

Disclaimer

These minutes reflect the actions taken by the Commission during its December 9, 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 December 21, 2016.

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

MINUTES

December 9, 2016

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, Bill Brown, Giuseppe Chila, Joe DiBello, Paul E. Galletta, Jane Jannarone, Ed Lloyd, Mark Lohbauer, Ed McGlinchey, Richard Prickett, Gary Quinn, D'Arcy Rohan Green and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Mary Maples and Deputy Attorney Generals (DAG) Sean Moriarty and Helene Chudzik.

Commissioners Absent

None.

Chairman Earlen called the meeting to order at 9:31 a.m.

DAG 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.) Commissioner Lloyd joined the meeting at 9:36 a.m. Commissioner Jannarone joined the Meeting at 10:08 a.m.

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

Minutes

Chairman Earlen presented the minutes from the November 4, 2016 Commission meeting. Commissioner Barr moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes of the November 4, 2016 Commission meeting were adopted by a vote of 12 to 0. Commissioner Chila abstained from the vote, and Commissioner Lloyd and Commissioner Jannarone were not present to participate in the vote.

Committee Chairs' Reports

Commissioner McGlinchey provided an update on the December 2, 2016 Agriculture Committee meeting:

The Committee adopted the minutes of its April 22, 2016 meeting.

The Committee received a presentation on the Pinelands Development Credit Program, focusing on potential enhancements to the program, restructuring and reforming the PDC Bank and responses to concerns expressed by the New Jersey Builders Association.

The Committee discussed potential topics for future consideration, including amending the Comprehensive Management Plan to reflect the January 2016 legislation regarding the definition of low-intensity recreation in the Agricultural Production Area to include field sports; evaluating accessory uses on farms; and water use by agriculture.

The Committee selected meeting dates for 2017.

Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- Funding from the National Park Service was used to print a 2017 Pinelands National Reserve calendar that has been handed out today.
- Staff participated in a LEAN event to streamline the collection of permanent land protection data and generation of the map. Some years ago staff participated in multiple LEAN events to develop efficiencies in certain Commission processes.
- Staff continues to work on issues related to Wharton. Staff determined that a 1997 USGS map does not exist. A map was created using 12 quad maps, some of which are from 1997 and some that are older.

Chairman Earlen said that Wharton will be discussed at the January Policy and Implementation Committee meeting.

Mr. Larry Liggett updated the Commission on the following:

- Staff continues to work on new approaches regarding the Kirkwood-Cohansey data. Representatives of Winslow Township recently requested that Commission staff review an existing Memorandum of Understanding (MOU) between the township and the Commission to revisit water use and the provisions of the MOU.
- Staff is in the process of correcting some of the cell tower mapping to eliminate over-lapping of plans and ensure accuracy.
- Staff is in the process of reviewing information that was recently submitted for the Office of Information Technology (OIT) cell plan for emergency services.

Mr. Chuck Horner updated the Commission on the following:

- Staff is assisting Waterford Township with a violation related to an agriculture activity and the role of the Right to Farm Act.
- The Commission was notified that Verizon is interested in placing antennas on existing telephone poles throughout the Pinelands. The antennas are about 2 feet in height. A meeting with Verizon is in the process of being scheduled to obtain more information about the project and application requirements.
- A recent newspaper article highlighted proposed solar installation in Evesham Township. Only one of the proposed solar sites is in the Pinelands Area and, at this time, the Commission is waiting to hear back from the applicant.

Commissioner Ashmun asked if Mr. Horner knew how many antennas Verizon is proposing to install.

Mr. Horner said he did not know but would provide an update at the next Commission meeting.

Ms. Wittenberg added that, at the last Pinelands Municipal Council meeting, a mayor mentioned Verizon representatives had contacted several towns about the placement of antennas and that resulted in staff's to inquiry about the work.

Mr. Paul Leakan said Commission staff in coordination with Rowan College at Burlington County produced a 2017 wall calendar. He noted that the calendar includes monthly Commission meeting dates, federal and state holidays and important dates in Pinelands history. He said the calendars will be available at Bass River State Forest, Batsto Visitor Center and Brendan Byrne State Forest. He also said he will be sending calendars to towns, legislators and congressional representatives.

Commissioner Prickett suggested sending some calendars to New Jersey's tourism board.

Ms. Stacey Roth reminded Commissioners that they must complete on-line ethics training by December 13, 2016.

