

Disclaimer

These minutes reflect the actions taken by the Commission during its October 14, 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 October 27, 2016.

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

MINUTES

**October 14, 2016**

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, 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 Lisa LeBoeuf (via telephone) and Deputy Attorney General (DAG) Sean Moriarty.

Commissioners Absent

Bill Brown

Chairman Earlen called the meeting to order at 9:34 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 14 Commissioners present.)

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

### Minutes

Chairman Earlen presented the minutes from the September 9, 2016 Commission meeting. Commissioner McGlinchey moved the adoption of the minutes. Commissioner Avery seconded the motion.

The minutes of the September 9, 2016 Commission meeting were adopted by a vote of 12 to 0. Commissioner Quinn and Commissioner Rohan Green abstained from the vote.

### Committee Chairs' Reports

Chairman Earlen noted that the New Jersey Department of Environmental Protection was present to discuss its efforts at Wharton State Forest. He reminded the members of the public that this is not a public hearing.

Commissioner Avery noted that the Personnel & Budget Committee did not hold a meeting this past month and the October 18, 2016 meeting has been cancelled. He said the Audit Committee held a pre-audit conference with the State Auditor at the end of September.

### Executive Director's Reports

Ms. Wittenberg provided an update on the following:

- Staff provided an overview of the Comprehensive Management Plan (CMP) efficiency measures and the Black Run (Medford/Evesham) rule proposal to the Governor's policy office on September 29<sup>th</sup>.

Mr. Chuck Horner updated the Commission on the following:

- Staff met with representatives from the Forest Fire service to discuss measures to improve the visibility from fire towers in both Brendan Byrne State Forest and Bass River State Forest. Forest fire fuel breaks were also discussed.
- Staff met with an applicant and representatives of Medford Township to discuss the maintenance of the Singer house. Mr. Horner noted that some years ago the Commission determined the Singer house was a historic structure. The Singer house which is located adjacent to the Medford Township Police Department has been deteriorating over the years. He said when Medford Township applied to construct the Police Department, staff issued a Certificate of Appropriateness for the treatment of a historic structure, and to date nothing has been done about the stabilization of the Singer house. The applicant and township said they would notify the Commission about the next steps.
- Staff met with developers to discuss future plans for the former Burlington County College property in Pemberton. Mr. Horner said there are extensive wetlands on the parcel, but development potential remains.

Ms. Grogan updated the Commission on the following:

- Ms. Robyn Jeney met with Burlington and Ocean County representatives about existing Memoranda of Agreement between the Counties and the Commission for roadside management (suitable mowing). Staff will continue to have these types of meetings to ensure that the best management practices for mowing are being

- followed. A new roadside habitat page was recently created on the Commission's website: <http://www.nj.gov/pinelands/landuse/current/roadhab/index.shtml>
- During the September Commission meeting, a member of the public raised concerns about a redevelopment plan that the Borough of South Toms River was preparing to adopt; however, the plan did not provide an opportunity for the use of Pineland Development Credits (PDC). Ms. Grogan contacted the Borough and confirmed that the Borough was prepared to adopt the redevelopment plan. After advising the Borough about the omission of PDCs and other Pinelands requirements, the Borough postponed adoption of the Plan. Ms. Grogan said she provided South Toms River with suggested revisions to its redevelopment plan.
  - Commission staff is currently reviewing two other redevelopment plans. Barnegat Township has adopted a redevelopment plan on the old Shoreline Sand and Gravel mining site. The plan allows for approximately 800 units. Waterford Township has been working on its redevelopment plan for some time, and it will be discussed at the October Policy & Implementation (P&I) Committee meeting.

Mr. Paul Leakan said the Commission will hold its Annual Pinelands World Water Monitoring Challenge on Friday, October 21<sup>st</sup> at Batsto Village. He said approximately 250 students from five schools will be participating at this year's event.

Chairman Earlen asked about the status of the interpretive center.

Mr. Leakan said there has been a slight delay with the project because of permitting. He said the Department of Treasury issues the permits.

Ms. Stacey Roth said oral argument was conducted for the South Jersey Gas appeal on October 11, 2016.

#### Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval for the widening of the Atlantic City Expressway Bridge No. 20.

