing a change of the Commission's financial institution to The Bank of Princeton.

Executive Director Wittenberg gave an update on the audit process, Edmunds Software processing and CWA contract ratification.

There was no public comment but the Committee did meet in Closed Session.

Executive Director's Reports

ED Wittenberg introduced Jeff Dragon, a new member of the Commission's Science office. She also introduced April Field, a former employee, who recently rejoined the Commission.

ED Wittenberg said former Commissioner Steve Lee invited her to attend a tour on April 16, 2019 to survey various plots of forested land throughout the Pinelands. She said the

tour was an outcome of the joint Assembly hearing on fire safety. She said legislators, legislative staff, New Jersey Department of Environmental (NJDEP) staff, foresters and landowners also attended the tour. She witnessed firsthand the complexity of forest maintenance for fire safety.

She said she had her first NJDEP coordination meeting with Policy Advisor to the Commissioner, Dan Ryan.

Commissioner Lohbauer said he was pleased to hear that ED Wittenberg is involved in forest management discussions so the Commission will not have to make last minute or urgent decisions regarding clear cutting trees.

Director Chuck Horner provided information on the following regulatory matters:

- Staff met with Mullica Township representatives regarding economic development and potential zoning changes along the White Horse Pike.
- Staff met with Egg Harbor City officials regarding a potential minor rezoning to accommodate commercial development.
- Staff met with Tabernacle Township to discuss development options along Route 206 and a change of use at the Sequoia Alternative High School.
- Staff is scheduled to meet with Hammonton officials to discuss the Town's wastewater treatment facility on May 15th.

Director Horner said the Staff has also been involved in two violation matters:

- Staff supported Winslow Township in court regarding an agricultural operation that removed a substantial amount of soil from the property.
- Staff will be providing assistance to Mullica Township regarding a commercial activity that has occurred without application to the Township and the Commission.

Stacey Roth, Chief, Legal & Legislative Affairs, reminded Commissioners that Financial Disclosure Statements must be filed by May 15, 2019.

Ms. Roth said that oral argument for the South Jersey Gas matter was scheduled for the end of May. DAG Miles sent a letter to the court on May 6th requesting adjournment and made a motion for the matter to be remanded back to the Commission. She said the request for adjournment was granted and we are waiting for a decision on the remand request.

Ms. Roth said that a member of the public requested an adjudicatory hearing for application number 1987-1299.005. She said although the hearing request was procedurally deficient, it was reviewed based on the public comment that was submitted and ultimately denied.

Chief Planner Susan R. Grogan updated the Commission on the following planning matters:

- Staff met with Southampton Township to discuss economic development on the Red Lion Circle. The development would require a zoning change or redevelopment plan. The Township is also working with the Burlington County Planning office on a new Master Plan.

- Staff met with Hamilton Township representatives and the property owner of the former Atlantic City Race Course. The parcel consists of about 250 acres that includes the old grandstand and a couple of vacant parcels. The proposal includes a redevelopment plan for mixed-use development.
- The Pinelands Infrastructure Trust Fund's recent round of funding generated nine project proposals. Staff will provide the P&I Committee with preliminary recommendations at an upcoming meeting.
- The Commission was not selected to receive grant funding from the NJDEP for a submission related to the Barnegat Bay stormwater proposal.

Chairman Earlen asked why there had been an increase in ordinances over the last couple of months.

Chief Planner Grogan said that a number of the ordinances pertain to amendments the Commission adopted over the last several years. She said some of the ordinances are for performance guarantees generated by a change to the Municipal Land Use Law. She added that more recently the Commission received ordinances related to solar energy due to the community solar initiative.

Communications Officer Paul Leakan provided an update on the following:

- A tour of the Buena Borough's state of the art wastewater treatment plant has been scheduled for May 22nd.
- The 3rd Annual Summer Short Course at Kramer Hall has been scheduled for July 18th and will include a blacksmithing demonstration and possibly a tour of a local brewery.
- The Pinelands Orientation for newly elected officials is scheduled for July 23 at the Commission's headquarters.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending approval of three public development applications approving the construction of three miles of trail in Buena Vista Township and two electronic traffic advisory signs in Upper Township.

