

Disclaimer

These minutes reflect the actions taken by the Commission during its January 16, 2009 Part II 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 February 4, 2009.

PINELANDS COMMISSION MEETING

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

Minutes

January 16, 2009

PART II

Commissioners Present

Candace Ashmun, William Brown, Paul E. Galletta, John A. Haas, Robert Jackson, Daniel M. Kennedy, Stephen Lee, III, Edward Lloyd, Francis Witt, and Vice-Chairman, Norman F. Tomasello. Also present were Executive Director John C. Stokes and Deputy Attorney General Valerie Haynes.

Commissioners Absent

Guy Campbell, Leslie Ficcaglia and Robert McIntosh

Vice-Chairman Tomasello called the Part II meeting to order at 9:55 a.m.

Minutes

Vice-Chairman Tomasello presented the December 12, 2008 Commission meeting minutes. Commissioner Jackson moved the adoption of the minutes. Commissioner Lee seconded the motion.

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

Committee Chairs' and Executive Director's Reports

Pinelands Development Credit Bank Board

Commissioner Ashmun reported that she participated in the PDC Bank Board meeting yesterday on behalf of the Commission's regular designee Commissioner Kennedy, due to a conflict of interest he had with a matter discussed by the Board. She stated that the Board discussed at length a resolution that involves the Burlington County Road Department regarding a piece of property involving some road improvements on Route 530. She said that the resolution failed, and a letter will be sent to both the Commission and DEP who are in charge of the review of alternatives for this road. She said that the Bank stands ready to participate in this matter when appropriate.

Audit Committee Meeting

Commissioner Witt reported that the Audit Committee met on January 7th with Assistant State Auditor Stephen Eells, and Kevin Frenia, from Holman and Frenia, and continued its discussion from the previous meeting regarding preparation of the Commission's financial statements for upcoming audits. Mr. Eells noted that a new auditing team and manager will perform the next audit. Mr. Stokes indicated that Ms. Connor will be preparing the initial financial statements with Mr. Frenia's assistance. Mr. Irfan Bora, Chief Financial Officer of the Meadowlands Commission, will be reviewing the final documents. A set of final financial statements will be given to the State Auditors at the upcoming pre-audit conference meeting on February 26. The Committee will discuss long term steps for future audits at an upcoming meeting.

Personnel and Budget Committee

Commissioner Witt stated that the Personnel and Budget Committee met on January 8, 2009 and adopted the minutes from the November 6, 2008 meeting.

The Committee reviewed the resolution to Accept the Fiscal Year 2007 Audit Report. Mr. Stokes summarized the importance of the annual audit report and stated that in accordance with an Executive Order it is published on the Commission's website.

The Committee received an update on the FY 2010 budget. Ms. Donna Connor reviewed an additional document sent to OMB regarding the FY10 budget. Portions of this discussion dealing with a 20% reduction plan which was requested by OMB were done in closed session.

The Committee reviewed the check register and electronic funds transfer (EFT) disbursements for November and December 2008. Ms. Connor provided information on the checks and electronic fund transfers.

The Committee reviewed employee actions. Ms. Connor reviewed the employee actions during November and December 2008. She added that in early January Mike Yaffe's schedule was increased to a full-time position by combining two budgeted part time positions.

The Committee was provided an update on the Fenwick Manor renovations. Ms. Connor

discussed the status of the project and stated that DCA performed a walk through of the barn for a fire inspection and some changes may be needed.

The Committee was also provided an update on application fees. Ms. Connor updated the Committee on application fees during the first half of the fiscal year noting that we are well below the budgeted amount. She added that during the next committee meeting she will review our financial position through December and at the following meeting budget revisions will be presented.

A closed session was held to discuss confidential items including the FY10 budget reduction plan, a CWA matter, the FY09 work plan in relation to the Executive Director's performance objectives and a follow-up on another matter which was discussed at previous meetings.

CMP Policy and Implementation Committee Meeting

Vice-Chairman Tomasello reported that the CMP Policy and Implementation Committee met on January 5, 2009 and adopted the minutes of the December 1, 2008 meeting.

The Committee recommended Commission certification of documents submitted by Stafford Township.

The Committee received presentations on draft forestry rules, electric transmission right-of-way plan and a model septic system management ordinance.

Executive Director's Report

Mr. Stokes reported on the following items:

The Commission authorized a MOA with the Council on Affordable Housing (COAH) to try and establish the means by which affordable housing requirements can be applied to the Pinelands, not only those regulations of the Council, but also A-500 that requires the Commission to play a larger role in the provision of affordable housing. As part of this, the Commission had asked both COAH and Governor Corzine to grant an extension to Pinelands municipalities that were required to file housing plans by December 31. Absent that, towns would lose protection that is afforded under the State's Fair Housing Act and perhaps lose the opportunity to use developer impact fees that are assessed. Neither COAH nor Governor Corzine extended that deadline. This was not targeted to the Pinelands because there were a number of requests state-wide who had also requested an extension. Staff is beginning to move ahead on a slightly different track by establishing the Commission's own policies and requirements. There is a concern that some of the rules that COAH has adopted may be misapplied, misinterpreted, or do not work in the Pinelands and the Commission should do what it can do to avoid placing municipalities in a "catch 22" situation.

