- In an effort to provide the Long Term Economic Monitoring Program data faster, the data can now be viewed on the Commission's website as it becomes available.

Director Chuck Horner provided information on the following regulatory matters:

- On January 30th, Commission staff held a seminar on the Pinelands rules at NJDEP for about 75 of its staff members. Commission staff provided an overview of the Commission's regulations and how they relate to NJDEP's rules.
- Staff met with the Medford Lakes Borough Clerk to discuss the application process as it relates to the Borough's locally designated historic district.
- In the fall of 2018, the Commission received a request from three major utilities to apply herbicides to some test plots. He said the three utility companies are the same utilities that participate in the Commission's electric transmission right-of-way (ROW) vegetation-management plan pilot program. Herbicides are not permitted in utility rights-of-way in the Pinelands. He said although the Executive Director is permitted to make modifications to the ROW Plan, it was determined that allowing herbicides is not a minor modification. He said that this coming fall, the pilot program will be reviewed for success and any adjustments to the plan can be discussed.
- On January 25th, a new application to remove trees surrounding the Bass River Fire tower was received from the NJDEP. It is anticipated that public comment will be heard at the March Commission meeting and action will be taken at the April Commission meeting.
- On February 22nd, staff will be meeting with the Department of Transportation to review the provisions of an existing MOA that allows for the limited use of herbicides in ROW's.

Chief Planner Susan R. Grogan wished the Commission a Happy Birthday. She said it was on this day 40 years ago that Governor Byrne signed an Executive Order creating the Pinelands Commission.

Communications Officer Paul Leakan provided an update on the following:

- The Certificate of Occupancy was issued for the exhibit center. A new webpage on the Commission's website was created which has additional information about the exhibit.
- A total of 375 people have registered for the 30th Annual Pinelands Short Course which will take place on March 9, 2019. The Pinelands Orientation for Newly Elected Officials is scheduled for July 23, 2019.

Commissioner Prickett asked if the Buena Borough wastewater treatment plant qualifies for PITF money.

Director Liggett said the plant is located in a Pinelands Town Management Area and therefore is not eligible for PITF. He noted that staff would be looking at the infrastructure needs of Pinelands Towns and the feasibility of a new funding source.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending approval of improvements to the New Brooklyn Lake Dam in Winslow Township.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2015-0066.003) (See Resolution # PC4-19-04). Commissioner Galletta seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution recommending approval of road improvements to Dehirsch Avenue in Woodbine Borough.

Commissioner Pikolycky said he would be recusing from the vote on this application and left the dais.

Stacey Roth noted that Commissioner Pikolycky is recusing from this matter because he is the Mayor of Woodbine Borough.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 2018-0098.001) (See Resolution # PC4-19-05). Commissioner Barr seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

Commissioner Pikolycky returned to the dais.

Chairman Earlen presented a resolution recommending approval for a Waiver of Strict compliance for the construction of a single family dwelling in Jackson Township.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for an Amended Waiver of Strict Compliance (Application Number 1987-0127.001)(See Resolution # PC4-19-06). Commissioner Lohbauer seconded the motion. The Commission adopted the resolution by a vote of 10 to 0.

Planning Matters

Chairman Earlen presented a resolution to certify an ordinance from Stafford Township.

Commissioner Galletta moved the adoption of a resolution Issuing an Order to Certify Ordinance 2018-19, Amending Chapter 211 (Zoning) of the Code of Stafford Township(See Resolution # PC4-19-07). Commissioner Barr seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution to certify an ordinance and Redevelopment Plan from Winslow Township.

Commissioner Galletta moved the adoption of a resolution Issuing an Order to Certify Winslow Township Ordinance O-2018-025, Adopting the Maressa Redevelopment Plan (See Resolution # PC4-19-08). Commissioner Jannarone seconded the motion. The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution regarding amendments to the Pinelands Infrastructure Master Plan.

Commissioner Barr moved the adoption of a resolution To Adopt an Amendment to the Pinelands Infrastructure Master Plan (See Resolution # PC4-19-09). Commissioner Pikolycky seconded the motion.

Commissioner Lohbauer requested a brief overview of the comments received at the public hearing and asked what types of projects municipalities are looking to fund.