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 1982-2560.004, 2011-0075.002 & 2017-0191.001) (See Resolution # PC4-19-17). Commissioner Prickett seconded the motion.

Commissioner Christy asked how the signs were relevant to the Pinelands.

Director Horner said signs are typically exempt from review, however there was additional development associated with the advisory signs that required application to the Commission.

The Commission adopted the resolution by a vote of 11 to 0.

Chairman Earlen presented a resolution recommending approval for the construction of a 50 stall paved parking lot in Mullica Township.

Commissioner Avery made a motion Approving With Conditions An Application for Public Development (Application Number 1987-1299.005) (See Resolution # PC4-19-18). Commissioner Lohbauer seconded the motion.

Ms. Roth provided information on the appeal request. She said Ms. Joy Ramer's hearing request was procedurally deficient but a response was provided based on the comments she provided during the public development comment period. She said Ms. Ramer raised concerns about the following neighborhood impacts: increase in stormwater runoff, noise, traffic and light pollution. She said Ms. Ramer does not have a particularized property interest and was not granted the right to an adjudicatory hearing.

Director Horner said the application is for an addition to an existing parking lot. The applicant has submitted stormwater management plans and calculations and meets the Commission's standards. He added that some of issues Ms. Ramer raised are not regulated by the CMP and encouraged her to contact the school district. He said staff spoke with the design engineer for the school and the addition of the parking lot will not worsen the flooding but could provide some relief. He said the engineer indicated that the flooding stems from the adjacent road.

Commissioner Avery asked who owns the roads.

Director Horner said the road is a municipal right-of-way.

Commissioner Irick raised concerns that the school board does not need to seek any further approvals from another governing body.

Director Horner said under the Municipal Land Use Law, a school board does not need to apply to the Township for approval or permits.

Commissioner Irick said the original school and parking lot essentially could have been built without approvals from another agency. He said he was concerned about what efforts have been undertaken regarding buffer, screening and drainage.

Director Horner said the Commission's stormwater management standards do not require an applicant to address pre-existing conditions. He said the staff cannot recommend a denial of an application based on pre-existing conditions. He said when the public raises issues that are outside the Commission's purview, staff recommends that they address their concerns with the public agency in question.

Commissioner Irick asked if the Commission should look into this issue further.

Director Horner said the Commission needs to make a decision as to what degree it would like to review applications.

Commissioner Lohbauer said he disagreed with staff's determination to deny Ms. Ramer's request for an adjudicatory hearing.

The Commission adopted the resolution by a vote of 10 to 0, with Commissioner Irick abstaining.

Director Horner added that he spoke with Ms. Ramer about her concerns.

Chairman Earlen presented a resolution recommending approval for the construction of a 56 stall paved parking lot in Pemberton Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1985-0641.013) (See Resolution # PC4-19-19). Commissioner Jannarone seconded the motion.

Commissioner Prickett asked the Ethics Liaison Officer for guidance on participating in the vote.

Ms. Roth advised Commissioner Prickett that he only had to recuse from the matter if he was involved in the application during his tenure as an elected official for Pemberton Township.

Commissioner Prickett said he had not been involved.

The Commission adopted the resolution by a vote of 11 to 0.

Public Comment on Public Development Applications and Items where the record is open

No members from the public spoke.

Ordinances Not Requiring Commission Action

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

- Buena Borough Ordinance 676
- Evesham Township Ordinance 3-3-2019
- Franklin Township Ordinance O-4-19
- Town of Hammonton Ordinance 001-2019
- Little Egg Harbor Township Ordinance 2019-05
- Manchester Township Ordinance 19-008
- Shamong Township Ordinance 2018-10
- City of Vineland Ordinance 2019-22
- Woodland Township Ordinance 2019-2

No members of the Commission had questions.

Other Resolutions

Chairman Earlen said the next resolution is to allow the Commission to continue to use its current bank. He said the bank has been bought by another bank and will be changing its name.

Commissioner Avery made a motion Authorizing a Change of the Pinelands Commission's Fiduciary Institution. Commissioner Lohbauer seconded the motion (See Resolution # PC4-19-20).