Chairman Earlen asked for an update on the status of the Commission's audit.

Ms. Wittenberg said the state Auditors continue to work on the FY15 Audit. She said staff met internally about new accounting software and are waiting for bid submissions from vendors.

Commissioner Avery suggested that the Audit Committee hold a conference call to have an update on the status of the audit.

Chairman Earlen announced that Commissioner Prickett would be replacing Commissioner Ashmun on the Pinelands Development Credit Bank Board.

Ms. Grogan said the Board will hold its only meeting this year on Monday, December 12, 2016 at 2:00 p.m.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval of a solar facility in Folsom Borough.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1985-0023.003) (See Resolution # PC4-16-39). Commissioner Galletta seconded the motion.

Commissioner Prickett asked where the solar array would be placed on the property.

Mr. Horner said the solar will be in the front portion of the property, between the road and the school.

Commissioner Lohbauer asked if there were other solar arrays placed in stormwater basins in the Pinelands. He also said maybe this solar facility would encourage more like it.

Mr. Horner said he did not know of any other solar arrays developed in basins.

The Commission adopted the resolution by a vote of 14 to 0.

Honoring Commissioner DiBello

Chairman Earlen said that today is Commissioner DiBello's last Commission meeting as he is retiring from the National Park Service. Chairman Earlen read a resolution into the record about Commissioner DiBello's time on the Commission.

Commissioner Ashmun moved the adoption of a Resolution Expressing the Commission's appreciation to Joseph DiBello for his service as a member of the Commission between November 2012 and December 2016(See Resolution # PC4-16-40). Commissioner Lohbauer seconded the motion.

Commissioner DiBello expressed how much he enjoyed working with the other Commissioners and staff.

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

Public Comment on Agenda Items and Pending Public Development Applications

No members of the public spoke.

Ordinances Not Requiring Commission Action

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

- Medford Township Ordinances 2015-5, 2015-9 & 2016-9
- Ocean Township Ordinances 2016-3 & 2016-10
- Stafford Township Ordinance 2016-21(A)

No members of the Commission had questions.

Other Resolutions

Chairman Earlen said the next resolution identifies 2017 Commission meeting dates. He noted that there will not be any evening meetings in 2017 because the night meetings in the past have been poorly attended.

Commissioner Avery moved the adoption of a resolution Setting Pinelands Commission Meeting Dates for 2017 (See Resolution # PC4-16-41). Commissioner Lloyd seconded the motion.

The Commission adopted the resolution by a vote of 14 to 0.

Closed Session Resolution

DAG Chudzik read a resolution to retire into closed session to discuss the Appellate Division's decision on South Jersey Gas application to construct a natural gas pipeline in the Pinelands and the New Jersey Natural Gas remand.

Commissioner Avery moved to retire into closed session. Commissioner Lloyd seconded the motion. The Commission agreed to retire into closed session by a vote of 14 to 0, beginning at 10:07 a.m.

Commissioner Jannarone was not present for the vote, but joined the meeting via teleconference shortly thereafter.

Return to Open Session

Commissioner Barr made a motion to return to open session. Commissioner Galletta seconded the motion. All voted in favor. The meeting resumed at 10:50 a.m.

Chairman Earlen said that Helene Chudzik will provide an overview of what was discussed in closed session.

DAG Chudzik said that during closed session the Commission was advised of various options regarding the court's decision on the South Jersey Gas matter. The discussion included the option to petition the Supreme Court to review such decision. She said, rather than petition for certification, the Commission decided unanimously in favor of addressing the remand. She explained that the Appellate Division, in its decision, remanded the Board of Public Utilities N.J.S.A. 40:55D-19 approval, in order for the Board to amend the approval and make it contingent upon the Commission's issuance of a final decision that the proposed pipeline project was consistent with the minimum standards of the Pinelands Comprehensive Management Plan (CMP). The Court also remanded the matter back to the Commission to develop with a process by which the Commission would render a final CMP consistency decision.