Director Liggett said staff asked for input concerning the proposed grant and loan percentages and did not receive much feedback. He said the amendment requires 50% grant, 40% loan and 10% local share. He said staff would like to see the fund regenerate rather than deplete. He described the steps in the lengthy process, of identifying, approving and funding projects.

Resource Planner Gina Berg added that two members of the public attended the hearing, one was in favor of the amendment and one was not. She said municipalities are primarily interested in sewer and transportation projects.

Commissioner Lloyd asked, speaking hypothetically, if the CMP were amended to include projects in Pinelands Towns, would the criteria in the PITF need to be changed and would the Buena Borough treatment plant qualify for money through PITF.

Director Liggett said he did not think the PITF would need to be changed and the wastewater facility could be eligible for funds. He also noted that during the amendment process, staff spoke with either the township planner or the township engineer in most Regional Growth Area towns to discuss municipal needs.

The Commission adopted the resolution by a vote of 10 to 0.

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

No one from the public spoke.

Ordinances Not Requiring Commission Action

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

- Egg Harbor City Ordinance 15-2018

- Egg Harbor Township Planning Board Resolution HE/FS 01-18 an Ordinance 51-2018
- Evesham Township Planning Board Resolution 18-15 and Ordinance 25-12-2018
- Manchester Township Ordinance 18-34
- Medford Lakes Borough Ordinance 657
- Stafford Township Ordinances 2018-23, 2018-24, 2018-26, 2018-28, 2018-29 and 2018-31
- Upper Township Planning Board Resolution 05-2018 and Ordinance 019-2018
- Wrightstown Borough Ordinance 2018-09

No members of the Commission had questions.

Presentation: Wharton State Park Update

ED Wittenberg said a member of the public raised two issues related to Wharton during the January Commission meeting. She said due to the wet weather, unimproved roads have experienced significant flooding at Wharton. She said the NJDEP issued a press release on the road closures. She also said a Superintendent at Wharton was threatened and the State Police are investigating the incident. She said the NJDEP is currently working on a road assessment and continues to prioritize its work based on need.

ED Wittenberg said Chief Scientist John Bunnell will present the Science Office's study on ponds in the Pinelands.

Chief Scientist Bunnell said that as part of an Environmental Protection Agency (EPA) funded study the science office was able to assess natural ponds and created wetlands (excavated ponds and stormwater basins). He said the presentation will examine the relationship between these wetlands and off-road vehicle (ORV) damage. The slides included pictures of both natural ponds and excavated ponds in the Pinelands. He displayed a photo of a heavy wooden barrier protecting a wetland. He said the wooden barriers have worked at keeping ORVs out. He said the ponds were mapped and certain variables were used in a model to predict ORV damage. He said the study has found the following five variables as important predictors in ORV damage: pond size, percentage of water and herb cover, distance to nearest sand or paved road and distance to the nearest damaged pond. The slides from the presentation are attached. The full presentation can be viewed at https://www.youtube.com/watch?v=CkYLlklLm4w.

Chief Scientist Bunnell answered questions from Commissioners.

Commissioner Barr asked about using drones to catch ORV users who are damaging state lands. He said he was very bothered by the damage to the ponds and would like to come up with a mechanism for preventing further damage. He also raised the question whether educating the public about the lasting effects of improper ORV use would be beneficial.

ED Wittenberg said staff continues to work with the NJDEP about these issues by sharing data and information and working to protect the most at risk sites with barriers. She said the data from the vulnerability study can be used as an education tool.

Chairman Earlen asked if any additional wooden barriers have been installed recently and, if not, he was curious why.

Chief Scientist Bunnell said he recently asked about installing additional barriers and was advised that there was no funding or staff resources at this time. He added that Terry Schmidt from the NJDEP deserves much of the credit for getting the wooden barriers installed, she coordinated the volunteers and machines necessary. The Commission's role was to advise which ponds needed the protection.

ED Wittenberg suggested that it might be a good time for some Commissioners to meet with the NJDEP Commissioner and upper level staff.

Commissioner Lohbauer said he is interested in attending that meeting with NJDEP. He also said data from the pond vulnerability study can be used to help with enforcement.