Mr. Tom Stanuikynas, planner in the Commission's Planning office will be leaving today. Mr. Stanuikynas will be joining the COAH staff. The Commission now has 50% fewer planners in the

Planning Office than it did last year. This requires the Commission to rethink some of the things staff does and how it does them.

Later in today's agenda there is a presentation scheduled by Mr. Tony O'Donnell on the Commission's Economic Monitoring Program. Mr. Stokes will also be briefing the Commission on the Planning Office workload as well as what staff anticipates as its goals in terms of approaching upcoming rule matters that are pending before the CMP Policy and Implementation Committee.

Governor Corzine imposed a number of measures to try and stem a projected deficit in this year's budget that runs from July 1, 2008 through June 30, 2009, none of which affect the Commission directly at this point. Some of the Commission's revenues are less than anticipated and staff is going through a detailed review of the revenues and expenses and may be recommending some adjustments to the Commission. The Governor has reported that next fiscal year looks to be even worse. The Commission has to begin to brace itself for what might be a reduction in state funding. Staff has submitted reduction plans to the Department of Treasury, which it does every year. If the situation is as dire as it appears to be, it is fair to assume that the Commission will be asked to shoulder some responsibility.

The 20th annual Pinelands Short Course is scheduled for March 7th. The brochure which was included in the Commission's packets includes 34 separate presentations and also a first time bus tour of the Pinelands. Members of the Commission should let staff know if they wish to attend the Short Course.

Mr. Horner reported on the following issues:

Staff received notice at the beginning of January that a large project referred to as Grawtown (approximately 400 dwelling units) located in Jackson Township had been denied by the Jackson Township Planning Board. The superior court ordered the Township to approve the project. This project is back before the Jackson Planning Board and staff expects to see notice of approval of this application in the near future.

Three or four years ago Barnegat Township went through a process to allow development of a portion of Ocean Acres in the Barnegat Township area. An area of the site was set aside for conservation purposes. The developer identified one area consisting of 38 acres and retained the right to demonstrate that it was not habitat for threatened and endangered species. The developer conducted additional survey work in this overlay area which has now been completed and submitted to Commission staff for review. The staff is currently working on scheduling a meeting with interested parties to review the results of that survey. The meeting will be held in the Barnegat Township Municipal building during the evening sometime in February.

Commissioner Ashmun asked if this report is available.

Mr. Horner stated that the report is public information and at some point it will be placed on the Commission's web site. He said that staff can make the report available to anyone who would like to have a copy.

Ms. Grogan reported on the following items:

The Southern Pinelands National Heritage Trail project is progressing and the Commission's consultants are currently completing the Corridor Management Plan. A series of four meetings will be held next week with stakeholders, interested parties, and targeted groups (i.e., recreation, opportunities, and economic development interests). The Commission is invited to attend the meetings. The consultants are hoping to gather useful information for the final plan.

Commissioner Ashmun asked for a list of the meeting dates and the locations.

Mr. Stokes referred to the Stafford Township Ordinance amendment and stated that representatives of Stafford Township, including the Mayor and the affected property owner's attorney is present today on this matter. He said that both parties participated in the public hearing that was held on this matter and he is recommending that the Commission afford them an opportunity to highlight the points that they raised at that hearing when the matter comes up on today's agenda.

Public Comment on Agenda Items

Mr. Harry Monessen, Pemberton Township, referred to agenda item #10, Pemberton Township Ordinance, and stated that over many years the Commission has been publicly informed of the neglected condition of the Browns Mills business section, which has an antiquated drainage system. A major obstacle to this community is its buffer zone which severely restricts efficient land use and ratables. He said that the Pemberton Township Council, Planning and Zoning Board, along with contractors, are presently prepared to review the zoning necessary to reduce the buffer zone to 50 feet from the present 250 feet. He said that over the years they have tried to do something about the drainage system, but have been unable to do so due to the environmental conditions.

Development Review Matters

Review of Public Development Projects

Mr. Stokes stated that Application Numbers 1983-6257.007, Tabernacle Township Board of Education, 1984-0655.021, South Jersey Transportation Authority, 2006-0496.002, Monroe Township Municipal Utilities Authority, 2007-0110.005, Southampton Township, and 2007-0394.001, Gloucester County, are applications for public development recommended for approval with conditions.

