

Disclaimer

These minutes reflect the actions taken by the Commission during its June 8, 2018 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 26, 2018.

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

MINUTES

June 8, 2018

Commissioners present

Bob Barr, Jordan P. Howell, Jane Jannarone, Ed Lloyd, 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) Bruce Velzy.

Commissioners Absent

Candace Ashmun, Alan W. Avery Jr., Giuseppe Chila, Paul E. Galletta, D'Arcy Rohan Green and Gary Quinn.

Chairman Earlen called the meeting to order at 9:33 a.m.

DAG Velzy read the Open Public Meetings Act Statement.

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 8 Commissioners present at the meeting.)

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

Minutes

Chairman Earlen presented the minutes from the open and closed sessions of the May 11, 2018 Commission meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Lloyd seconded the motion.

The May 11, 2018 open and closed session Commission meeting minutes were adopted by a vote of 8 to 0.

Committee Chairs' Reports

Chairman Earlen provided an update on the May 18, 2018 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the April 27, 2018 meeting. The Committee recommended certification of Mullica Township Ordinance 6-2018, revising permitted uses, water quality standards and zoning boundaries applicable to the Pinelands Village of Weekstown to recognize a pre-existing non-conforming use, a boat building facility.

The Committee received an update on the re-examination of the Long-Term Economic Monitoring Program and efforts by staff to improve the report and consider what special studies should be undertaken. A report submitted by a consultant from Rutgers University is under review at this time. The Office of Information Technology has been consulted regarding the creation of an interactive website where users can download the data for their own use.

The Executive Director informed the Committee that the Federal Aviation Administration (FAA) and the South Jersey Transportation Authority (SJTA) are interested in changing the terms of a 2004 Memorandum of Agreement (MOA) that required the creation of grassland habitat in exchange for further development at the Atlantic City Airport. The FAA wants the habitat moved away from the runways due to concerns with airline safety and potential bird strikes. Chairman Earlen added that no action was taken on the matter.

Executive Director's Reports

ED Wittenberg updated the Commission on the following:

- The Audit team is on-site and working on the FY 17 Audit.
- Construction for the Pinelands exhibits will begin on June 18th and is expected to be complete mid-September.
- Staff met with the Joint Base's new Environmental Chief.
- Staff is scheduled to meet at the Atlantic City Airport with SJTA, the FAA and New Jersey Department of Environmental Protection (NJDEP) Fish and Wildlife staff to look at the current grassland habitat. SJTA has concerns about the close proximity of the runway to bird habitat. FAA supports SJTA's concerns. The FAA issued a certification after the 2004 MOA went into effect that advised habitat should not be established near runways. SJTA has started looking for other potential habitat areas. ED Wittenberg said she hoped to have this matter on the July P&I Committee meeting agenda.

- Staff met with the New Jersey Farm Bureau and a consultant that is working on a transfer of development rights program for the state.

Director Larry Liggett updated the Commission on the following matters:

- There were funds included in the FY 18 Budget for a stormwater basin study in partnership with USGS. Staff will be proposing that those funds be rolled over into the FY 19 budget and increased so that two basins can be examined.
- Staff discussed the Pinelands Infrastructure Trust Fund with NJDEP representatives, who are interested in including Pinelands projects in their Intended Use Plan to be issued later this year. The Commission will ultimately need to adopt a revised Pinelands Infrastructure Master Plan containing revised priorities and criteria so that the approximately \$15 million in available funding can be appropriately allocated to new projects.
- Staff continues to work out the details of an archaeological field school at a Native American site in Shamong Township. The Archaeological Society of New Jersey is interested in partnering with the Commission on the dig now that the Commission's original partner, Monmouth University, is not able to participate.

Director Chuck Horner provided information on the following Regulatory matters:

- Mullica Township issued site plan approval for the Sweetwater Casino Restaurant. Township officials believe construction will begin in the fall.
- Commission staff attended a municipal court hearing that raised a State Right to Farm procedural issue. The State Right to Farm Act and its implementing regulations do not supersede the Pinelands Comprehensive Management Plan (CMP) regulations. The issue raised by the court hearing was how a Pinelands Area municipality, that administers the CMP regulations through their certified municipal land use ordinances, should proceed with potential Right to Farm issues. Written guidance in a letter from the State Agriculture Development Committee staff indicated that all potential municipal Right-to-Farm issues must first be filed with the County Agricultural Development Boards.
- Staff will be meeting with Southampton Township officials, at their request, to discuss whether a commercial use meets the Commission's regulations.

Communications Officer Paul Leakan updated the Commission on the following:

- Artifacts will soon be sent to Split Rock Studios in Minnesota to be used for the final production of the exhibits.
- Enrollment for the Summer Short Course on July 19th is up compared to last year.
- The Pinelands Orientation will be held on July 24th at the Commission. There will be a presentation on conformance.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending approval for the installation of a 1.42 acre ground mounted solar energy facility in Evesham Township.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1981-0556.051) (See Resolution # PC4-18-16). Commissioner Barr seconded the motion.

