

Disclaimer

These minutes reflect the actions taken by the Commission during its February 12, 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 February 26, 2016.

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

MINUTES

**February 12, 2016**

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, Bill Brown, Giuseppe Chila, Paul E. Galletta, 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 Amy Herbold and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Joe DiBello and Jane Jannarone

Chairman Earlen called the meeting to order at 9:31 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 13 Commissioners present.)

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

Other

Chairman Earlen thanked Commissioner Fran Witt for his service and read a resolution into the record recognizing Commissioner Witt's tenure on the Commission. Each Commissioner offered well wishes to Commissioner Witt.

Commissioner Lohbauer moved the adoption of a resolution Expressing the Commission's appreciation to Fran Witt for his service as a member between February 13, 2004 and December 31, 2015 (See Resolution # PC4-16-04). Commissioner Lloyd seconded the motion.

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

Chairman Earlen introduced Mr. Joe Chila, Gloucester County's new representative on the Commission. He said Mr. Chila is currently serving his fifth year as Deputy Director of Gloucester County's Board of Chosen Freeholders. He resides in Woolwich Township, where he previously served as Mayor from 2003-2010. He is a member of International Brotherhood of Electrical Workers Lu. 351.

DAG Moriarty administered the Oath of Office to Commissioner Chila.

Chairman Earlen thanked Commissioner Lohbauer for the time he served as Chairman.

Minutes

Chairman Earlen presented the minutes from the January 16, 2016 Commission meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Brown seconded the motion.

Commissioner Ashmun asked about a letter to NJDEP on the Wharton Motorized Access Plan and the status of the Agriculture Committee.

Commissioner McGlinchey said he would speak with Ms. Susan Grogan about scheduling an Agriculture Committee meeting.

Ms. Wittenberg said we have not sent the letter to NJDEP but have had discussions with them about the MAP.

The minutes of the January 16, 2016 Commission meeting were adopted by a vote of 9 to 0. Commissioner Avery, Commissioner Rohan Green, Commissioner Chila and Chairman Earlen abstained from the vote.

Committee Chairs' Reports

Commissioner Lohbauer provided an update on the January 29, 2016 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the October 30, 2015 meeting.

The Committee received a briefing on affordable housing.

The Committee received an update on Plan Review Recommendations and the status of various issues, some of which may lead to rulemaking in the near future.

The Committee received public comment on NJDEP's Motorized Access Plan (MAP) for Wharton State Forest and efforts to provide access to the public while protecting environmental resources.

Commissioner Avery provided an update on the February 2, 2016 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the November 17, 2015 meeting.

Paul Leakan delivered a PowerPoint presentation on the Request for Proposals for the Pinelands Visitors Center. The Committee members recommended Commission approval of the resolution to authorize the Executive Director to enter into a contract for the fabrication and installation of exhibits at the Richard J. Sullivan Center for environmental policy and education.

Nancy Wittenberg and Jessica Lynch reviewed the check registers, electronic disbursements and application fees covering November and December. Michelle Russell provided an update on employee actions.

Commissioner McGlinchey reiterated former Commissioner Witt's comments regarding term limits on the Audit Committee.

There was no public comment.

#### Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- The Pinelands Short Course will be held on March 12, 2016 at Stockton University. Mr. Paul Leakan added that enrollment is going well.

Mr. Larry Liggett updated the Commission on the following:

- Staff continues to work on the following Plan Review initiatives: Pinelands Development Credit enhancements and the Kirkwood-Cohansey study.
- There are three main issues that face Pinelands municipalities regarding affordable housing: some towns do not have sewer, some towns have little to no vacant land in their sewer service areas and the assigned numbers are too high for some towns to absorb.

Commissioner Prickett asked if there were any new updates on affordable housing since the Commission was last briefed.

Mr. Liggett said staff is currently drafting a letter that will be sent to the appropriate courts outlining the role of the Comprehensive Management Plan (CMP). He said Ms. Grogan suggested including the relevant Municipal Fact sheets from the Long Term Economic Monitoring report, along with the letter. He said that the courts have extended protection to towns while the towns continue to plan.

Chairman Earlen requested that the letter be shared with Commissioners.

Commissioner Ashmun asked about the three sets of affordable housing numbers.

Mr. Liggett said the Commission will compare each of those numbers to the Commission's build out estimates. He said it gets very complicated with Pinelands towns that are both in and out of the Pinelands. The goal is to make it clear that Pinelands municipalities are certified towns that have zoning consistent with the CMP and environmental factors. He said the numbers assigned to the 12 municipalities that are entirely within the Pinelands Area seem high.