Commissioner Galletta moved the adoption Resolution Approving with Conditions Applications for Public Development (Application Numbers 1983-6257.007, 1984-0655.021, 2006-0496.002, 2007-0110.005 and 2007-0394.001). (See Resolution #PC4-09-02 attached). (*Originally designated PC4-09-108 and corrected to conform to Commission's practice of restarting resolution numbers each calendar year*). Commissioner Jackson seconded the motion.

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

Public Development and Certificate of Appropriateness

Mr. Stokes stated that Application Number 1991-0836.053, Department of the United States Navy, is an application for a public development and certificate of appropriateness recommended for approval with conditions.

Commissioner Haas moved the adoption of the Resolution approving with Conditions an Application for a Public Development and Certificate of Appropriateness (Application Number 1991-0836.053). (See Resolution #PC4-09-03 attached). (*Originally designated PC4-09-109 and corrected to conform to Commission's practice of restarting resolution numbers each calendar year*). Commissioner Lloyd seconded the motion.

Mr. Horner said that this is an application from the Department of the United States Navy who is proposing to demolish three structures in what is called the "Lighter than Air" potential historic district. This district has not been formally designated historic by the Pinelands Commission, State, or Federal Government. Based on staff review and information submitted by the applicant, one of the structures does not have any historical significance; two of the structures have been identified as having some historical significance as indicated in the report.

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

Waivers of Strict Compliance

Mr. Stokes stated that Application Number 2006-0068.001, Charles A. Couchard, is an application for a waiver of strict compliance recommended for approval with conditions.

Commissioner Jackson moved the adoption of the Resolution Approving with Conditions a Request for a Waiver of Strict Compliance (Application Number 2006-0068.001). (See Resolution #PC4-09-04 attached). (*Originally designated PC4-09-110 and corrected to conform to Commission's practice of restarting resolution numbers each calendar year*). Commissioner Lloyd seconded the motion.

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

Other Development Review Matters

Mr. Stokes stated that there were six PDC Letters of Interpretation issued this month. The PDC Letters of Interpretation allocated 2.75 PDCs to a total of 68.65 acres. There was also one Letter of Interpretation issued for wetlands delineation this month.

Resolutions Relating to Municipal Ordinances

Mr. Stokes presented the Resolution Issuing an Order to Certify Resolution 2007-39, Adopting the 2007 Master Plan of Stafford Township, and Ordinances 2007-98,2007-107, 2007-120, 2008-

88 and 2008-89, Amending Chapter 211 (Zoning) and Ordinance 2007-99 and 2008-88, Amending Chapter 130 (Land Use) of the Code of the Township of Stafford. (See Resolution #PC4-09-05 attached). (*Originally designated PC4-09-111 and corrected to conform to Commission's practice of restarting resolution numbers each calendar year*).

Commissioner Haas moved the adoption of the resolution. Commissioner Jackson seconded the motion.

Ms. Grogan provided an overview of the Stafford Township's master plan and ordinances. She said that the Township submitted an entirely new master plan and a series of implementing ordinances including revised zoning maps. The Township has requested that the Commission not only review and certify those amendments as they relate to the Pinelands Area, but also to review and certify those amendments as they relate to that portion of the Township located in the Pinelands National Reserve to ensure that the plan endorsement, planning area changes, and center designations, granted by the State Planning Commission can be made consistent with the Pinelands Management Area designations on the Commission's Land Capability Map. Staff feels that the zoning plan for this "overlap" area is consistent with the Commission's standards and is recommending this for certification.

Ms. Grogan said that in the Pinelands Area, the Township's revised zoning map also implements a number of zoning changes. A number of these are being made within the Forest Area, Preservation Area, and the Regional Growth Area to reflect county, municipal and State ownership of property. A number of other changes within the RGA are small and are from one commercial zone to another commercial zone or small changes between residential and commercial zones. The most significant changes involve rezonings from residential and commercial zones to the P Zone (preservation). As required under the Commission's standards, staff reviewed the implications of these changes on residential development potential in the RGA and determined that the revised zoning plan is consistent with the CMP. Staff is recommending full certification of the Township's master plan and all of the implementing ordinances.

Acting Chairman Tomasello stated that the Commission will now hear from the property owner.

Mr. Stokes cautioned both the property owner and the Township that the record has closed on this matter and comments that are made should stay within that record.

Mr. James Rhatican, from the law firm of Connell Foley, stated that he is present today on behalf of the owner of the Beachwood property that Ms. Grogan described earlier. He said that the property is approximately 91 acres and is located in the Regional Growth Area. He said this entire property is now being rezoned to the P Zone. He referred to the map that was presented earlier pointing out the area and the developed borders on all sides. He said that his client questions why only his property has been rezoned leaving all the adjacent lands in the CC or R-4 Zones. He said that the CMP requires the Commission to look at whether the ordinances will provide consistent treatment of similarly situated lands. He said that they submit based on this standard, the consistency review must fail.

Mr. Stokes stated that this was an argument that was not presented in Mr. Rhatican's earlier comments.