Commissioner Barr moved the adoption of a resolution Approving With Conditions an Application for Public Development and Certificate of Appropriateness (Application Number 1984-0655.031)(See Resolution # PC4-16-31). Commissioner Lohbauer seconded the motion.

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

Chairman Earlen presented a resolution recommending the approval of the following three applications: reconstruction of an existing runway blast pad at the Atlantic City International Airport, reconstruction of the Lake Mishe Mokwa Dam in Medford Lakes and construction of a 1,500 square foot concession building and pedestrian path in Hamilton Township.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1983-5837.061, 1988-0470.013 & 1993-1180.004)(See Resolution # PC4-16-32). Commissioner Barr seconded the motion.

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

Chairman Earlen presented a resolution recommending the approval of a 2,500 square foot municipal mechanical building and the development of a bicycle path in the Town of Hammonton.

Commissioner Galletta recused himself and left the dais.

Commissioner Avery moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1988-0706.017 & 2016-0087.001) (See Resolution # PC4-16-33). Commissioner Lohbauer seconded the motion.

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

Chairman Earlen presented a resolution recommending the approval for a change of use from a daycare center to municipal building for the Borough of South Toms River.

Commissioner Avery moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2000-0071.006) (See Resolution # PC4-16-34 ). Commissioner Jannarone seconded the motion.

Commissioner Prickett asked for confirmation that the stormwater basin expansion was depicted in the engineers plan, condition #1 of the report.

Mr. Horner confirmed that the basin is represented on the plans.

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

### Planning Matters

Commissioner Earlen said the next Resolution is related to the Limited Practical Use Program.

Commissioner Ashmun moved the adoption of a resolution Determining the Eligibility of a Parcel of Land for Acquisition by the Department of Environmental Protection Pursuant to the Limited Practical Use Program (See Resolution #PC4-16-35). Commissioner Lohbauer seconded the motion.

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

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

Marilyn Miller asked about the status of the South Toms River Borough redevelopment plan.

Ms. Grogan suggested that Ms. Miller check the Borough's website for the adoption schedule because that information had not yet been provided to the Commission.

#### Ordinances Not Requiring Commission Action

There were no ordinances on this month's agenda.

#### Other Resolutions

Commissioner Earlen said the next Resolution is to approve the Commission's Annual Report.

Commissioner Lohbauer moved the adoption of a resolution To Approve the New Jersey Pinelands Commission's 2015 Annual Report (See Resolution # PC4-16-36).  
Commissioner Galletta seconded the motion.

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

Commissioner Earlen presented the final Resolution authorizing the Executive Director to accept grant money to conduct a study.

Commissioner Lohbauer moved the adoption of a resolution To Authorize the Executive Director to accept a grant from The Academy of Natural Sciences of Drexel University through the William Penn Foundation to conduct a study titled, "Point and Non-point Sources of Endocrine Disrupting Compounds and the Potential Effects on Fish and Frogs in the New Jersey Pinelands" (See Resolution # PC4-16-37). Commissioner Prickett seconded the motion.

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

#### Update on Off-Road Act Wharton State Forest

As mentioned during past meetings, Ms. Wittenberg said staff has been working to analyze a number of sites that have been identified as having off-road vehicle damage. She said Ms. Jeney will review the findings of her work. The NJDEP will discuss its progress on the multiple initiatives it has been working on. She said the Commission has been working closely with the NJDEP and will continue collaborating on the next steps at Wharton.

Ms. Jeney said that a total of 296 damaged sites were reported to the Commission, all of which are described in the GIS attribute table. She said that by classifying each site according to the various attributes, the data can now be sorted and analyzed. She said all reported sites were provided to the Commission with GPS coordinates. She said next, each site was assigned a municipality. She said a location name was given to each site to identify the approximate area where the site is located in Wharton State Forest. She said

relevant identifiers used were: body of water, road name or place name. Ms. Jeney then described the five key attributes assigned to each site: wetlands/uplands, stream/pond, linear, point density and extent of disturbance. She said the wetland /upland indicator was not field verified but based on a combination of soil survey mapping along with remotely sensed wetlands mapping. She said hydrography data adapted by the NJDEP for the state of New Jersey was used to determine whether a site was in a stream, a streambank, a pond or none at all. She said the linear field describes whether a point (site) is located within a road, a cleared utility line right-of-way or other linear feature (for example fire fuel break). She said the next attribute is point density and this categorizes each point into low, medium or high based on the number of other sites within a one mile radius. She said low means the point is within one mile of up to nine other points and high is identified as being within one mile between 21 to 35 other points. Ms. Jeney said the final attribute is the extent of disturbance. She said this category is fairly subjective and based on aerial imagery of ORV tracks and disturbance. The points were placed into three categories: limited, scattered and extensive. Ms. Jeney then displayed maps of Wharton State Forest depicting the points and the various attribute categories. The maps can be viewed at:

