

Disclaimer

These minutes reflect the actions taken by the Commission during its September 11, 2020 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 September 23, 2020.

PINELANDS COMMISSION MEETING

MINUTES

September 11, 2020

The September 11, 2020 Pinelands Commission meeting was conducted remotely. All participants were present via Zoom conference and the meeting was livestreamed through YouTube.

Commissioners Participating in the Meeting

Alan W. Avery Jr., Daniel Christy, Sean Earlen, Jordan P. Howell, Jerome H. Irick, Ed Lloyd, Mark Lohbauer, William Pikolycky and Chairman Richard Prickett. Also participating were Executive Director Nancy Wittenberg and Deputy Attorney General (DAG) Kristina Miles and Governor's Authorities Unit representative Rudy Rodas.

Commissioners Absent

Jane Jannarone, Gary Quinn and D'Arcy Rohan Green.

Chairman Prickett called the meeting to order at 9:35 a.m.

DAG Miles read the Open Public Meetings Act Statement (OPMA).

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum.

The Commission pledged allegiance to the Flag.

Minutes

Chairman Prickett presented the minutes from the Commission's August 14, 2020 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Avery seconded the motion.

The minutes from the August 14, 2020 Commission meeting were adopted by a vote of 9 to 0.

Committee Reports

Chairman Prickett provided an update on the August 28, 2020 Policy and Implementation (P&I) Committee Meeting:

The Committee adopted the minutes of its June 26, 2020 meeting.

The Committee recommended Commission certification of Woodland Township Ordinance 2020-3, extending the duration of resource extraction permits from two to five years.

The Committee received an update on a proposed amendment to an existing Memorandum of Agreement with Atlantic County regarding the development “pocket” at Lake Lenape Park and associated offsets. Staff is awaiting information from the County regarding acreage to be preserved in association with the reconfiguration of the docks, boat launch and bathing area.

Commissioner Lohbauer provided an update on the August 28, 2020 Land Use, Climate Impacts and Sustainability (LUCIS) Committee:

The Committee agreed that the LUCIS Committee meetings will be held monthly and, if possible, will follow the Policy and Implementation Committee meeting.

The Committee discussed the five guiding principles that would be incorporated into a preliminary amendment of the CMP regarding climate change. The amendment would serve as an overall standard that guides the Commission so that climate change is always considered. The Committee discussed and raised questions about the guiding principles, including the need to set standards and how they will be implemented.

The Committee agreed that a draft resolution establishing the guiding principles be drafted for their review. The resolution will be prepared for the next Committee meeting.

Staff provided an overview of the New Jersey Forest Stewardship Program and how it is implemented by the Commission. Staff also provided an overview of solar applications in the Pinelands and the Community Solar Program.

Executive Director’s Report

ED Wittenberg provided an update on the following items:

- The Fiscal Year 2021 (FY21) budget will look different this year. The budget will be discussed at an upcoming Personnel and Budget Committee meeting to determine how the FY21 Budget should be presented.
- This year’s Audit has proven to be difficult and taken longer than anticipated due to the pandemic and the new accounting firm.

- The Commission is down six positions due to employees retiring or leaving over approximately the last year. A staffing plan is being developed to identify where employees from different offices may assist offices in need. Staff plans to discuss the need to hire and fill some of the vacant positions with the Governor's office.

Chuck Horner, Director of Regulatory Programs, provided information on the following regulatory matters:

- Staff attended a municipal court hearing via Zoom regarding a land clearing matter in Hamilton Township. The matter is scheduled for trial in November.
- Staff issued a letter authorizing the Town of Hammonton to create a Temporary Debris Management Area for storm-related materials to be stored at its existing public works facility. The Executive Director discussed the matter with the Chairman prior to staff issuing the emergency authorization letter.
- Staff is scheduled to meet with the New Jersey Department of Environmental Protection (NJDEP) Division of Fish and Wildlife to discuss better coordination of development applications proposed in the Pinelands Area. The Commission and NJDEP's Fish and Wildlife program have an existing Memorandum of Agreement (MOA) dating back to the 1980's, and it authorizes certain development activities to occur without application to the Commission as long the development is consistent with the Comprehensive Management Plan (CMP).
- The Commission continues to receive extensive public comment on the change of use application for the Atco Dragway. The application seeks to convert the raceway into an automobile auction facility. In July, staff sent a letter requesting additional information to complete the application.