Ms. Roth added that each court has been assigned a numbers master. She said each town is working with an expert to develop a Fair Share Plan. She said a municipality is required meet its fair share housing obligation but in doing so cannot diminish environmental protection. She said the role of the Commission is to inform the courts of the CMP requirements.

Ms. Grogan said our goal is to make the courts and the towns aware that the Commission is available to assist.

Commissioner Lloyd asked if the Commission was planning to file an amicus brief.

Ms. Roth said at this point the Commission is not seeking participant status.

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

- It is anticipated that the Stafford Township Compelling Public Need Waiver for a new stormwater management basin will be on the March agenda. Mr. Horner reminded Commissioners that the Commission accepted public comment at the January Commission meeting and again at the public hearing on January 20<sup>th</sup>. The record is now closed.
- Staff attended a meeting at NJDEP about a wetlands mitigation project in Bass River Township. The project is proposing to convert a former borrow pit into a wetland. The pit is currently covered with phragmites.
- Staff met with Egg Harbor City officials on January 20th about a proposed redevelopment project.

- Staff met with an applicant regarding a redevelopment proposal in South Toms River. Environmental concerns were discussed. The municipal landfill is located on the parcel. The application would encompass both the capping of the landfill and the proposed development.
- Staff continues to handle the remainder of projects covered under the Permit Extension Act.

Commissioner Galletta asked what process is being used to remove the phragmites for the mitigation project.

Mr. Horner said herbiciding would be used in two phases to remove the phragmites. He said that a berm would also be eliminated as part of the application in an effort to reintroduce tidal flooding back into the area.

Commissioner Avery asked if there was anything in writing about the South Toms River rezoning proposal.

Ms. Grogan said that a general description of the proposal was submitted along with a conceptual plan.

#### Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval of a road improvement project in Egg Harbor City.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2010-0047.005) (See Resolution # PC4-16-05). Commissioner Barr seconded the motion.

Commissioner Ashmun raised concern about paving a road to the width of 27 feet in a wetlands buffer.

Mr. Horner said the applicant made the representation that the paving was necessary for public safety. Staff agreed and tried to make that clear in the public development report.

Commissioner Lloyd asked what criteria are used to determine public safety.

Mr. Horner said in this instance the proposed cartway was not abnormally wide. He said staff deferred to the municipal engineer and agreed with their determination that the proposed road improvements will allow for safe vehicle and pedestrian travel.

The Commission adopted the resolution by a vote of 12 to 0. Commissioner Lloyd abstained from the vote.

Chairman Earlen presented the next resolution recommending the approval of a Waiver of Strict Compliance for the construction of a single family dwelling in Medford Lakes.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 1987-1185.001) (See Resolution # PC4-16-06). Commissioner Lohbauer seconded the motion.

Commissioner Prickett asked if the required Pinelands Development Credit (PDC) had been purchased.

Mr. Horner explained that the 0.25 PDCs had previously been purchased. He added that the Commission had issued a Waiver that had expired. He said the town inadvertently issued a construction permit. He said when staff found out that construction of the dwelling had begun they alerted the town of the error. He said the applicant submitted a new application for a Waiver of Strict Compliance, and it is before the Commission today.

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

Chairman Earlen presented a resolution recommending the denial of a Waiver of Strict Compliance application for the construction of a single family dwelling in Hamilton Township.

Commissioner McGlinchey moved the adoption of a resolution Denying an Application for a Waiver of Strict Compliance (Application Number 2015-0044.001)(See Resolution # PC4-16-07). Commissioner Barr seconded the motion.

Mr. Horner said in order for the applicant to qualify for the state's Limited Practical Use acquisition program, the Commission's regulations require that parcel must first be denied a Waiver of Strict Compliance.

Commissioner Galletta asked how much the state would pay for the parcel.

Ms. Grogan said this parcel is larger than the usual. She said in the past the state has purchased smaller parcels for \$2,000.

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

#### Public Comment on Agenda Items and Pending Public Development Applications

Chairman Earlen requested that commenters keep their comments to three minutes and said that this is not an opportunity for question-and-answer.

Bill Wolfe of Bordentown, NJ referenced the memo in the Commission's packet from the Chief Planner about Stafford Township Ordinance 2015-15 and Upper Township Ordinance 002-2013. He said the CMP should include policy on climate change and net zero energy design and construction standards.

