

Vote on controversial nominee to Pinelands panel is put off

David O'Reilly, *Inquirer Staff Writer*



Supporters and opponents of a 22-mile gas pipeline attend a Jan. 10, 2014 meeting of the New Jersey Pinelands Commission. The NJ Senate Judiciary Committee put off a vote Monday on Gov. Christie's nomination of Robert Barr to the Pinelands Commission, a decision hailed by opponents of a controversial gas pipeline proposal. MICHAEL S. WIRTZ / Staff Photographer

Last updated: Tuesday, January 27, 2015, 1:08 AM

Posted: Monday, January 26, 2015, 7:13 PM

The New Jersey Senate Judiciary Committee put off a planned vote Monday on Gov. Christie's nomination of Robert Barr to the Pinelands Commission, a decision hailed by opponents of a controversial gas pipeline proposal.

State Sen. Kip Bateman (R., Somerset), a committee member, said afterward it appeared the vote was not held because there was not enough support for Barr to win approval. He said he thinks the governor is trying to stack the commission to enable the pipeline.

In a related development, the chairman of the Pinelands Commission said he would seek to tighten its regulations to make it difficult for utilities to win waivers for nonconforming projects such as a pipeline.

A year ago, the commission narrowly rejected an application by South Jersey Gas for a waiver to build about 10 miles of a proposed 22-mile natural gas pipeline through protected forest.

The comprehensive management plan for the 1.1 million Pinelands preserve bars such utility work unless it is intended primarily to serve local residents. The pipeline did not meet that standard.

Commission Chairman Mark Lohbauer said Friday that he felt compelled to make special waivers more difficult to obtain after reading recently obtained exchanges between commission staff and representatives of South Jersey Gas in 2013.

"There was a degree of closeness between the applicant and staff that went beyond the neutrality appropriate to a review process," said Lohbauer, a lawyer.

The e-mail exchanges, obtained in December by the advocacy group Pinelands Preservation Alliance (PPA), indicated that South Jersey Gas was "getting a lot more input from staff than many of us realized," Lohbauer said, and that better guidelines were in order.

Carleton Montgomery, executive director of PPA, said e-mails between the commission's executive director, Nancy Wittenberg, lead counsel Stacey Roth and lawyers for South Jersey Gas suggest the utility's lawyers wrote large parts of the language of the waiver, called a memorandum of agreement, that they were seeking to obtain.

Lohbauer, who voted against the waiver, said that on Friday he would ask the commission's policy and procedures committee if it "wants to do some rule-changing."

Wittenberg could not be reached for comment Monday afternoon.

As for Barr's nomination, Bateman said he and several other Judiciary Committee members oppose Barr out of concern that Christie is seeking to name to the Pinelands Commission new members likely to approve the pipeline if South Jersey Gas seeks another waiver.

Only nine of the Judiciary Committee's 15 members were present Monday, and Barr needs eight votes for his nomination to go to the Senate for a vote. Bateman and two environmental lobbyists opposed to the pipeline and Barr's nomination said they counted at least six votes against him.

"I tend to believe he [Barr] is pro-pipeline, and that the governor is seeking to stack the commission," Bateman said. "But if you approve this pipeline, where does it go? The Pinelands Commission was set up to be autonomous. And we don't want development going through the Pinelands."

Jeff Tittel, executive director of the Sierra Club of New Jersey and a frequent critic of Christie's environmental policy, said he believed the governor had nominated Barr in hope of winning Democratic votes on the Judiciary panel, which he called "a cynical manipulation of the political process" that sought to "throw out 40 years of Pinelands law."

Calls to other senators on the committee were not returned Monday afternoon. State offices closed about 2 p.m. in anticipation of heavy snow accumulations.

It was the second time in three months that the Judiciary Committee chose not to vote on Barr, secretary of the Cape May County Democratic Association. He has close ties to Sen. Jeff Van Drew (D., Cape May).

Van Drew, a champion of the 22-mile pipeline, which he said would bring jobs and tax revenue to the region, said Monday that the threat of a blizzard was the principal explanation for the delay on Barr's vote.

"Three members were missing because of the weather," said Van Drew, who does not sit on the Judiciary Committee. He voiced confidence that Barr would win enough votes for his name to go to the floor when all the committee is present. "I think he will pass," he said.

In May, Christie nominated Barr and Dennis Roohr, Republican mayor of New Hanover, to replace D'Arcy Rohan Green and Robert Jackson, both of whom had voted to reject South Jersey Gas's waiver request last January.

In testimony before the Judiciary Committee on Oct. 16, Roohr and Barr both said they had not followed the months-long debate over the proposed pipeline.

They also said that when Christie's aides called to ask if they would serve on the Pinelands Commission, they were never queried about their interest in, or knowledge of, the commission.