

Disclaimer

These minutes reflect the actions taken by the Commission during its January 15, 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 January 28, 2016.

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

MINUTES

January 15, 2016

Commissioners Present

Candace Ashmun, Bob Barr, Bill Brown, Joe DiBello, Paul E. Galletta, Jane Jannarone, Ed Lloyd, Ed McGlinchey, Richard Prickett, Gary Quinn and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Amy Herbold and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Alan W. Avery Jr., Sean Earlen and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:38 a.m.

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 11 Commissioners present.)

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

Minutes

Chairman Lohbauer presented the minutes from the December 11, 2015 Commission meeting. Commissioner Prickett moved the adoption of the minutes. Commissioner Brown seconded the motion.

The minutes of the December 11, 2015 Commission meeting were adopted by a vote of 9 to 0. Commissioner Quinn and Commissioner Jannarone abstained.

Other

Chairman Lohbauer spoke about Michael Fowler, a member of Commission's Pinelands Educational Advisory Council, who passed away this past December. He said staff has drafted a resolution in Mr. Fowler's memory, documenting his admiration for the Pinelands and his affiliation with the Pinelands Short Course. Commissioner Ashmun moved the adoption of a resolution Honoring the Late Michael Fowler for His Service and Leadership as a Member of the Pinelands Educational Advisory Council and His Dedication to Raising Awareness and Appreciation of the New Jersey Pinelands (See Resolution # PC4-16-01). Commissioner Lloyd seconded the motion.

Chairman Lohbauer read the resolution into the record and presented the resolution to Mr. Fowler's wife and son.

Mr. Joel Mott said Mr. Fowler was a true friend of the Pinelands and he would be really pleased with the development of the interpretive center.

Update from New Jersey Department of Environmental Protection Assistant Commissioner for Natural and Historic Resources Rich Boornazian on the Motorized Access Plan (MAP) for Wharton State forest

Assistant Commissioner Boornazian said the MAP was devised to ensure that emergency vehicles and personnel could easily and safely respond to fires and other crisis situations. He said the U.S. Department of Transportation provides annual funding for motorized trails, and those funds also played a role in developing the MAP. The goal was to designate motorized trails for a better user experience and to allow for improved access for emergency services. A map was produced in conjunction with the Superintendent of Wharton State Forest, along with Geographic Information Systems (GIS) staff who documented all trails including fire breaks, plow lines and roads. He said the MAP received both positive and negative feedback. The Department received so much public feedback that Commissioner Bob Martin decided additional public input was warranted. DEP then met with officials from the municipalities that surround Wharton State Forest in addition to various stakeholders. Mr. Boornazian said next steps for the MAP will include continuing to engage all the stakeholders and preparation of an enforcement plan.

Commissioners provided various comments on the MAP and how it relates to the Comprehensive Management Plan.

Chairman's Report

Chairman Lohbauer said that Commissioner Fran Witt submitted his resignation to the Commission effective December 31, 2015. Chairman Lohbauer said Commissioner Witt had served as Gloucester County's representative on the Commission since February 2004. He was a member of the Commission's Personnel and Budget Committee, Public and Governmental Programs Committee and the Audit Committee. He said Fran brought a wealth of experience to the Commission. He served as the Mayor of the Borough of National Park for 16 years, and prior to that, had served on the Borough Council for eight years. He is the past Vice President of the New Jersey League of Municipalities, and he served on the Board of the Gloucester County Utilities Authority and the Gloucester County Solid Waste Authority.

Chairman Lohbauer said Commissioner Witt's successor is Deputy Freeholder Director Joe Chila, who will be sworn in at the February Commission meeting.

Chairman Lohbauer took a moment to thank all those who dedicated time and energy in trying to stop Senate Bill 2125. He said that both houses passed the bill. He said the Governor conditionally vetoed the bill to allow field sports including soccer to be defined as a low intensity recreational activity.

Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- The Commission will need to address and incorporate the change by the legislature (S2125) through the rule-making process. The change is limited to the Agricultural Production Area. She noted that any applicant proposing to create an athletic field or hold an athletic event would still need to obtain local approvals.

Commissioner DiBello noted that the Secretary of the Interior will evaluate the rule change when the time comes.

Commissioner DiBello questioned whether the evaluation of the pilot program stemming from S2125 would continue.

Ms. Wittenberg said staff will review the bill and determine the next steps with the Agriculture Committee.

Mr. Larry Liggett updated the Commission on the following:

- The status of Plan Review initiatives will be presented at upcoming Policy and Implementation Committee meetings.
- A technical workshop may be scheduled to review well impacts on the Kirkwood-Cohansey.