The Commission adopted the resolution by a vote of 11 to 0.

Presentation

ED Wittenberg provided the highlights of the 2018 Annual Report. (See attached slides)

Commissioner Prickett said past Annual Reports can be found on the website and are a great resource.

General Public Comment

Joy Ramer of Mullica Township said she lives across the street from the school where the proposed parking lot will be constructed. She said there has been an increase in flood water since the retention pond was built. She said the flooding on her street is source point water and is directly from the school.

Georgina Shanley of CURE welcomed the new Commissioners. She said the Commission should report on the land lost due to approved development. She suggested that the Commissioners are not provided adequate time to review the materials they vote on. She said there is a climate crisis occurring and the Commission needs to look at the science. She asked the Commission to revoke its decision on the South Jersey Gas decision.

Temma Fishman of Medford Lakes, NJ, said she was in favor of B.L. England shutting down. She asked the Commission to revoke the approvals previously granted for the South Jersey Gas pipeline.

Marianne Clemente of Barnegat, NJ asked for more information on the Commissioner who was sworn in this morning. She said the Commission changed the process for public comment. She said it's a violation of transparency.

Chairman Earlen said Commissioner Christy replaced Commissioner Chila, who was the Gloucester County representative. He said Commissioner Christy was chosen by the Board of Chosen Freeholders.

Jonathan Peters of The City University of New York raised concerns over the Commission partnering with private land owners and non-profits on acquisition matters. He said it limits

the public's access to these lands. He said he is open to discussing alternatives to the current land acquisition approach.

Hara Rola of Haddon Township, NJ, urged the Commission to revoke its approval for the South Jersey Gas pipeline (see attached letter she read into the record).

Jaclyn Rhoads, of the Pinelands Preservation Alliance (PPA), said she attended the joint hearing held by the Assembly Agriculture and Environment Committees on wildfires. She said it was a shame the Commission was not invited to the hearing. She provided a brief overview of "The Prescribed Burn Act". She said PPA plans to reach out to the NJDEP about its plan to promote the Act. She said the Kirkwood Cohansey (KC) study was completed many years ago. She said the Commission's mandate allows the Commission to address both water supply and water quality. She said she hopes that with the new administration the Commission can move forward on KC study amendments.

Margo Pellegrino of Medford Lakes, NJ, said the Commission should factor in climate change when reviewing development applications. She also asked the Commission to revoke the South Jersey Gas pipeline approval.

Rhyan Grech of the Pinelands Preservation Alliance said she was happy to hear that the South Jersey Gas application will be remanded back to the Commission for a vote to revoke the approval. She suggested the Commission also revoke Resolution # PC4-16-42, which adopted a process to review the South Jersey Gas pipeline application. She suggested the Commission adopt rules to fix the gap in the CMP regarding public utilities (N.J.S.A.40:55D-19).

In response to a commenter, ED Wittenberg said that the Commission's public comment process has not changed.

Commissioner Prickett said his meeting materials are provided in plenty of time before Commission meetings. He also said that Pinelands resources are lost when the land is degraded. He said the Commission has a Land Capability Map that outlines where specific development can happen. He said prescribed burns, maintaining the ecological integrity of the Pinelands and the protection of threatened and endangered species allow the Pinelands to thrive.

Commissioner Irick said as a new Commissioner, information has been provided to him in a timely manner.

Resolution to Retire into Closed Session

DAG Miles read a resolution to enter into closed session to discuss the appeals related to the South Jersey Gas matter and a personnel matter.

Commissioner Lohbauer 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 11 to 0, beginning at 10:57 a.m.

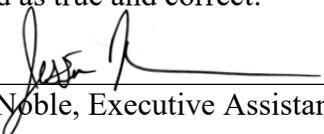
Return to Open Session

The Commission entered back into open session at 12:42 p.m. DAG Miles provided a summary of the closed session. She said the Commission discussed litigation related to the South Jersey Gas matter and a personnel matter.

Adjournment

Commissioner Barr moved to adjourn the meeting. Commissioner Irick seconded the motion. The Commission agreed to adjourn at 12:45 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: May 29, 2019