Jeff Tittel of the New Jersey Sierra Club said with regard to the affordable housing numbers, its where and how you build that is important. He suggested the Commission re-

examine an existing Memorandum of Understanding with NJDEP on Water Quality Management Planning to ensure protections of the Pines from sewers.

Theresa Lettman of the Pinelands Preservation Alliance provided comments on Application # 1983-5837.059. She questioned whether the widening of the taxiway at the airport is part of an existing Memorandum of Agreement (MOA) the Commission entered into with the South Jersey Transportation Authority. She noted that, as part of that MOA, a Grassland Advisory Committee was formed and that she is a member of that Committee. She said the Committee has not had a meeting for some time. She is concerned about the impact the development will have on bird habitat at the airport.

#### Ordinances Not Requiring Commission Action

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

- Hammonton Town Ordinance 20-2015
- Pemberton Township's December 2015 Housing Element and Fair Share Plan
- Stafford Township Ordinance 2015-15
- Upper Township Ordinance 002-2013
- Weymouth Township Ordinances 543-2015 & 545-2016

Ms. Grogan noted that a number of towns have been submitting redevelopment plans to the Commission.

No members of the Commission had questions on the ordinances.

Commissioner Ashmun asked if there was a staff Committee addressing climate change.

Ms. Wittenberg said multiple staff members including herself, Mr. Liggett and Ms. Grogan have been working on issues related to climate change.

#### Other Resolutions

Chairman Earlen presented a resolution to award a contract for the installation of exhibits in the Richard J. Sullivan Center.

Commissioner Ashmun moved the adoption of a resolution To Authorize the Executive Director to Enter Into a Contract for the Fabrication and Installation of Exhibits at the Richard J. Sullivan Center for Environmental Policy and Education (See Resolution # PC4-16-08). Commissioner Lohbauer seconded the motion.

Prior to delivering the presentation, Mr. Leakan provided some background information about the effort to create a Pinelands Visitor Center. (See presentation slides for additional information.)

Mr. Leakan said that, in 1988, Congress passed legislation calling on the State of New Jersey to create and implement a multi-faceted plan to raise awareness and appreciation of the Pinelands National Reserve. In response, the Pinelands Commission, the New Jersey Division of Parks & Forestry and the National Park Service joined forces to create and implement the Pinelands Interpretive Plan. Since the passage of the Plan in 1994, the partners have produced and installed dozens of Pinelands-themed kiosks and wayside panels in all of the state parks and forests in the Pinelands. They've also worked to create and install 22 Pinelands National Reserve road signs on the Parkway, AC Expressway and many county roads, and they produced and continue to distribute the Pinelands National Reserve brochure.

The Pinelands Interpretive Plan calls for creating an official Pinelands Visitor Center. Recognizing the need for such a Visitor Center, the NPS provided the Commission with \$50,000 to design exhibits at the Richard J. Sullivan Center as part of an overall plan to convert a portion of the building into a Pinelands Visitor Center.

Mr. Leakan noted that the Commission added a new Education and Outreach component to the Pinelands Conservation Fund in 2014. The new component will fund the exhibits in the Pinelands Visitor Center.

See attached presentation slides for further details on the Request for Proposal, the companies who bid on the project, the evaluation committee and the criteria used to make the selection of the bidder.

Mr. Leakan noted that the Commission will be open during the remodel and installation phase. He showed a slide depicting the proposed schedule of the project.

Multiple Commissioners asked questions.

Commissioner Prickett asked about repurposing the tiles on the receptionist desk. Mr. Leakan said the designer is aware of the importance of the tiles and will work to utilize them.

Chairman Earlen asked about the budget implications. He said there is \$350,000 budgeted for the project, however the cost of the project is \$368,849.

Ms. Wittenberg said that we will work with the Contractor to keep the price as close to \$350,000 as possible. She said in the event that is not possible, the FY 17 budget will include the additional monies from the Educational and Outreach account to make up the difference.

Commissioner Avery said the project is being funded by the Pinelands Conservation Fund, which derives its funding from Memoranda of Agreement. He noted that no state-appropriation funding will be used. He also reiterated the importance of recycling the tiles that are currently around the existing reception desk. He thanked the National Park Service for its involvement.



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

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

Jeff Tittel of the New Jersey Sierra Club said the visitor center is a great idea. He said the Pinelands have faced many threats this past year, including turf farm legislation, pipelines, sewer impacts, affordable housing legislation and future MOA's.

