

Disclaimer

These minutes reflect the actions taken by the Commission during its July 10, 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 July 21, 2020.

PINELANDS COMMISSION MEETING

MINUTES  
**July 10, 2020**

*The July 10, 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

Daniel Christy, Sean Earlen, Jerome H. Irick, Jane Jannarone, Ed Lloyd, Mark Lohbauer, William Pikolycky, Gary Quinn and Chairman Richard Prickett. Also participating were Executive Director Nancy Wittenberg and Deputy Attorney General (DAG) Kristina Miles and Governor's Authorities Unit representative Craig Ambrose.

Commissioners Absent

Alan W. Avery Jr., Jordan P. Howell and D'Arcy Rohan Green.

Chairman Prickett 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.

The Commission pledged allegiance to the Flag.

Election of Vice-Chair

Chairman Prickett said the Commissions By-Laws require that the Commission hold a re-organization at its July meeting, including the election of Vice-Chairman. He added that

Commissioner Avery is interested in serving as Vice-Chair for another year. He asked if Commissioners had any other nominations for Vice-Chair.

Commissioner Lloyd moved the nomination of Commissioner Avery as Vice-Chairman. Commissioner Lohbauer seconded the motion. All were in favor. No other nomination for Vice-Chairman we made.

Commissioner Pikolycky joined the meeting at 9:40 a.m.

Chairman Prickett said on June 22<sup>nd</sup> he sent an email to Commissioners asking for requests for new Committee assignments. He said he didn't hear back from any Commissioners. He said the only change is Commissioner Lohbauer will serve as Chair of the Land Use, Climate Impacts and Sustainability (LUCIS) Committee.

#### Minutes

Chairman Prickett presented the minutes from the Commission's June 12, 2020 meeting. Commissioner Jannarone moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes from the June 12, 2020 Commission meeting were adopted by a vote of 9 to 0.

#### Policy and Implementation Committee Meeting

Chairman Prickett provided an update on the June 26, 2020 Policy and Implementation Committee:

The Committee adopted the minutes of the May 29, 2020 meeting.

The Committee recommended to the Commission the certification of Barnegat Township Ordinance 2020-5, amending Chapter 55 (Land Use) by revising standards for condominium developments in the C-N (Neighborhood Commercial) Zone in the Regional Growth Area.

Staff provided a briefing on current CMP procedures for the Commission's review of municipal and county approvals.

#### Executive Director's Report

ED Wittenberg provided an update on the following items:

- A pre-audit conference was held on June 25<sup>th</sup>. The auditors are currently conducting the Fiscal Year 2019 audit. Most of the work will be conducted remotely. An interview with Commissioner Avery, who serves as the Audit Chair, will occur this year based on some new practices required by the Auditing team.
- The Business Services office is preparing year end (FY 20) financial documents and working on the FY 21 Budget.

- The recent incident in Upper Freehold Township stemming from the construction of New Jersey Natural Gas (NJNG) Southern Reliability Link (SRL) pipeline has been in the media. The Commission denied a stay request received from the Pinelands Preservation Alliance and the Sierra Club. The pipeline work in the Pinelands Area was completed earlier this year.
- Pinelands staff remain busy processing applications and responding to inquiries. Employees were not required to furlough. Furloughs were part of the state union negotiations.

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

- A request for renewal of a Pinelands Development Credit (PDC) Letter of Interpretation (LOI) has been received. The parcel consists of 2,500 acres in Bass River Township. The last LOI allocated 50 PDC's to the parcel.
- At the June Commission meeting, two members of the public called in from the Lower Bank section of Washington Township regarding a bulkhead issue. Staff site inspected the property and determined that backfilling behind existing bulkheads had occurred and that this activity would not require an application to the Commission. Other issues related to ownership, width of the county right-of-way and tax map matters should be raised with the County and the Township.
- Staff has scheduled a pre-application meeting with an applicant proposing a floating solar facility at a resource extraction site in Lacey Township.
- On June 19<sup>th</sup>, staff held a pre-application meeting with an applicant proposing a change of use at a site in Winslow Township; converting about six acres to a parking area to store approximately 263 tractor trailers. Currently, there is an existing 180,000 square foot warehouse on the parcel.
- An application was received to convert the Atco raceway into an auto auction facility. Commercial development is permitted on the parcel based on the Pinelands management area designation. The proposal will have to meet the environmental standards of the Comprehensive Management Plan (CMP) and the Waterford Township Land Use Ordinance. Once the applicant receives a Certificate of Filing from the Commission, the Township will make the determination if the proposed development is a permitted use.
- Longtime Environmental Specialist, Jean Montgomerie is retiring from the Commission at the end of July with over 25 years of service. Ms. Montgomerie is extremely knowledgeable about threatened and endangered species and served as the Commission's primary point person for Forestry applications. Director Horner wished Ms. Montgomerie well.