Mr. Rhatican indicated that he didn't get the Executive Director's report until after the P&I Committee meeting and had not had an opportunity to respond to the report that the Commission has before it.

Mr. Stokes stated that this is the process that the Commission has followed for 28 years. The question before the Commission was whether it should issue a report and then conduct a public hearing or should it conduct a public hearing to gather information which enables the Commission staff to prepare a report. The Commission felt issuing a report before the hearing is viewed by many people as a meaningless exercise because they believe a decision is already made. The process is established in the Commission's regulations. He advised Mr. Rhatican to move on to the points that he raised during the public hearing.

Mr. Rhatican stated that they submitted a letter dated January 14, 2009 responding to the Executive Director's January 5 report and did receive a response from the Executive Director advising them that the letter would not be part of the record. He stated that they feel it is fundamentally unfair that they do not have an opportunity to provide responses to arguments, comments and conclusions made in that report.

Ms. Roth interrupted Mr. Rhatican and said that he needs to move on and his comments have to stay within the record.

Mr. Stokes asked Mr. Rhatican if there are comments that he made within the record that he wishes to highlight.

Mr. Rhatican stated that he would like to highlight the fact that there is approximately 30 acres of uplands that are available for development within the Beachwood property. It is unclear why these uplands have to be sacrificed for the benefit of the preservation of wetlands on the site. He commented on Judge Skilman's East Brunswick decision which prevents the implementation of zoning restrictions for the preservation of wetlands which would come under jurisdiction of regulatory agencies, in this case the Pinelands Commission. The point is that the Township doesn't need to rezone the property to preserve the wetlands. The property owner again is frustrated in that he has been working with the Pinelands Commission for approximately 18 months to get a Letter of Interpretation for potential development of the site. The property owners have spent substantial money, including the purchase price and taxes over the years in excess of \$2 million to try and get this property developed. They submit that the ordinances are inconsistent with the CMP for reasons that he stated in his November and in his January letters, but at the very least the Commission does have the opportunity to certify these ordinances subject to or conditioned upon a revision of the zoning for the Beachwood property.

Mr. Stokes stated that the Letter of Interpretation application discussed during the public comment period on the ordinance resulted in an LOI being issued by the staff on December 31, 2008. That letter is in the Commission's packets for the meeting. That Letter of Interpretation dealt with wetland boundaries on the Beachwood property. The letter confirmed that the

mapping that the property owner's consultants had done accurately depicted the wetlands lines. It did not have anything to do with a specific development application nor did it address the extent to which wetlands buffers would be needed.

Carl Block, Mayor of Stafford Township, went over the timeline of the master plan, including approval through the DOT for an access management plan for the Route 72 corridor and the filing for their Smart Growth approval received in May 2007. The Township is currently at DEP with its wastewater management plan which is about to go out for public comment and hopefully will be adopted by mid-year. He referred to the Beachwood property and indicated what the site borders and indicated that the Beachwood property is the only vacant property that exists there. He said that on that property exist a lake and a stream that feeds it. The Township felt there had to be some recognition of those significant environmental features, even though it is located in a regional growth zone. It is unique in that it is bounded by roads, the township boundary and two built out developments. He said that there has not been now nor has there ever been any development application filed with the Township and the owner did not attend any of the master plan hearings. He introduced Dave Roberts, planner from CMX, and the Township Administrator Paul Shives.

Mr. Stokes referred to the Connell Foley letter of November 3, 2008, and the attached aerial photograph of the 90 acres owned by the property owner. He said that there has not been any formal development plan submitted to the staff for review other than an earlier 10 lot plan which is incomplete and moot at this point. He said out of the 91 acre parcel, approximately 20 acres would be devoted to the development under the property owner's 68 unit concept plan.

Commissioner Lloyd asked if the conceptual development plan is under the current zoning or under the proposed zoning.

Mr. Stokes replied that it is under current zoning. The Township's proposed zoning would effectively eliminate the potential for the cul-de-sac and the lots that are proposed there. He said that the staff can't offer any opinion at this point whether this conceptual plan would meet Commission requirements. The Commission evaluates municipal zoning decisions in the context of its regulations to see if they meet the CMP. As Commissioner Lee mentioned, it is an effort on the Commission's part to provide municipalities with the opportunities to tailor Pinelands regulations to local conditions.

Commissioner Brown asked what the reasoning was for the Township to make this decision on this particular property.

Mr. Stokes replied the he believes that the Mayor tried to explain the decision and Ms. Grogan's report outlines some of that. He asked Ms. Grogan to elaborate on this.

Ms. Grogan stated that it was a comprehensive analysis and the Township did look at all vacant lands in the Regional Growth Area to determine environmental constraints, treating all of those in a similar fashion by rezoning them to the P Zone.

Mr. Stokes stated that all parties would agree, including the property owner, that this 91 acre piece of property is significantly constrained. The area on the property that could be developed is fairly limited.