Chairman Earlen said he was happy to see there was no correlation between damaged ponds and enduro routes. He said it shows that the organized groups that apply to the Commission for recreation permits are not part of the problem.

ED Wittenberg introduced Olivia Glenn, Director of Parks & Forestry at the NJDEP, to the Commission.

Several Commissioners raised questions related to the cost of the wooden barriers and wooden barriers versus metal barriers. Commissioners and staff also discussed fines related to illegal ORV use, impoundment, the state's motor vehicle code and damage to state land.

Commissioner Lloyd suggested inviting the New Jersey Department of Transportation into the conversation.

Commissioner Lohbauer raised concerns about the roads in Wharton that traverse through ponds and the possibility of limiting access on these roads.

ED Wittenberg said staff would need to take a closer look at where the roads lead. She said closing roads is complicated, as a result, there may be unintended loss of access.

Commissioner Jannarone left the meeting.

General Public Comment

Commissioners and staff discussed when the public comment period opens for a public development application.

Carol Bitzberger of Bass River Township said its interesting that a Commissioner suggested using drone technology to find ORV users at Wharton State Park. She questioned the schedule for the Bass River Fire Tower application. She also asked the Commission to define interested party. She said she hopes the Commissioners will look at the statistics of the Oregon Forest Fire Service and its success of using camera technology.

Director Horner offered guidance about the Commission's public comment process.

Paula Yudkowitz of Oaklyn Borough said families cannot get into the interior of the Pinelands. She said there should be additional park police working when organized vehicle events take place at Wharton.

Rose Sweeney of Bass River Township asked the Commission if members of the public are permitted to make presentations to the Commissioners. She also asked if there was a timeframe for the Governor's appointments.

Tom Hedden of Tabernacle said he helped install the barrier at Mt. Misery, along with a group of 15 volunteers and three members of park personnel. He said the material costs were shared. He said Open Trails NJ is ready to do more projects with the intent to protect certain areas at Wharton. He said he was happy that there was no correlation between enduro routes and damaged ponds.

Rhyan Grech of the Pinelands Preservation Alliance wished the Commission a Happy Birthday. She commended the Pinelands staff on the pond study. She said the Alliance has tools, a budget, specific sites in mind and volunteers ready to install more barriers at Wharton. She said the only thing necessary is permission from the NJDEP. She encouraged the Commission to continue to have the ORV matter on the agenda.

Dave Dempsey of Shamong Township said he belongs to multiple Jeep groups. He said he has been promoting education and responsible use of the forest to groups of people. He said he has seen an increase in park police patrolling at Wharton. He said the barrier at Jemima Mt. has been successful.

Jennifer Curley, CWA Local 1040 Staff Representative, read a statement into the record (see attached).

Jason Howell of the Pinelands Preservation Alliance said the pond study was well done and hopes that more barriers to protect ponds can be installed soon.

Resolution to Retire into Closed Session

DAG Miles read a resolution to enter into closed session to discuss litigation and a number of attorney client privilege matters.

Commissioner Lohbauer made a motion to enter into closed session. Commissioner Avery seconded the motion. The Commission agreed to retire into closed session by a vote of 9 to 0, beginning at 11:22 a.m.

Return to Open Session

The Commission entered back into open session at 12:01 p.m. DAG Miles provided a summary of the closed session. She said the Commission discussed union negotiations, a personnel matter and litigation regarding two pipeline applications.

Adjournment

Commissioner Pikolycky moved to adjourn the meeting. Commissioner Barr seconded the motion. The Commission agreed to adjourn at 12:02 p.m.

Certified as true and correct:

Jessica Noble, Executive Assistant

Date: February 21, 2019

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19-04

TITLE: **Approving** With Conditions an Application for **Public Development** (Application Number 2015-0066.003)

Commissioner Lohbauer **moves and Commissioner** Galletta **seconds the motion that:**

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Report and the recommendation of the Executive Director that the following application for Public Development be approved with conditions:

2015-0066.003	
Applicant:	**Camden County Department of Public Works**
Municipality:	Winslow Township
Management Area:	Pinelands Forest Area
Date of Report:	January 18, 2019
Proposed Development:	Improvements to the New Brooklyn Lake Dam.