In order to address the remand, she suggested that the Commission establish a process and allow for due process. She said that in developing a process recommendation, the Attorney General's office looked at the existing CMP process for public development applications. She said, she had recommended to the Commission that it adopt a resolution that addressed not only the South Jersey Gas matter, but also other instances where there is a petition for municipal pre-emption in accordance with N.J.S.A. 40:55D-19. The resolution would set forth the process by which the Commission would review the staff's consistency determinations for these projects. She said this process will include an opportunity for public comment at a Commission meeting. Written comment would also be accepted, and once the record closed, staff would draft a recommendation report based on the record. The matter would then be voted on by the Commission at a subsequent meeting. She noted that there are two other applications that are currently under review by the Commission that are subject to the municipal pre-emption provision and that the resolution would address those applications and establish a process to use going forward until the CMP can be changed to address the lack of a final decision by the Commission.

Chairman Earlen requested a motion for the process resolution.

Commissioner Avery moved the adoption of a "Resolution Setting Forth the Process By Which the Pinelands Commission will Review the Determination of its Executive Director Finding that the Portion of the 22-Mile, 24-Inch Natural Gas Pipeline Proposed by South Jersey Gas Company (Pinelands Application No. 2012-0056.001) is Consistent with the Standards of the Pinelands Comprehensive Management Plan." (See Resolution # PC4-16-42). Commissioner McGlinchey seconded the motion.

DAG Chudzik offered clarification on how the Commission would vote on the other applications that are the subject of municipal pre-emption petitions.

The Commission adopted the resolution by a vote of 15 to 0.

Chairman Earlen asked for a motion for the remand of the New Jersey Natural Gas application.

Commissioner Galletta moved the adoption of a “Resolution Authorizing the Division of Law to File Motions in the Appellate Division to have the Two Appeals related to the Commission’s Consideration of the New Jersey Natural Gas Pipeline Project (Pinelands Development Application 2014-0045-.001) Remanded to the Pinelands Commission.” (See Resolution # PC4-16-43). Commissioner McGlinchey seconded the motion.

Commissioner Lloyd recused himself and left the room.

DAG Chudzik concluded her review and said that this resolution will allow the Division of Law to file motions with the Appellate Division to seek a remand of the New Jersey Natural Gas Pipeline project back to the Commission.

The Commission adopted the resolution by a vote of 14 to 0.

DAG Chudzik said that by the end of the day, the Commission website will have information about submitting public comment for the South Jersey Gas application.

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

Toni Granato with the New Jersey Sierra Club said the South Jersey Gas pipeline is unnecessary. She said that by keeping the BL England plant in operation, greenhouse gas emissions increase. She said the pipeline presents a public health issue to the residents in the vicinity.

Will Pauls of South Jersey Building Trades, said he is in favor of the pipeline. He said it will create jobs, end coal emissions and help the residents of Upper Township keep taxes low.

Fred Dumont of Ocean County, told Commissioners to do the right thing.

Jack Koch said the South Jersey Gas pipeline is a good project. He said getting rid of coal and using natural gas is better.

Steve Stokes with the Elevators Local #5 said he is in favor of the project.

Jim Chew representing the Boilmakers of New Jersey, said he is pro-pipeline. He said the conversion from coal to natural gas at the BL England plant makes sense.

Ray Phillips represents the Ironworkers and supports the pipeline project.

Georgina Shanley of Ocean City, NJ spoke against the South Jersey Gas pipeline. She said this is not an issue about jobs but rather the protection of the Pinelands.

Bill Wolfe expressed his dissatisfaction with the Commission's basis for entering into closed session.

Mike Cannon of Lauren Springs, NJ, said he is concerned about the negative effects of methane associated with the natural gas. He said developing infrastructure at sea level does not make sense.

Marianne Clemente, Barnegat, NJ questioned why the Commission met in closed session if the South Jersey Gas matter is no longer in litigation. She said the Commissioners are in violation of their oath.

Connie Higgins said the Commissioners are in a unique position and asked them to be responsible by protecting the Pinelands.

Natalie Neiss of Upper Township said she is opposed to the natural gas transmission line.

Patty Cronheim with ReThink Energy NJ said she is happy with the recent court decision and looks forward to the public participation. She said New Jersey has more energy than it needs. She said the pipeline is not necessary.

Jason Howell of the Pinelands Preservation Alliance said he is in favor of the original Wharton map that the New Jersey Department of Environmental Protection revealed over a year ago.

Emile DiVito New Jersey Conservation Foundation urged the Commission to move quickly with a map for Wharton. He said vernal ponds are experiencing problems. He said a map will help law enforcement be more effective.

Laura Porter of Ocean County said she is retired law enforcement officer who spent her career protecting state parks in the Pinelands. She said an accurate map is necessary for officers to do their job. She said the Commission has an obligation to protect the Pinelands and its fragile ecosystem.