<http://www.nj.gov/pinelands/home/presentations/10%2014%202016%20Wharton%20Disturbed%20Sites%20slides.pdf>

Ms. Wittenberg said the data that we have about the disturbed sites will allow the Commission and the NJDEP to develop a variety of initiatives at Wharton State Forest including: enforcement strategies, restoration projects, monitoring of the parks landscape and future protection.

Commissioner Lohbauer asked if it would be possible to have the criteria listed at 7:50-6.143(a)3 included for the sites.

A number of Commissioners expressed how impressed they were with the update and presentation on the classification of the disturbed sites at Wharton.

Mr. Mark Texel, Director of Parks and Forestry, provided an overview of NJDEP's efforts to protect Environmentally Sensitive Areas (ESAs) at Wharton State Forest. He said the Department will focus its energy on the following recommendations derived from stakeholder meetings with various user groups: enforcement, road repair and outreach. He said 11 areas at Wharton State Forest were identified as needing immediate attention due to illegal off-road activity. He said volunteer groups gathered over four days to install metal signs in areas in need of protection within Wharton. Mr. Texel said there is increased enforcement at Wharton but based on the amount of miles to patrol and the size of Wharton, patrolling is a difficult task and not like any other State Park in New Jersey. He said illegal off-road activity could result in fines upwards of \$2,000. Mr. Texel reviewed call data to Park Police, a history of enforcement data including Labor Day 2016 enforcement data. He listed roads that are currently being repaired through grant funding and future road repairs. He said the roads must be passable for first responders. He said a new webpage specific to Wharton State Forest will be created. (See attached presentation slides.)

Commissioner Chila asked how many Park Police are patrolling Wharton State Forest.

Mr. Texel said as many as six officers could be in the forest at any given time, the number increases when enforcement sweeps are being conducted.

Commissioner Barr said the damage that has taken place at Wharton State Forest is unacceptable. He asked if there was a possibility that video surveillance could capture the ORV abusers.

Mr. Texel said that surveillance doesn't always work because, in the courts, the Department would have to prove who was driving, and it's difficult to prove.

Commissioner Lohbauer asked Mr. Texel if he thought a map designating roads would be a useful tool to manage the ORV abuse at Wharton.

Mr. Texel said the existing Wharton guide is dated and an updated road map would be helpful. He said defining a road is a complex matter. He said the situation at Wharton is unique. He said right now we are planning to continue to meet with stakeholders and focus on the initiatives discussed in the presentation.

Commissioner Prickett asked how the NJDEP would be measuring the success of its efforts at protecting the ESAs.

Mr. Texel said New Jersey Fish and Wildlife will be surveying the sites to track regeneration.

Chairman Earlen thanked the NJDEP for attending today's meeting and providing information on the Department's initiatives. He asked about the NJDEP's next meeting.

Mr. Texel said the meeting will be held on Wednesday, October 26, 2016.

Ms. Kerry Pflugh, Manager of Constituent Services for NJDEP added that the meeting is invitation only, including mayors whose towns lie within the boundary of Wharton.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities  
Jim Barnshaw, Princeton, NJ, said the damage that off-road vehicle activity causes to wetlands and vernal ponds at Wharton State Forest will take a lifetime to restore. He said preservation of the forest is key. He suggested more physical barriers to protect environmentally-sensitive areas. He supports the creation of a map for Wharton State Forest.

Carl Ford, Gloucester County, NJ, said he was disappointed he did not hear about a map. He said the creation of an ORV park would help alleviate the illegal activity at Wharton.

Lena Smith of Food and Water Watch said that even though the NJDEP has increased, enforcement, monitored sites at Wharton continue to see damage. She said the NJDEP needs to create a map that designates what roads permit what type of activity.