- As the new Legislature session begins, a new bill on affordable housing has been introduced. Municipal affordable housing obligations remain uncertain. He displayed a website that reported both Fair Share Housing Center and Econsult calculations, which differ significantly from each other. (<http://www.philly.com/philly/infographics/364889421.html>) An update on affordable housing will be presented at the next P&I Committee meeting.

Commissioner Lloyd asked about the role of the Fair Share Housing Center regarding Affordable Housing in New Jersey.

Ms. Stacey Roth said the Fair Share Housing Center is a non-profit organization that is the primary advocacy group on affordable housing issues. She said the Supreme Court invalidated the Coalition on Affordable Housing's (COAH's) third round rules and gave authority to the superior courts to determine municipal compliance with affordable housing obligations. She said the Fair Share Housing Center petitioned the courts to participate in these proceedings.

Mr. Liggett added that at this point, there are three sets of numbers for affordable housing: COAH's, Fair Share's and Econsult's.

Mr. Chuck Horner provided an update on multiple regulatory matters, including the following:

- A public hearing has been scheduled for Stafford Township's Waiver of Strict Compliance application for a compelling public need on January 20 at the Stafford Township Municipal Complex. The Commission will accept public comment on the Waiver application and companion public development application at today's meeting.
- The New Jersey Permit Extension Act of 2008 expired on December 31, 2015.
- Commission staff met with Mullica Township officials to discuss the Devonshire Motor Lodge property located on the White Horse Pike. Construction on that property was never completed because of zoning and the adoption of the CMP. A zoning change occurred a couple of years ago, and a new property owner plans to develop the site with offices.
- Staff met with Stafford Township to discuss a proposal to build a new fire department building in Warren Grove.

In response to questions raised about the compelling public need waiver application, Mr. Horner outlined the process.

DAG Moriarty reviewed the following South Jersey Gas litigation matters:

- The Pinelands Preservation Alliance's appeal of the Board of Public Utilities (BPU) reliability order from September 2015 is still pending. The BPU is handling this matter.
- An appeal of BPU's December 16, 2015 order filed by PPA. PPA has also filed a stay request with BPU.

- PPA filed an appeal of the December 23, 2015 Department of Environmental Protection's determination that the Upper Township parcel, where South Jersey Gas is proposing to build an interconnect station, is not encumbered by Green Acres funding or restrictions.

Chairman Lohbauer asked about South Jersey Gas' appeal concerning the Memorandum of Agreement.

DAG Moriarty said that it remains in a holding pattern.

DAG Moriarty said at this time there is nothing left for the Commission or its staff to do regarding the South Jersey Gas application and BPU's order.

Public Development Projects and Other Permit Matters

Chairman Lohbauer presented a resolution recommending the approval of a 3,500 square foot interpretive center at a park in Hamilton Township.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1987-1078.005) (See Resolution # PC4-16-01). Commissioner Barr seconded the motion.

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

Chairman Lohbauer presented the next resolution recommending improvements to an existing Garden State Parkway Maintenance Facility in Galloway Township.

Commissioner Barr moved the adoption of a resolution Approving With Conditions an Application for Public Development and Certificate of Appropriateness (Application Number 1997-0257.009) (See Resolution # PC4-16-02). Commissioner Brown seconded the motion.

Commissioner Prickett asked how the 50 foot buffer was established for this application.

Mr. Horner said that most development is not permitted in wetlands and the Commission requires a 300-foot buffer to wetlands in most instances. He explained that a reduced buffer is permitted as long as it is justifiable. He said the Commission uses the Pinelands Buffer Delineation Model to calculate a reduced buffer to wetlands. In some instances, such as this application, the applicant demonstrated compliance with the regulation to provide for a reduced buffer.

Commissioner Prickett asked if a staff member had visited the site.

Staff member Ernest Deman said he had been to the site and viewed the small isolated wetland in question. He described it as a small round depression in the Parkway right-of-way.

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

Public Comment on Agenda Items and Pending Public Development Applications

Marianne Clemente asked who the applicant is for the Stafford Township basin application.

Mr. Horner said Stafford Township is the applicant.

Theresa Lettman of the Pinelands Preservation Alliance commented on Application # 1993-0732.01. She said she has been conducting site inspections of the flooding issue in Stafford Township. She said the new basin might reduce some of the flooding but it will not solve the problem. She said the waiver should not be granted. She referenced a CME Associates map dated July 16, 2015 that depicts in color where the flooding will still occur. She raised concerns about impacts to the Swamp Pink population.

Emile DeVito requested clarification on which Stafford Township application was up for public comment.