Commissioner Lohbauer said Commissioners were made aware of an inadvertent return incident in Upper Freehold Township that occurred in June. He said an article that was shared with Commissioners this morning referenced a letter from the NJDEP to the NJNG that noted three separate incidents, one of which dated back to April. He wanted to know if the inadvertent return in April occurred in the Pinelands or if any there were other inadvertent returns that the applicant did not tell us about. He said the NJDEP did not copy the Pinelands Commission on the letter and he would like staff to follow up on this matter.

ED Wittenberg said staff had discussions with the NJDEP about its response to the inadvertent returns that occurred. She said staff did receive a copy of NJDEP's letter to NJNG. She said the SRL pipeline work in the Pinelands was completed in January 2020. She noted that during the construction of the pipeline, NJNG notified the Commission of a number of small inadvertent returns that occurred in the Pinelands. She said the Commission's approval required an expert to be on-site during the construction and that the Commission be notified in the event of any occurrences. She said the Commission has the reports of the inadvertent returns and that they can be shared.

Susan R. Grogan, Director of Planning, provided an update on the following matters:

- The demand for PDC's is strong. There have been more sales, new severances and deed restrictions. Sending areas are being permanently preserved and development is occurring in the intended growth areas.
- At the June Commission meeting, the Commission authorized a proposal to amend the CMP, related mostly to the alternate design wastewater program. The proposal was formally submitted to the Office of Administrative Law. The proposal will be published in the New Jersey Register on July 20 and the 60-day public comment period will begin. The P&I Committee will be briefed on additional CMP amendment proposals regarding stormwater management rules and the Kirkwood Cohansey water supply policies in the near future.
- A signed agreement was received from the National Park Service allocating the next round of funding for Long -Term economic and environmental monitoring.
- The Department of Community Affairs local planning office has entered into an agreement with Egg Harbor Township to create a redevelopment plan for the Cardiff Shopping Center. The shopping center is partially located in a Pinelands Regional Growth Area. She said earlier this week she participated in a meeting to discuss the challenges of the shopping center and its future.

Commissioner Irick asked about the current cost of a PDC.

Director Grogan said on average a quarter credit is selling for \$10,000 but recently she has seen both lower and higher sales prices.

Stacey Roth, Chief of Legal and Legislative Affairs, reminded Commissioners that Financial Disclosure Statements must be completed by July 31, 2020.

Ms. Roth said the Permit Extension Act (PEA) of 2020 extends certain governmental approvals that were in effect on March 9, 2020 for as long as the public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), declared by the Governor in response to COVID-19, remains in effect. A3919 which was substituted for S2346, was initially passed by both houses of the Legislature on May 14, 2020. The Governor conditionally vetoed the bill on June 25, 2020. On June 29, 2020, both houses of the Legislature passed the bill with concurrence with the Governor's recommendations. It was subsequently signed into law by the Governor on July 1, 2020. As with prior PEAs, the Act only extends Commission approvals that are not inconsistent with

the current requirements of the Pinelands Comprehensive Management Plan. Moreover, County and Municipal approvals and State permits issued for development within the Pinelands will only be extended if such approvals, in addition to being consistent with the requirements of the CMP, also are solely for development to be conducted in a Regional Growth Area, Pinelands Village or Pinelands Town.

Ms. Roth provided an update on NJNG. She said the Commission received a renewed stay request from the Pinelands Preservation Alliance and the Sierra Club that dated back to December 14, 2018. The request was premised on the environmental impacts associated with horizontal directional drilling (HDD). At the time the Commission received the request, HDD in the Pinelands Area was completed. She said the matter is moot and there is nothing for the Commission to stay. She added that the letter the NJDEP received was not a stay, it was a request to suspend its approvals. After the NJDEP conducted an investigation, violations were found with the specific conditions of the issued permits. She said at this time the Board of Public Utilities (BPU) is still reviewing the matter.