Susan R. Grogan, Director of Planning, provided an update on the following matters:

- In August, the following two annual reports were posted to the website and distributed: the Pinelands Development Credit (PDC) Bank and the Septic Pilot Program.
- Staff continues to work on CMP amendments, one of which pertains to stormwater and is in response to the NJDEP's recent stormwater rules. Some recommendations will be shared with the P&I Committee at its September meeting. Amendments to the Septic Pilot program are progressing. Staff held a virtual public hearing on September 2nd. No comment was provided at the hearing and written comment has yet to be received.
- Last fall, the Commission authorized a number of projects to be awarded Pinelands Infrastructure Trust Fund (PITF) grant and loan opportunities for projects that met the criteria. The process is slow but Monroe Township is proceeding to the Infrastructure Bank for its transportation improvement project and Pemberton Township recently informed the Commission that it would be moving forward with its water system upgrades.
- The New Jersey Historic Trust conducted a site visit for the grant application to paint Fenwick Manor. Decisions will be made at the end of October. The Commission was advised that it is very competitive and the money that was originally designated had been cut substantially.

- Staff participated in the Governor's Interagency Task Force meeting on August 19th. The discussions at these meeting typically revolve around the plan endorsement process. At the August meeting, the group discussed coastal centers and existing town centers that are vulnerable to climate change. The other topic discussed was adjustments each state agency has had to make during the pandemic and how the agency is processing Open Public Records Act requests, site inspections and field visits.
- A presentation on the Permanent Land Protection efforts of the Commission will be shared at the October Commission meeting. Included in that presentation will be some highlights of the PDC program. PDC sales activity remains busy. She said a total of 55,391 acres have been preserved because of the PDC program.

Stacey Roth, Chief of Legal and Legislative Affairs, said she reached out to the State Ethics Commission to arrange virtual ethics training rather than on-line modules. The training is currently scheduled to occur after the November Commission meeting.

Paul Leakan, Communications Officer, provided information on the next round of webinars, which the Commission will host through the end of October and into November. He said social media followers continue to grow and he shared the demographics of the Commission's followers. He said he has been working on an ArcGIS StoryMap for the Pine Barrens Byway, and it will feature detailed summaries of amenities, miniature maps and 37 high-resolution photos of nine points of interest along the route.

Commissioner Lohbauer requested staff's assistance with arranging a site visit to the six inadvertent returns along the New Jersey Natural Gas pipeline route in the Pinelands Area.

Chairman Prickett also expressed an interest in the site visit.

ED Wittenberg said staff would work on arranging the visit but it may take additional time due to access onto the Joint Base.

Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution for two development applications in Atlantic County. He said Atlantic Cape Community College is proposing the construction of a baseball field and an athletic training building. He added that Atlantic County is proposing improvements at Lake Lenape Park.

Commissioner Pikolycky made a motion Approving With Conditions Applications for Public Development (Application Numbers 1983-5250.015 & 1983-5765.007) (See Resolution # PC4-20-26). Commissioner Avery seconded the motion.

Director Horner noted that the proposed development associated with the application at Lake Lenape Park is in the Regional Growth Area and is not subject of the MOA the Commission is currently discussing with Atlantic County.

Chairman Prickett had a question about the wetlands standard referenced in the Public development report for the Lake Lenape Park application (1983-5765.007).

Director Horner explained that Lake Lenape is considered a wetland. He said the park is developed and that the proposed development should not be located any closer than the existing development in order for there to be no significant adverse impacts to the wetlands. He added that the development is not taking place in wetlands and it will maintain the appropriate buffer.

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

Chairman Prickett presented a resolution recommending approval for the construction of an addition to a municipal fire station on Monroe Township that previously received emergency authorization.

Commissioner Lohbauer said he would like to see the application tabled. He said the applicant was supposed to revegetate the site and remove storage sheds as conditioned in a previous approval. He said we are now conditioning another approval. He said he is not opposed to the actual application but he said the Commission should not take action until the applicant has completed the revegetation and proceeds with the removal of the sheds.

Director Horner said staff is aware of the situation. He said the applicant originally stated that restoration of the property would be complete by the spring of 2021. Staff indicated to the applicant that the timeframe was not appropriate and restoration had to be completed by November 30, 2020. He said this application is not typical in that the Executive Director issued a letter, after a discussion with the Chairman. The letter enabled the application to proceed under the emergency authorization provision in the CMP, based on public safety. He said the fire company needed to begin construction in order for fire trucks and equipment to have proper shelter.

Ms. Roth said there were legal concerns with tabling the application. She said the CMP requires that the Commission consider applications at the time it is presented. She said if the Commission fails to take action on the application, it is referred to the Office of Administrative Law (OAL). She said in order to avoid the application being transferred to OAL, staff could contact the town and ask for it to submit a letter requesting that the Commission delay action.