Mr. Horner said the stormwater basin application is up for public comment, not the Warren Grove fire house application.

Jeff Tittel of the Sierra Club asked if the Commission's final action for the South Jersey Gas application was when it was deemed complete.

DAG Moriarty said the Commission issued a Certificate of Filing. The BPU issued an order for the project and that order has been appealed.

Bill Wolfe said he is unhappy that DEP did not stay for the public comment portion of the meeting and expressed dissatisfaction with the agency's stakeholder process on the MAP for Wharton.

Doug O'Malley of Environment New Jersey said he hopes the Commission rejects the compelling public need waiver because the basin is not a permitted use in the Forest Area, and he does not believe in bending the rules.

Margit Meissner-Jackson of the Sierra Club said she was opposed to the Stafford Township basin application.

Chris Jage of the New Jersey Conservation Foundation provided an analysis of the roads and routes negatively impacted at Wharton State Forest since the DEP has withdrawn the MAP. He said he is researching the possibility of filing a natural resource damage case. Mr. Jage provided a handout (see attached).

Emile DeVito of New Jersey Conservation Foundation said that after recently surveying a southwest portion of Wharton State Forest he has seen vernal ponds and wetland meadows that have been destroyed by off-road vehicles.

After a short discussion amongst Commissioners, Chairman Lohbauer requested that DEP's road closure plans be added to the January 29th P&I agenda.

Marilyn Miller said she has encountered off-road vehicles on her hikes.

Ordinances Not Requiring Commission Action

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

- Berlin Township Ordinances 2015-5 & 2015-6
- Hamilton Township Ordinance 1802-2015

No members of the Commission had questions.

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

Nancy Klein advised the Commission that Lucille Bates who owned Lucille's in Warren Grove passed away. She reminded Commissioners that the Pinelands was the nation's first national reserve and expressed concerns about the Pinelands' future.

Jeff Tittel of the Sierra Club said the state of New Jersey has not dealt with the ATV issue and budget constraints have left the park police force understaffed. He spoke about the threat of pipelines, electric generating plants and Congress' recent lift of banning the exportation of gas and the moratorium on drilling in the Atlantic.

Marianne Clemente of Barnegat Township suggested changing the CMP so the Commission has the final approval on private development applications.

Doug O'Malley of Environment New Jersey provided a summary of the December 16, 2015 BPU proceeding. He said that New Jersey has joined other states in suing the Environmental Protection Agency's emission rules.

Roni Detrick of New Lisbon asked the Commission to focus on better protection of the Pinelands.

Bob Jackson suggested that language in the CMP should be revised to state that once a decision has been made by the Commission, no one working for the Commission can change that outcome. He provided comments on the Tuckahoe Turf matter. He said it is imperative to follow the CMP.

Fred Akers of the Great Egg Harbor Watershed Association said he recently read an article featured in the Press of Atlantic City that reported DEP Fish and Wildlife will soon no longer allow enduro events on their lands.

Arnold Fishman of Medford Lakes provided comments about the BL England plant and the CMP.

Bill Wolfe of Bordentown said there were changes to the South Jersey Gas application even though the Executive Director wrote a letter to BPU saying otherwise. He raised concerns about DEP's recently issued stream encroachment permit for the New Jersey Natural Gas pipeline.

Jaclyn Rhoads of the Pinelands Preservation Alliance suggested that the Commission write a letter to local prosecutors about enforcing the law as it relates to the natural resource damages that are caused by ORV riders.

Mr. Horner said the ORV problem is largely a trespass issue.

Nathalie Neiss of Upper Township raised questions about an application for municipal facilities that Upper Township built without applying to the Commission for approval.

Mr. Horner said that Upper Township applied to Commission after the fact and the Commission did approve that application.

Dr. Emile DeVito said that PPA and the New Jersey Conservation Foundation appealed the Green Acres determination that the proposed interconnect station in Upper Township wasn't recreational land. He said the passing of Lucille Bates is a great loss to the community.

Adjournment

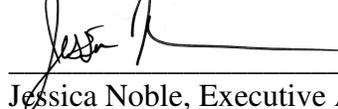
Commissioner Ashmun wished the Comprehensive Management Plan a happy 35th birthday. She believes the CMP needs to be revised, to include language which would allow Commissioner involvement in all major development projects. She thanked staff for their work.

Commissioner Lloyd said it was a pleasure to work with Commissioner Witt.

Chairman Lohbauer said he agreed with Commissioner Ashmun and that the Commission needs to have a role in major projects.

Commissioner Barr moved to adjourn the meeting. Commissioner McGlinchey seconded the motion. The Commission agreed to adjourn at 12:38 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: January 27, 2016