Commissioner Lohbauer asked Ms. Roth to confirm the date that the pipeline work was completed in the Pinelands.

Ms. Roth said she did not have the specific date but work concluded in January 2020.

Paul Leakan, Communications Officer, said Joel Mott recently presented a webinar on the history of the Pinelands. He provided information on three upcoming webinars. He said webinars are scheduled every Thursday through August and archived on the Commission's YouTube channel.

Commissioner Earlen said he was very interested in the floating solar facility concept. He said if solar can be placed on water it would reduce the need to clear land. He said it may be something the LUCIS Committee could investigate further.

#### Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution to approve a number of improvements at the Woodbine Municipal Utilities Authority (MUA).

Commissioner Pikolycky said he would be recusing on this application. He was placed in the Zoom "lobby".

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1986-1408.012) (See Resolution # PC4-20-21). Commissioner Irick seconded the motion.

Director Horner noted that this is an amendment to a previously approved public development application. He said the MUA is increasing the size of a garage from 480 square feet to 2,000 square feet.

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

Commissioner Pikolycky rejoined the virtual Zoom meeting.

Chairman Prickett presented a resolution recommending approval of two public development applications: ground mounted solar facility at the Cedar Creek High School in Egg Harbor City and the installation of 1,675 linear feet of sanitary sewer main in Egg Harbor Township.

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 2003-0530.012 & 2020-0085.001) (See Resolution # PC4-20-22). Commissioner Jannarone seconded the motion.

Director Horner noted that the applicant is proposing to install a 2,500 square foot ground mounted solar array. The applicant is also installing a total of 90,000 square foot roof-top solar facility on the rooftop of a school and over a paved parking area. These installations do not require an application to the Commission.

Commissioner Lohbauer said he appreciated Director Horner pointing out the roof-top solar that the applicant is planning to install. He said initially he had reservations about the ground-mounted solar array because he feels solar should be placed on top of existing structures.

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

#### Planning Matters

Chairman Prickett presented a resolution recommending approval of a Barnegat Township ordinance.

Commissioner Lloyd made a motion Issuing an Order to Certify Ordinance 2020-5, Amending Chapter 55 (Land Use) of the Code of Barnegat Township (See Resolution # PC4-20-23). Commissioner Lohbauer seconded the motion.

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.

- Egg Harbor City Ordinances 03-2020 and 07-2020
- Manchester Township Ordinance 20-014

- Ocean Township Ordinance 2020-6
- Vineland City Ordinance 2020-16

Commissioner Lohbauer said Harmful Algae Blooms (HABs) can occur throughout the state. He said the NJDEP is encouraging rain gardens to combat HABs. He asked that the matter be discussed at the next P&I Committee meeting. He said maybe the Commission can consider a similar approach.

#### General Public Comment

Rhyan Grech, of the Pinelands Preservation Alliance said she was concerned to hear that there had been a number of small inadvertent returns during construction of the SRL pipeline in the Pinelands Area. She said an inadvertent return is an inappropriate term. She said they are unpermitted discharges into our waterways. She said NJNG cannot be trusted. She added she was pleased that NJDEP stopped NJNG from HDD activities.

#### Adjournment

Director Horner read a brief statement from Jean Montgomerie expressing her appreciation for the hard decisions the Commissioners must make and the good work they do protecting the Pinelands. She said it's been an honor and a privilege to serve as a Pinelands Commission employee for over 25 years.

Commissioner Lloyd suggested formally recognizing Ms. Montgomerie at a meeting.

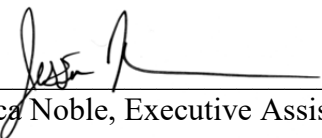
Director Horner said we will invite Jean back when we are back in the office and can have in-person meetings.

Commissioner Lohbauer requested that he see the reports of inadvertent returns.

ED Wittenberg said she would share them with Commissioners.

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Earlen seconded the motion. The Commission agreed to adjourn at 10:41 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: July 21, 2020