Bill Wolfe of Bordentown, NJ said fire should be the preferable tool when trying to manage invasive species, not herbicides. He said the public deserves to hear conversations with private stakeholders groups especially on policy discussions. He said after recently reviewing the Plan Review report, he noticed that the CMP amendments were required to be submitted to the Governor's office. He was curious where the requirements stemmed from. He said he was recently given a tour at Wharton and saw first-hand the ORV destruction. He said some roads are now streams.

Bob Filipczak of Linwood, NJ said the press is portraying the South Jersey Gas pipeline as a reliability project. He said there aren't any reliability issues with gas in South Jersey. He said the BL England Plant should remain coal-fired. He referred to NJDEP's stormwater regulations as bogus. He said the construction of Exit 44 on the Garden State Parkway destroyed a forest. He provided stormwater related documents and photos of Exit 44.

Marianne Clemente of Barnegat, NJ questioned why the oath does not include language regarding the CMP. She said she supports the interpretive center project because it will educate the younger generation.

Jason Howell of the Pinelands Preservation Alliance thanked Commissioners for their interest in the ORV issue. He spoke about a hobby called "mudding" in which large trucks with oversized tires are used for the sole purpose of spraying mud. He said this activity has caused severe damage to lands in Wharton. He emphasized the importance of soil conservation and believes motorized vehicle routes need to be shut down. He noted there is lack of law enforcement at Wharton to deal with the ORV issue.

Margit Meissner-Jackson of Ocean County Sierra Club said that the younger generation does not want to live in the suburbs and that the infrastructure proposed in New Jersey is not necessary.

Michael Tamm of Mt. Holly, NJ said he remembers reading the draft CMP in 1979. He said if every Commissioner would read the CMP, things would be different. He said he does not support the pipeline. He said the land disturbance and potential for fire associated with the pipeline are too great. He expressed dismay over the three minute limit on public comment. He said that is not a democracy.

Arnold Fishman of Medford Lakes, NJ asked about the status of the Ad Hoc MOA Policy Committee and a report that was to be drafted and circulated.

Commissioner Ashmun said she is working with staff and it will be circulated soon.

Temma Fishman of Medford Lakes, NJ read a statement into the record about the effects of pipelines and climate change on the Pinelands. (see attached)

Marianne Clemente asked when the public's questions will be answered, such as Mr. Wolfe's question.

Bill Wolfe said he recently read an investor briefing and that by the year 2020 there will be an excess of natural gas.

Linda Chamberlain of Tabernacle, NJ said the interpretive center is a wonderful idea and she hopes it will show the fragility of the Pines.

Brad Sterling of Pemberton Township, NJ raised concerns about how the Commission responds to comments.

Ms. Wittenberg said the public comment portion is for the Commission to hear the public's comments. If an individual has a question, they should direct them to a staff member.

#### Adjournment

Commissioner Prickett encouraged everyone to sign up for the Short Course.

Commissioner McGlinchey noted that in the near future additional stormwater regulations will be imposed. He also noted that the Department of Transportation is still not in compliance with the stormwater rules.

Commissioner Avery said that he believes staff does a good job of making decisions in accordance with the Plan. He said the public judge staff on decisions that need to be made but he knows staff does their best to implement the plan as they understand it. He said that our mission statement is more than just preservation of the Pinelands. He also said that he is not a fan of package treatment plants. He said he believes that the Clean Water Enforcement Act instituted penalties to anyone in violation of requirements of a discharge permit and also discouraged the use of package plants. He asked staff for the Statute number.

Commissioner Lloyd said it is Statute 58.

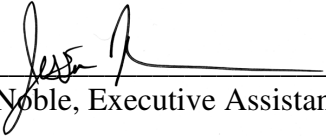
Commissioner Chila offered thanks for the warm welcome and looks forward to serving on the Commission and getting involved with affordable housing. He also noted that he is an avid camper and backpacker.

Commissioner Lohbauer thanked Ms. Wittenberg and Mr. Leakan for the work on the interpretive center. He also asked if staff could arrange for a tour at Wharton State Forest.

Chairman Earlen said with the addition of a new Commissioner, we will be looking to re-arrange some Committee responsibilities. He said that he will be joining the Audit Committee and Commissioner Avery will be taking over the responsibility of the Chair on the Audit Committee.

Commissioner Barr moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 11:57 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: February 22, 2016