Director Horner suggested including specific language in the cover letter to the Mayor, including the request for immediate removal of the storage sheds.

Commissioner Lohbauer agreed with Director Horner's suggestion.

Commissioner Irick said he also agreed with the suggested approach and would like to put Monroe Township on notice that the Commission cannot consider any other applications until this violation is resolved.

Commissioner Lloyd said he is satisfied with today's solution, but conditions are added to public development reports for a reason. He suggested having a broader discussion on municipal violations in the future. He said in his opinion this application could be tabled today.

Chairman Prickett requested that when considering future emergency authorizations that he be notified if the municipality has existing violations.

Commissioner Christy made a motion to table the application. No one seconded the motion.

A discussion on municipal violations continued.

Director Horner said he would convey the Commission's concerns to the Township and suggested inviting the Monroe Township Mayor to the October Commission meeting.

Commissioner Avery made a motion Approving With Conditions an Application for Public Development (Application Number 1982-2787.003) (See Resolution # PC4-20-27). Commissioner Lohbauer seconded the motion.

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

Chairman Prickett presented a resolution recommending approval of a fuel break by thinning 152 acres in Manchester Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1985-0462.005) (See Resolution # PC4-20-28). Commissioner Irick seconded the motion.

Director Horner noted that the initial public notice included incorrect block and lots, which generated public comment. The County quickly corrected the public notice, which listed accurate block and lots for the project. The error led some members of the public to believe that the forest thinning would occur on their parcel, causing them to comment on the application.

Chairman Prickett said he was happy to see that the applicant is proposing a thinning of the forest rather than clear cutting.

Commissioner Lohbauer said he was pleased with the forestry plan. He said the thinning of the forest will protect the threatened and endangered species and preserve the larger standing trees. He noted the County is not planning to use herbicides. He said three members of the public raised concern about Off-Road Vehicle (ORV) access in the forest break as a result of the thinning. He said he would like to see the applicant address the ORV access issue in future forestry applications.

Chairman Prickett said this may be a CMP amendment the Commission would like to consider.

Director Horner said he could add language to the resolution transmittal letter expressing the concern.

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

Chairman Prickett presented a resolution recommending approval for the construction of a salt storage dome in Ocean County.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1985-0949.039) (See Resolution # PC4-20-29). Commissioner Irick seconded the motion.

Director Horner said it was determined that a violation occurred on the property. He said the County has begun to remove the parked vehicles being stored on the parcel and has plans to revegetate this fall.

Commissioner Lohbauer said the Commission needs to adopt a policy regarding violations.

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

Chairman Prickett presented a resolution recommending approval of two public development applications: the construction of a storage building in Wharton State Forest and the construction of a walking path and docks in Medford Lakes.

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 1992-0102.007 & 1999-0303.002) (See Resolution # PC4-20-30). Commissioner Lloyd seconded the motion.

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

Planning Matters

Chairman Prickett presented a resolution recommending approval of a Woodland Township ordinance.

Commissioner Avery made a motion Issuing an Order to Certify Ordinance 2020-3, Amending Ordinances 1998-4, 1998-11, and 2001-8 of Woodland Township (See Resolution # PC4-20-31). Commissioner Lohbauer seconded the motion.

Director Grogan said the ordinance will extend mining permits from two years to five years which will be easier and more efficient for all parties. She said the CMP does allow for the extension of the permit cycle. She noted that other Pinelands towns have taken advantage of this provision.

Director Horner said at the P&I Committee Commissioner Lohbauer asked about the number of mines in Woodland Township and if there were any known violations. He said there are three active resource extraction operations in Woodland and no substantive land use violations.

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

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

Chairman Prickett said there is a Waiver of Strict Compliance for the development of one single family dwelling up for comment. There were no public comments.

Commissioner Christy left the meeting.

Ordinances Not Requiring Commission Action

Chairman Prickett read the list of ordinances not requiring Commission action.

- Manchester Township Ordinance 2020-21
- Stafford Township Ordinances 2017-11 & 2017-12

No questions were raised.

Update from the NJDEP

Chairman Prickett welcomed Ray Bukowski, Assistant Commissioner of Natural & Historic Resources. Joining Assistant Commissioner Bukowski were Acting Director of Parks & Forestry, Robin Madden, and new Chief of Park Police, Amanda Smith.