Commissioner Kennedy requested the current status of the land in front of the Beachwood property.

Ms. Grogan stated that the map shows that it is currently vacant.

Mayor Block stated that this is a small portion of the Ocean Acres development. There are existing streets. It is the only part of Ocean Acres that has not yet been developed.

Commissioner Kennedy asked staff what the Ecological Integrity Assessment says about this area.

Ms. Grogan replied that she doesn't believe that this area comes up as high integrity in the mapping that staff has been working with.

Commissioner Lee asked if the Township provided the Commission with any report that details the environmental constraints on this particular parcel.

Ms. Grogan replied that there is some general information in the Township's master plan which identifies the Township's effort to identify vacant and constrained properties. There is no detailed analysis on a property-by-property basis of exactly why each individual property was rezoned.

Commissioner Jackson stated that when one looks at the process a municipality has to go through, there is an unbelievable amount of opportunity for the public and property owners to be involved.

Commissioner Lee stated that at the P&I Committee meetings, he did not support recommending this to the Commission and abstained. He said that he has since visited the site and has listened carefully to the property owner and the Township today. The Commission has spent a lot of time helping the Township to do smart planning. He said that he doesn't think in this particular case that smart growth equals smart planning. He said that if the Commission and the P&I Committee had known about this earlier, while not part of the normal review process, we might have asked the Township if it was sure this is what it needs to do. He said that he doesn't think this is appropriate.

Commissioner Jackson asked if the Commission is going to second guess a municipality that has invested huge time and resources in coming up with a comprehensive plan. He said that it doesn't matter what the Commission thinks it looks like when one looks at all the Township has done to fit into different state programs and to map out reasonable development for itself. He said that everyone had a chance to weigh in. He said that either the Commission is going to encourage this type of long term planning or is it now going to weigh in because someone has a different view or motives.

Commissioner Lee stated that he would prefer to review these types of issues at P&I Committee meetings earlier in the process. He asked if staff believes the Commission has met that standard of similar treatment to similarly situated parcels.

Commissioner Jackson indicated that he is not disagreeing with Commissioner Lee but in order for the Commission to address this matter, the Commission would have had to attend a lot of the Township meetings to fully understand the big picture.

In response to Commissioner Lee's question, Ms. Grogan stated that staff always struggles with when it brings municipal master plans and zoning proposals to the P&I Committee for discussion and review. Does staff bring them early in the process before they have been adopted, or wait until they have been adopted and staff has all the information available? Staff did have conversations with the Township and staff encouraged the Township to make some changes. The Township did so and adopted additional ordinances and again another revised zoning map. The consistent treatment of similarly situated properties is one of the Commission's standards and staff looked at this. It's hard to say that this property is really similar to any others in the Regional Growth Area. There aren't other vacant properties of this size in the R-4 zone which are being proposed for the rezoning to the Preservation Zone. She said that it is hard to equate this property to anything else that remains in the Regional Growth Area. She said that staff is satisfied that this standard has been met.

Commissioner Brown asked how long ago was infrastructure on the one side of the road completed.

Ms. Grogan replied she believes for quite some time.

Mayor Block stated that all of this used to be one tract, which is Fawn Lakes. A new owner built Atlantic Hills, which has been completed for over 10 years. He said that these are successor owners from that owner.

Commissioner Brown asked if the new owners were the developers of the infrastructure on the site.

Mayor Block replied they were not the same people.

Commissioner Lee commented on the flexibility provided by the CMP to towns and stated that they need to accomplish their goals and meet the Commission's standards. He said that he would rely on the representation of Ms. Grogan and Mr. Stokes that the Town has in fact met the Commission's standards. He asked if the Township came back in six months and wanted to rezone to allow some additional units on this parcel, would that be allowed? Would the township be required to downzone elsewhere in the RGA?

Ms. Grogan replied no, unless the Township were to rezone for an extremely large number of units. She said that if the Township wanted to restore the prior zoning or some modification

thereof, this wouldn't create problems in terms of zoning capacity overall and the Commission wouldn't need to ask them to downzone somewhere else.

Commissioner Lee said that he can support the resolution.

Mr. Stokes stated that the Town's master plan was based on wetlands mapping that is an interpretation of aerial photography. As of December 31, a detailed map based on field-delineation is available and the Mayor has indicated that the Township has an interest in taking a look at that. He said that he assumes that the Township has that interest to make sure that it still feels that the zoning is appropriate for the site. He said that secondly, it seems to him that if the Commission is inclined to approve the ordinance, that it ought to make it clear in its transmittal letter that the Commission's action should not be construed as its endorsement of the specific zoning change or the rationale for it and that the Commission's action is based on the CMP. He said that, as Ms. Grogan has indicated, if the Township wants to come back and make adjustments in its zoning, that is fine unless those changes are too extreme.