Hara Rola read a poem she wrote about the Pinelands and said she hopes the Commission can prevent future off-road vehicle damage.

Anne Carroll said four-wheel, all-terrain vehicles should not be permitted at Wharton State Forest. She said a map should be created for use by the Commission, NJDEP and the Forest Service.

Kevin Sparkman, Medford, NJ said he agreed with Commissioner Barr that the damage at Wharton is unacceptable. He suggested a phone app rather than a paper map for Wharton.

Michael Cannon of Lauren Springs, NJ, said after working in state government for 25 years processing grants, he knows there is money for additional funding at Wharton.

Mike Hickey of Medford Township said the damage at Wharton is getting worse. He said Park Police do not have the appropriate vehicles to access certain parts of Wharton. He supports a map designating access.

Ann Kelly said there needs to be more enforcement at Wharton State Forest.

Jason Howell of the Pinelands Preservation Alliance said there are not enough Park Police vehicles designated to Wharton. He believes there needs to be a map designating roads at Wharton State Forest.

Margit Meissner-Jackson, Sierra Club, Ocean County, said there are many vacant homes in Ocean and Atlantic County. She suggested discussing the off-road vehicle damage with the manufacturers of the All-Terrain Vehicles (ATV).

Chairman Earlen left the meeting. Vice Chairman Galletta ran the remainder of the meeting.

Frank Discenza said the Lacey Township Police Department had a major crack down on ATVs. He said people were bringing their ATVs all the way from Ohio and Rhode Island to ride. He questioned how you deal with people who destroy nature. He thanked the NJDEP for its efforts.

Ryan Rebozo of the Pinelands Preservation Alliance said he was happy to hear the Commission is making roadside habitat a renewed priority. He said he is happy that the NJDEP is protecting environmentally sensitive areas but said he is still waiting to hear from the NJDEP about restoration volunteer efforts.

Tom Hedden of Tabernacle, NJ stressed the importance of working together as stewards of the forest.

Dan Bailiff of Haddonfield, NJ, offered a prayer.

Emile Devito of The New Jersey Conservation Foundation said he believes the damaged points will align with the environmentally-sensitive areas. He feels a map designating roads is necessary and would help with enforcement.

Dan Homan, Philadelphia, PA, said we need to get in the face of the off-road vehicles to stop the destruction at Wharton State Forest.

Margaret Piccola of Ocean County Sierra Club said she supports protecting the sensitive areas at Wharton and questioned whether we would continue to watch the damage or actually end the damage.

Jim Hand, Delanco, NJ, spoke about debris clean ups at Wharton State Forest.

Anthony Giancoco, Hammonton, NJ, said road closures at Wharton are a bad idea.

Thomas C. Keck with the Forest Service advised the public that the Park Police know the lay of the land, including roads at Wharton.

Bill Caruso, Berlin Borough, NJ, said he was not sure if government could fix the problem at Wharton State Forest. He said he believes the progress between the NJDEP and private groups is working. He said the problem with illegal off-road vehicle use is cultural. He said we need to change the culture for the damage to end at Wharton. He said spreading the message of enforcement and high fines will eventually lessen the off-road vehicle abuse.

Holly McDonald of Shamong, NJ, said she organized horseback riding trail rides at Wharton. She said she uses an old map that can be purchased at Batsto Village and does not think a new map is necessary. She thanked the NJDEP for its road repair work.

Michael Realy of Browns Mills, NJ, said he owns and rides an ATV and thinks there is a strong police presence at Wharton State Forest.

### Adjournment

Commissioner Galletta asked that staff confirm some of the upcoming meeting dates.

Ms. Grogan said the next Policy and Implementation Committee meeting will be on Tuesday, October 25th.

Ms. Wittenberg added that next month's Commission meeting falls on the first Friday, November 4th.

Commissioner Avery said that former Commissioner Jim Hyres passed away in September. He said Mr. Hyres served as a Commissioner from 1982 to 1990. He said Jim was also a personal friend.

Commissioner Lohbauer suggested discussing a resolution that Commissioner Lloyd drafted about Wharton State Forest earlier this year, at an upcoming P&I meeting.

Commissioner Ashmun moved to adjourn the meeting. Commissioner Barr seconded the motion. The Commission agreed to adjourn at 12:36 p.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: October 25, 2016