Assistant Commissioner Bukowski explained the organizational and personnel changes the Department recently experienced. He said state parks and Wildlife Management Areas (WMAs) experienced an unprecedented season. He said seasonal employees were reduced by two-thirds while the Parks and WMAs experienced an unprecedented amount of visitors. Some of the challenges they faced in the parks were illegal swimming, illegal alcohol consumption and ORV use.

Acting Director Madden said Atsion was closed for the season, but will be reopening soon for boating and picnicking. She said in her new role she will be working with local officials to keep the public educated about the proper use of parks.

Assistant Commissioner Bukowski said this fall the Department will embark on a stakeholder process for mapping access in state parks. He said effective enforcement is the crucial first step, because without it, mapping is meaningless. He plans to have a continuous dialogue with government entities, non-governmental organizations, including public-facing opportunities to publicize deterrents for illegal ORV use.

Chief Smith said she created a special All-Terrain Vehicle (ATV)/ORV unit to respond to matters related specifically to illegal ORV use. She said it is a state-wide problem. She said her department will be exploring the use of technologies (drones and apps) to assist officers in controlling illegal ORV use. She said educating the public will be another significant step in curbing ORV use. She said she wants the public to understand what activities are acceptable and appropriate at State Parks. She also wants them to understand enforcement, rules and regulations and the effects that ORV damage has on the ecosystem. Chief Smith added that Park Police work continuously with local police and State Police. Chief Smith also spoke about higher fines for repeat offenders and asset forfeiture.

Assistant Commissioner Bukowski said with the help of NJDEP's Communications office and the state Division of Fish and Wildlife, the Department will work collaboratively on the education piece of where and how riding is acceptable. He added that Park Police only have jurisdiction on state lands. He said deterrents are fundamental and would like to see a graduated approach related to seizures and confiscation. He said educating the public includes providing them with contact information of whom to call when they see illegal ORV use occurring.

Assistant Commissioner Bukowski provided an update on the clear-cutting project at Bass River State Forest. He said the project is complete. He said the NJDEP has received inquiries regarding the stumps that have been left. He said that was intentional and it will help with the regeneration of trees. The site is constantly monitored and restoration of the site is occurring. He commended the Forest Fire Service for spotting and responding to many fires this season.

The complete discussion can be viewed on the Commission's YouTube channel:
<https://www.youtube.com/watch?v=0Nao4vIooT0>

General Public Comment

Fred Akers of the Great Egg Harbor Watershed Association said he enjoys hearing reports from the Commission staff. He said he was pleased to hear about the use of fines as a deterrent for illegal ORV use. He said he was recently on NJDEP's Fish and Wildlife webpage and noticed that a Special Use Permit is required for groups of 11 or more visiting WMAs.

Assistant Commissioner Bukowski said Park Police have the ability to require mandatory court appearance related to illegal ORV use but it is dependent on the severity of the situation. He added that Special Use Permits have always been required in WMAs and it helps park personnel identify who is using them and for what.

Commissioner Earlen and Commissioner Lloyd left the meeting.

Commissioner Avery said today marks the 19th anniversary of the September 11th attacks and wants to recognize all the people who lost their lives that day.

Jaelyn Rhoads of the Pinelands Preservation Alliance said partnering with other agencies is a key component of combatting illegal ORV use. She said years ago PPA worked on model ordinances for Pinelands towns, and the ordinances increased fines for illegal ORV use, along with the possibility for impoundment. She said she would like to do more with the towns on this issue. She said Jason Howell has before-and-after pictures, of private lands where barriers were installed to keep out ORV riders. She said PPA will share the photos with the Commission.

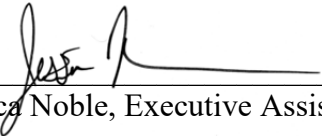
Rhyan Grech of the Pinelands Preservation Alliance provided an update on the Southern Reliability Link pipeline. She said New Jersey Natural Gas submitted information to the NJDEP to address the causes of the inadvertent returns that occurred this past spring. She said NJDEP responded back to NJNG advising that the information submitted was insufficient and that their permit remains suspended. She encouraged the Commission to work with the NJDEP and non-profit organizations to combat illegal ORV use by engaging in a stakeholder process for mapping and educating the public, including the adoption of USGS maps for all state lands and providing support for restoration plans.

Jason Howell of the Pinelands Preservation Alliance said there is a solution to the illegal use of ORVs. He said management solutions are what the Pinelands are lacking. He added that an enforcement feature and a communications campaign are necessary to fight illegal ORV use. He said there needs to be limited motor vehicle access points and travel management planning.

Adjournment

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

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: September 23, 2020