Commissioner Kennedy said that the most significant challenge would be from the property owner to the Township under the confines of the Municipal Land Use Law. He said that the additional density may come through a settlement or through a judge's findings.

Mr. Stokes stated that staff would make it a point to sit down with the Township to review the wetlands information. If the Township had an interest in taking another look at the zoning, staff would be happy to work with them on that.

Commissioner Kennedy stated he would doubt that a typical LOI application has a petition from 73 residents who don't want any development there. He believes it is the Township's judgment to weigh the interest of one property owner against other residents of the town through the dialogue that they have in their own hearing process. He said that his judgment is to let the Township decide and weigh the different interests, as long as the Commission is able to determine the zoning plan meets the requirements of the CMP.

Commissioner Jackson concurred with Commissioner Kennedy.

Commissioner Galletta stated that he too can support the resolution and the Township. However, in the future, if another rezoning is submitted involving rezoning to a Preservation Zone in a RGA, the P&I Committee should review it before it goes to the full Commission.

Commissioner Ashmun stated that the P&I Committee did listen to all of this including the comments of the landowner, and she doesn't believe that the P&I Committee could have reached a different conclusion. She said that she believes the Commission went through the process appropriately. The property owner should have participated in the municipal process.

Mr. Stokes stated that the Ecological Integrity Assessment is an extremely valuable information tool for staff. He said that the Commission is talking about a property that is fairly severely constrained by wetlands. He said that one of the challenges that the Planning office faces is to try and identify those matters which rise to the level of early consultation with the P&I Committee. He said because of the Planning office's efforts, the Commission now has an

ordinance that provides for a residential development opportunity on the property. The original ordinance adopted by the Township did not have that opportunity.

Commissioner Jackson stated that he keeps hearing that the Commission has to make the decision and he believes that this is not necessarily the case. He said that if one believes that an ordinance results in a taking or something egregious is happening, there is recourse at that level.

Commissioner Lloyd stated that the Commission is not here to second guess the township. However, the Commission has an obligation to apply its own standards. He said that there are different standards that the township has to apply. He said that the P&I Committee did get almost everything beforehand and he understands that Commissioner Lee had legitimate reservations.

Commissioner Haas added that the staff has advised that the rezonings met the standards in the CMP. He said this is what the Commission hopes to see.

Commissioner Brown stated that what bothers him is that the new owners made an investment with the expectation that this was the zoning. He feels that their property rights have been severely eroded.

Mr. Stokes stated that he does not disagree with Commissioner Brown. He said whenever a municipality changes its zoning, it has economic implications on property owners, some positive and some not so positive.

Commissioner Kennedy stated that he would like to ask Mr. Rhatican if the property owner participated in the master plan process and the process before the governing body in considering the ordinances.

Mr. Rhatican replied that the property owner did not participate in the master plan process because they were not notified. He further indicated that the property owner did not participate in the ordinance process except for the most recent ordinance which he believes was adopted in August. He said that they did appear at the Council meeting for that ordinance. He said that unless one sees it in the newspaper, there is no knowledge of the municipal process.

Commissioner Ashmun stated that in this case there was also the very public plan endorsement process before the State Planning Commission.

Commissioner Kennedy said that the State Planning Commission process doesn't have any individual property owner notice requirements either.

Acting Chairman Tomasello asked Mr. Stokes to call the roll.

Ashmun	Yes	Jackson	Yes	Witt	Yes
Brown	No	Kennedy	Yes	Tomasello	Yes
Galletta	Yes	Lee	Yes		

Haas Yes Lloyd Yes

The Commission adopted the resolution by 9 Commission members voting in the affirmative and 1 Commission member voting in the negative.

Mr. Stokes stated that staff will be conveying to the Township that the Commission's action was purely related to the standards of the Comprehensive Management Plan and that it should not be construed as an endorsement of the rationale for the zoning change under contention. He stated that he will ask the Mayor if the Township would care to sit down with staff to take a closer look at the zoning. Staff would be happy to participate in that process.

Mayor Block thanked the Commission for its support. He said that the Township will be doing an analysis of the LOI. He accepted the offer of the Commission and will schedule a meeting with the staff.

Other Resolutions of the Commission

Mr. Stokes presented the Resolution To Accept the Fiscal Year 2007 Audit Report. (See Resolution #PC4-09-06 attached). (*Originally designated PC4-09-112 and corrected to conform to Commission's practice of restarting resolution numbers each calendar year*).

Commissioner Galletta moved the adoption of the resolution. Commissioner Lloyd seconded the motion.

Commissioner Lee said that there seems to be some extra time involved in this Audit this year and also asked if the finding was addressed by the staff.

Mr. Stokes referred to page 23 of the audit report and stated that the report says that the audit adjustments totaled nearly \$2.5 million. He said that this has been a matter of some disagreement between the accountant that the Commission hired to prepare the financial statements, as the Commission's system is budget based and there needs to be adjustments made to translate that into a modified accrual statement. He said the Audit Committee has tried to build a foundation for the upcoming audit.