Commissioner Lohbauer said there is currently no mechanism in the CMP to require an evaluation as to whether an applicant has the ability to site solar panels on impervious surfaces before allowing such facilities to be developed on open fields. He suggested the matter be discussed by the P&I Committee.

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

Planning Matters

Chairman Earlen presented a resolution recommending the certification of Mullica Township's Ordinance 6-2018.

Commissioner Lohbauer moved the adoption of a resolution Issuing an Order to Certify Ordinance 6-2018, Amending Chapter 144 (Land Development) of the Code of Mullica Township. (See Resolution # PC4-18-17). Commissioner Pikolycky seconded the motion.

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

Chairman Earlen said the resolution related to adoption of CMP amendments changing the interested party definition will be tabled to a later date. He added that some Commissioners were not present at the closed session discussion last month where DAG Velzy offered guidance on this matter.

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

Thomas Doherty of New Gretna said he is opposed to the tree removal surrounding Bass River Fire Tower (Application # 1996-1386.003) because of the loss of recreation, history, environment and business. He said replacing the fire tower with a taller structure would be a better solution than removing trees.

Richard Buzby, Chief of Police for Little Egg Harbor Township, supports Application # 1996-1386.003 to remove trees surrounding the Brendan Byrne State Forest Fire Tower for better forest fire detection. He said he appreciates the history of the trees planted by the Civilian Conservation Corps (CCC), but early detection of forest fires is crucial in battling the fires and in protecting the lives of the public and firefighters and other emergency response teams. He said a new tower would be ideal but its not in the budget. He shared a letter addressed to Acting NJDEP Commissioner Catherine McCabe (See attached.)

Karl Swanseen of Bass River Township is opposed to removing trees at Bass River State Forest (Application # 1996-1386.003). He said the real issue is the age and height of the Bass River Fire Tower. He said other solutions to fire detection need to be investigated. He said other areas in New Jersey are using camera systems to detect fires.

Bill Brash of the New Jersey Fire Safety Council said he supports the removal of non-native trees currently blocking the view at the Bass River State Fire Tower. He said technology is great but cannot be relied upon in fire detection. (See attached letter of support.)

Carol Bitzberger of Bass River Township said alternatives in fire detection should be researched. She added that she wrote to the Commission and never got a response. She said she would like to see the use of cameras to detect fires.

Riki Losiewicz provided a brochure from EnviroVision, an imaging system that detects smoke. She also provided a handout on the original Bass River State Forest Management Plan Objectives. She said there are alternatives to detecting fires other than using antiquated fire towers and cutting trees. Handouts are attached.

Frank Runzol, Acting Fire Chief of Little Egg Harbor, said he supports Application # 1996-1386.003 for the tree removal at Bass River State Forest. He said the fire tower is the best mechanism to spot fires. He said it would be nice to replace the tower because of its age but due to financial constraints the replacement is not a possibility. He said the bottom line is life and property safety.

April Dolch of Bass River Township raised concerns about potential injuries to the men and woman who have to go up in the aging tower to fire watch. She said there should be more consideration into the application.

Kathy Gardener who provides guided hikes around the Bass River Fire Tower said the forest is enchanted.

Karl Swanseen reiterated that technology is the way to detect the fires.

John Ryan of Bass River Township said that the forest is a gem and we should use what happened at Lake Absegami as a lesson. He said that when cutting trees, less is best.

Sandy Anderson of Sweetwater said we need to preserve the forest that we have.

Director Horner stated that staff will address the comments offered today in the Public Development report.

Commissioner Prickett asked Director Horner about the Commission's process for responding to public comment.

Director Horner said staff responds back to the commenter, in writing, advising them that their comments have been received. Staff also addresses the comments in the public development report.

Ordinances Not Requiring Commission Action

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

- Egg Harbor Township Ordinance 2018-14
- Shamong Township Ordinance 2018-6
- Stafford Township Ordinance 2018-05
- Waterford Township Ordinance 2018-10

No members of the Commission had questions.

Other Resolutions

Chairman Earlen presented a resolution recommending the proposal of amendments to the CMP related to alternate design septic systems.

Commissioner Lloyd moved the adoption of a resolution To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Alternate Design Wastewater Treatment Systems Pilot Program). (See Resolution # PC4-18-18) Commissioner Jannarone seconded the motion.