WHEREAS, the improvements to the existing New Brooklyn Lake Dam occurred on a parcel without application to, and approval by, the Commission and constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan (CMP); and

WHEREAS, the applicant has completed this application with the Pinelands Commission to address the violation; and

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for this application; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for the proposed development; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Number 2015-0066.003 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun			X		Howell	X				Prickett	X			
Avery	X				Jannarone	X				Quinn			X	
Barr	X				Lloyd	X				Rohan Green			X	
Chila			X		Lohbauer	X				Earlen	X			
Galletta	X				Pikolycky	X								

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission Date: February 8, 2019

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman

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SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

January 18, 2019

Ms. Kevin Becica, PE (via email)
Camden County Department of Public Works
2311 Egg Harbor Road
Lindenwold, NJ 08021

Re: Application # 2015-0066.003
Block 4201, Lot 1
Block 4307, Lot 1
Winslow Township

Dear Ms. Becica:

The Commission staff has completed its review of this application for improvements to the New Brooklyn Lake Dam. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 8, 2019 meeting.

The dam improvements were developed prior to completion of an application with the Commission. This constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan. Completion of this application is intended to address that violation.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure

20150066.003

c: Secretary, Winslow Township Planning Board (via email)
Winslow Township Construction Code Official (via email)
Winslow Township Environmental Commission (via email)
Secretary, Camden County Planning Board (via email)
Toni Sapio (via email)

State of New Jersey
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PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 18, 2019

Ms. Kevin Becica, PE (via email)
Camden County Department of Public Works
2311 Egg Harbor Road
Lindenwold, NJ 08021

Application No.: 2015-0066.003
Block 4201, Lot 1
Block 4307, Lot 1
Winslow Township

This application proposes improvements to the existing New Brooklyn Lake Dam located on the above referenced 230.04 acre parcel in Winslow Township.

The application proposes the installation two gabion (stone) mattresses, totaling 4,782 square feet in area, on the eastern and western sides of the existing dam spillway.

The improvements to the dam occurred prior to completion of an application with the Commission. This constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan (CMP). Completion of this application is intended to address that violation.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the CMP. The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.23)

The proposed development is located in a Pinelands Forest Area. The proposed improvements to the existing dam are a permitted use as a modification of an existing structure.

Wetlands Standards (N.J.A.C. 7:50-6.6)

There are wetlands located within the project area. The CMP prohibits most development in wetlands and requires a buffer of up to 300 feet to wetlands.

The dam improvements will be located within wetlands and the required buffer to wetlands. The proposed development will result in the disturbance of approximately 0.164 acres of wetlands. The CMP

permits linear improvements, such as dams, in wetlands and the required buffer to wetlands provided an applicant demonstrates that certain conditions are met. The applicant has demonstrated that there is no feasible alternative for the proposed development that does not involve development in wetlands and the required buffer to wetlands or that will result in a less significant adverse impact to wetlands. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions recommended below, all practical measures will be taken to mitigate the impact on wetlands and the required buffer to wetlands. The applicant has indicated that the dam was previously damaged by storm events and the improvements are necessary to protect the existing dam structure and meet the New Jersey Department of Environmental Protection (NJDEP), Dam Safety requirements. The applicant has demonstrated the need for the proposed development overrides the importance of protecting the concerned wetlands.

The proposed wetlands disturbance requires a wetlands permit under the New Jersey Freshwater Wetlands Protection Act. A New Jersey Freshwater Wetlands General Permit 18 was issued by the NJDEP on September 28, 2018.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located within open water and sand areas. The soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize a seed mixture which meets that recommendation.

PUBLIC COMMENT

The CMP defines the proposed development as "minor" development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission's website on December 12, 2018. The Commission's public comment period closed on January 11, 2019. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, prepared by T&M Associates and dated September 21, 2018.

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.

3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

5. Prior to the construction of any portion of the proposed development which will result in the disturbance of any wetland area, a Freshwater Wetland Permit shall be obtained pursuant to the New Jersey Freshwater Wetlands Protection Act.

6. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.

State of New Jersey
THE PINELANDS COMMISSION
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Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received at the Commission office no later than 4:00 PM on February 5, 2019 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.