Commissioner Witt stated that it is the methodology in terms of the way staff does the financial statements versus the way the state does the statements. He said that the State Auditor thought that perhaps the Commission should change its system. He said that he believes the Committee is on the road to correct the way each party does the statements.

Commissioner Lee asked if there will be a new Audit Team from the state this year.

Commissioner Witt replied that is correct. He pointed out that there was a little contention going on between staff and the State Auditors and this new group should help to change things.

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

Mr. Stokes presented the Resolution to Reallocate Pinelands Conservation Fund Monies for Land Acquisition from the Southern Medford/Evesham Sub-Regional Planning Area to the Contingency Category (AMENDED). (See Resolution #PC4-09-07 attached). (*Originally designated PC4-09-113 and corrected to conform to Commission's practice of restarting resolution numbers each calendar year*).

Mr. Stokes stated that the Commission table a resolution at its July 11 meeting. The Commission will have to vote to take that motion off the table.

Commissioner Ashmun moved to take the previous resolution off the table. Commissioner Haas seconded the motion. The Commission agreed to take the previous resolution off the table by a vote of 9 to 0. Commissioner Kennedy was not present for the vote.

Mr. Stokes stated that the resolution that was in the Commission's packet is slightly different.

Commissioner Lloyd moved the adoption of the resolution. Commissioner Haas seconded the motion.

Commissioner Ashmun stated that this resolution comes from the Permanent Land Protection Committee. Money was reserved from the Conservation Fund to use in two specific planning areas, Toms River and Evesham Townships. However, few projects were identified in the Evesham Area in cooperation with Evesham and Medford and what the Committee would like to do is put this money in the contingency fund. This doesn't mean that it can't be spent in Evesham or Medford but it gives the Committee flexibility to use this last piece of money.

The Commission adopted the resolution by a vote of 9 to 0. Commissioner Kennedy was not present for the vote.

Ordinances Not Requiring Commission Action

Mr. Stokes stated that Buena Vista Township Ordinance 14-2008, Eagleswood Township 2008 Master Plan Reexamination Report and Master Plan Amendment, Egg Harbor Township Ordinance 48-2008, Pemberton Township Ordinances 21-2008, 22-2008, and 23-2008, are ordinance amendments that do not raise a substantial issue with regard to the provisions of the Comprehensive Management Plan. The Commission took no action, allowing the ordinance amendments to take effect.

Public Comment on any Matter Relevant to the Commission's Statutory Responsibilities

Ms. Nan Walnut, Southampton Township, referred to the Stafford Township's master plan and ordinance and stated that, having been a member of a Planning Board, she was astounded that the Commission was executing spot zoning. She stated that what bothered her most is that everyone was so attentive to the fact that Mayor Block and his staff were tap dancing the way they did with the Township's dump and Stafford Park. She indicated her frustrations with the Commission not being forceful with the rules and standards in the CMP.

Mr. Fred Akers commented on his recommendations to the Pinelands Commission to better protect the Pinelands using the Ecological Integrity Assessment (EIA). He thanked the Commission staff for giving him the opportunity to meet with them to talk about some of his concerns about the EIA and that meeting basically confirmed some of his concerns. One is that the Planning office does not consider the wild and scenic rivers that are in the Pinelands. He said that he thinks that the EIA is a way to devalue the ecology of the Pinelands. (See comments attached).

Mr. Russell Juelg, Pinelands Preservation Alliance, commented on the cultivation of all the road shoulders in the Pinelands and stated that eventually there will be the loss of native vegetation on every road shoulder in the Pinelands Area if this current road shoulder maintenance trend continues. He said that he wants to remind the Commission that this is a problem and some corrective action needs to be taken. He said that rigorous application of the Commission's current regulations in the MOA would help to address this problem. He said that the Commission could also consider revising the MOA. He said that he hopes that this year the Commission can make some progress on this problem.

Commissioner Jackson asked if Mr. Juelg knows what the county or state goal is and how the Commission can help them accomplish that goal without wiping out the vegetation.

Mr. Juelg stated that they don't expect the Commission to carry this entire load and figure out how to solve this problem. He said that PPA is working with the townships and counties to willingly adopt more intelligent methods of handling the road shoulders.

Commissioner Jackson asked about the latest technology to stabilize those soils without destroying the future natural vegetation.

Mr. Juelg said that they know if they disturb the soil in most cases, they can address that with other methods rather than replanting.

Commissioner Brown left the meeting at this time.

Mr. Harry Monesson, Pemberton Township, referred to the Stafford Township ordinance discussion and stated that he found the discussion and property rights quite interesting. He said that private property includes everything one owns and their right to keep it or to sell it on the market.

Other Items of Interest

Mr. Stokes stated that staff wanted to highlight some of the key findings of the 2008 Economic Monitoring report. He said that he will then update the Commission on where planning and rule making projects and priorities are.