Chief Planner Susan R. Grogan said that at the April 27, 2018 P&I Committee meeting, Mr. Ed Wengrowski presented the Implementation Report for the Alternate Design Septic Systems Pilot Program. She said the Implementation Report recommended that the August 5, 2018 installation deadline for Pilot Program systems, of which there are four, be eliminated. She added that should a system need to be suspended from the program the CMP authorizes the Executive Director to cease installations of a specific technology. She said the amendments will also allow for new septic system technologies to participate in the Pilot Program.

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

General Public Comment

Diane Bynun of Medford, NJ, said she is concerned about the trees at Bass River State Forest. She said the trees were planted under President Franklin D. Roosevelt's administration and he loved trees.

Dr. Emile DeVito of the New Jersey Conservation Foundation raised an issue about a temporary deed restriction placed on a portion of land at a mining operation in Lacey Township. He said in the 1990's, a consultant's report determined that there were rare species on the property and that the surrounding land should be preserved. He said the land was never preserved, and a current threatened and endangered species report has not

found any species. He said because there were no findings, the mining operation was allowed to expand. He said the Commissioners don't know about these issues because mining is private development and reviewed only by staff. He also noted another mining application in Woodland Township. He said that the proposed deed restriction on the Woodmansie mine is better because it's not temporary like the deed restriction in Lacey Township. He said there should be public hearings on mining applications and better survey protocols.

Chairman Earlen asked staff to provide some details about the mining applications that Dr. DeVito commented on.

Director Horner said staff felt a temporary deed restriction was adequate based on the layout of property at the mining operation in Lacey Township.

Commissioner Prickett said he was unfamiliar with a temporary deed restriction and was curious if staff had used them in the past.

Director Horner said the Commission frequently enters into these types of agreements and not just for mining applications. He said the deed restrictions protect the areas that are potentially critical habitat.

Commissioner Lloyd said he agreed with Dr. DeVito's comments and it reminded him of Ocean Acres in the sense that once you develop a certain area, there are impacts on the T&E species located in the surrounding parcels. He said the Commission should be taking a closer look at temporary deed restrictions.

Director Horner offered that the Ocean Acres development was challenging but not quite the same as the Lacey Township mining application.

Commissioner Lohbauer asked how staff addresses conflicting Threatened & Endangered (T&E) species data.

Director Horner said there have been instances where a T&E survey has been submitted and staff knows that the results are not accurate, either based on a neighbor or interested party notifying the Commission of the presence of a certain T&E species. He said the Commission requires that surveys use the best scientific information available. He said the survey needs to be done during a season when the species is most active; for example, snakes surveys must be conducted during the spring and fall months. He said if an applicant submits a survey that was undertaken in the wrong season, they will have to re-survey during the correct season and re-submit.

Commissioner Lohbauer asked if a survey is received that produces negative T&E results but staff knows otherwise, can staff contest the results.

Director Horner said that staff encounters inconsistent T&E surveys quite often. He said when the Commission staff receives a municipal approval that is not consistent with the

CMP, the staff issues a letter to the applicant scheduling a public hearing. The applicant cannot move forward until the issue is resolved. He added that this is what Commission staff refers to as the “call up” process.

Director Horner added that the Woodmansie mining application was called up for inconsistencies with the T&E standards. He said the applicant is working on an alternative approach to resolve the issue and, at this time, all public hearings that have been scheduled have been adjourned until a later date.

Dr. Jonathan Peters said the USDA released new data on the long-term monitoring of recreation uses. He also said that the Bureau of Economic Analysis has found that not all recreation is created equal with regard to economic value. He said activities have both low and high economic values associated with recreational uses. He said the Long Term Economic Monitoring report should include additional analysis, as a growing amount of land in the Pinelands is preserved and or deed restricted.

Ryan Rebozo of the Pinelands Preservation Alliance said it is crucial that T&E surveys are conducted during the correct season, especially when plants are blooming and animals are not hibernating. He recommended the Commission take a closer look at its T&E survey protocols because even some small changes could make a big difference.

Dr. Emile DeVito of the New Jersey Conservation Foundation said there is a parcel on Route 72 owned by Woodland Township and surrounded by both state land and the Michael Huber Preserve. He said the parcel is home to many red-headed woodpeckers. He said Woodland Township has requested that the State declare the parcel in need of redevelopment. He said because of the bird habitat, the parcel should be acquired by the state.

Jason Howell of the Pinelands Preservation Alliance provided an update on the efforts of a 350-member volunteer group that has been cleaning up trash and debris throughout the Pinelands.

Other

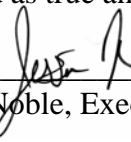
Commissioner Prickett requested an update on the forestry application at Lake Absegami sometime in the near future.

Commissioner Lohbauer said that based on the information provided by the Attorney General’s office on the “interested party” matter at the May Commission meeting and before the matter is placed on the agenda for a vote, he would like to afford the public another opportunity to comment on the issue.

Adjournment

Commissioner Jannarone moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 11:27 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: June 22, 2018