Marilyn Miller of Toms River, NJ, said labor and the environment can work successfully together.

Arnold Fishman of Medford Lakes, NJ, thanked the Commission for not petitioning the Supreme Court to seek an appeal. He requested the Commission give the public time to prepare their comments on the South Jersey Gas matter.

Ann Kelly of Burlington County said the pipeline is not about jobs or taxes. She said it's about protecting the Pinelands.

Rita Romeo of Chesterfield, NJ said she is part of the organization People Over Pipelines. She said pipelines are unnecessary infrastructure. She said pipelines leak, and we cannot jeopardize our water.

Lena Smith with Food and Water Watch said the South Jersey Gas pipeline should be denied. She spoke about the negative effects of fracking.

Martin Levin said he is opposed to the South Jersey Gas pipeline.

Doug O'Malley of Environment New Jersey thanked the Appellate Division for its decision on the South Jersey Gas matter. He said its important to follow the CMP because it's the plan that protects the Pinelands.

Christie Chandler of Gloucester County said the New Jersey Water Supply Master Plan is 20 years overdue. She said she has seen first-hand the destruction of fracking and does not support the pipeline.

Agnes Marsala of Burlington County said she is opposed to pipelines, especially pipelines that are intended for export. She said the state should be investigating renewable energy, such as wind turbines.

Jill Popko, the Mayor of Bordentown Township spoke about a compressor station that the New Jersey Natural Gas company is proposing to build in her town. She asked Commissioners to think about the well-being of New Jersey residents before they vote.

Heather Warberton, Chair of the Green Party of Atlantic County, said she is opposed to the pipeline and is prepared to do anything so that it is not constructed.

Ally Herwitz, a Pennsylvania resident, urged the Commission to make good decisions in protecting the Pinelands.

Beth Whitehead of Glassboro, NJ, said she is opposed to all pipelines and urged the Commission to reject the South Jersey Gas pipeline.

Jaclyn Rhoads of the Pinelands Preservation Alliance requested that the Commission not rush the process for the South Jersey Gas matter. She also asked Commissioners to read the CMP. She questioned the need for the pipeline and said this is not about jobs.

Margit Meissner-Jackson of the Ocean County Sierra Club said the Barnegat Bay is dying. She said in protecting the Pinelands you are also saving the Barnegat Bay. She spoke about the Southern Reliability Link proposed by New Jersey Natural Gas to extend a pipeline under the bay to Long Beach Island and beyond.

Milton Brown, Buena Vista Township, said he is in favor of gas and it is important to make sure the pipeline is constructed correctly.

Jennifer Coffey, Executive Director of ANJEC (Association of Environmental Commissions) asked that the Commission consider moving future meetings to a bigger

facility. She said the pipeline is threatening the state's water supply. She asked Commissioners to uphold the CMP and protect the Pinelands.

Glenn Ashton of Bordentown Township, NJ, asked that the South Jersey Gas matter process be open and transparent. He said the pipeline is unnecessary.

Kenny Cologne said he has worked at BL England for 11 years. He said the process has been going on for three years and he asked the Commission to make a decision.

Adjournment

A brief discussion took place about the need for a bigger space to hold a meeting where the public has the opportunity to speak on the South Jersey Gas matter.

Commissioner Avery said that Helene Chudzik is retiring and he wanted to acknowledge her service representing the Commission through the years. He wished her well.

Commissioner Ashmun suggested that the newer Commissioners who were not here during the deliberations of the South Jersey Gas matter review the record.

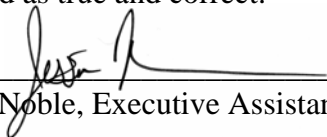
Commissioner Avery said that for any Commissioner who is interested, he brought a map of the Ocean County Natural Lands Trust Fund Program in relation to the Barnegat Bay presentation at the November Commission meeting.

Commissioner Lohbauer said that with the pipeline issue back, he does not want the Wharton map to be pushed aside. He said a map is crucial for enforcement. Commissioner Lohbauer thanked Commissioner DiBello for his service.

Commissioner Galletta wished everyone a happy holiday season.

Commissioner Barr moved to adjourn the meeting. Commissioner Galletta seconded the motion. The Commission agreed to adjourn at 12:58 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: December 16, 2016