Mr. Tony O'Donnell stated that the Commission received the Economic Monitoring report which is rather lengthy, covering approximately 24 variables every year. He stated that the purpose is to continually evaluate the goals and objectives in a reliable way. Staff collects data from a variety of sources. He said that this is a 2008 report and covers data from the end of 2007. He said that this program started in 1996 and coincides with a period of growth in real estate, markets and general national and state economy. He said that the Pinelands has historically had a healthy economy. He commented on the national economy taking a down turn and the problems with the state economy and stated that, even though there is a down cycle, the regional economy of the Pinelands still is fairing comparatively well to the rest of South Jersey. Through a power point presentation he highlighted some of the variables that describe recent trends (see presentation attached).

Commissioner Lee stated that the volatility within the Pinelands in responding to external economic factors seems to be high-big spikes and big declines. He noted his concern in the Atlantic City region where now, for the first time ever, there is a serious recession in the Casino industry, which many would say drives a lot of the Commission's Regional Growth Area development. He said that he is wondering whether there will be a turn around. He expects that this may be longer in the Pinelands because of both the volatility and the Casino factor.

Mr. O'Donnell stated that he agrees that it might take longer to recover this time. It will be interesting to see whether the building permit data and the other data that staff follows actually drops below the non Pinelands region.

Commissioner Lee stated that the P&I Committee was discussing forestry issues last month and it was wondering if there is any ability to find data on forest products.

Mr. O'Donnell said that he did look at this and will send a memo to the Commission on this matter.

Mr. Stokes asked if Mr. O'Donnell had any success in finding any.

Mr. O'Donnell replied yes and stated that it seems to be a small and declining sector, not just in the Pinelands, but nationally.

Commissioner Lee asked that this be quantified in a month or so.

Presentation – Planning Projects

Mr. Stokes stated that there are a number of potential rules that need to be evaluated and staff was asked to identify what a reasonable schedule for these might be. With the loss of staff available in the Planning office, we needed to take a look at what the office can focus on, what needs to be delayed or in some cases, deferred. Through a power point presentation, Mr. Stokes brought the Commission up-to-date on some of the Commission's planning projects (see presentation attached).

Commissioner Ashmun referred to the map changes and the Kirkwood/Cohansey study and stated that it seems to her that the results of the study are going to have something to do with whatever map changes the Commission make.

Mr. Stokes stated that the real concern is whether there will be localized stresses and this is more a function of how water supply is planned to accommodate the demand. In large part, the Kirkwood/Cohansey study is going to produce models that can test for the effect of individual wells. He said that it may be that wells need to be located to other areas. He said that the overall stress on the entire aquifer system will be slight.

Commissioner Ashmun asked if this deals with the fact that there might be growth outside that uses the Cohansey.

Mr. Stokes replied that staff's primary focus is the Kirkwood/Cohansey, although everyone recognizes that the Kirkwood/Cohansey will be used outside of the Pinelands Area.

Commissioner Ashmun stated that, if the map changes result in higher use in the Pinelands, the Commission would need to know about that and also what the projected stress is going to be from outside the Pinelands. She said that the map shouldn't be changed until the Commission knows the result of that study.

Mr. Stokes stated that this is a choice for the Commission. He said that staff can provide an interim update to the Commission or the Committee on the study. He said that the results of the Kirkwood/Cohansey study are not going to lead to changes in the overall management scheme in the Pinelands. They will be designed to deal with wells that can be reasonably supply or meet the water demand, whether they are properly located in the right locations and right drainage areas.

Commissioner Ashmun stated that personally she would not be comfortable making map changes until she sees the results.

Mr. Stokes stated that the net result of the map changes is to reduce the development potential in the Pinelands.

Commissioner Ashmun stated that they may or may not.

Commissioner Jackson asked if this is what the interpretation is or is this science.

Mr. Stokes replied that he is not a scientist and suggested that the Commission might make arrangements to hear it directly from the Science office.

Approval of Minutes of January 16, 2009 – Part I Meeting

Commissioner Lee moved the adoption of the January 16, 2009 Part I meeting. Commissioner Galletta seconded the motion.

Commissioner Ashmun referred to the top of the second page of the minutes and requested that the minutes reflect that she supports the resolution because she supports the concept of clustering. She stated that she is concerned with potential changes--for example, the proposed definition of agriculture to include solar panels that may lead to unintended consequences and loss of Forest.

With Commissioners Lee and Galletta accepting the change, the Commission adopted the minutes of the January 16, 2009 Part I meeting by a vote of 9 to 0.

Adjournment

Commissioner Lloyd moved to adjourn the meeting. Commissioner Jackson seconded the motion. The Commission agreed to adjourn the meeting at 12:55 p.m.

Certified as true and correct:

Nadine B. Young,
Executive Assistant to the Commission

Date: _____