

Disclaimer

These minutes reflect the actions taken by the Commission during its September 11, 2009 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 24, 2009.

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

Minutes  
**September 11, 2009**

Commissioners Present

Candace Ashmun, William Brown, Leslie M. Ficaglia, Paul E. Galletta, John A. Haas, Daniel M. Kennedy, Judith Y. Link, Edward Lloyd, Robert McIntosh, Francis A. Witt and Acting Chairman, Norman F. Tomasello. Also present were Executive Director John C. Stokes and Deputy Attorney General Amy Donlon.

Commissioners Absent

Guy Campbell, Robert Jackson, and Stephen Lee, III

Acting Chairman Tomasello called the meeting to order at 9:45 a.m.

Deputy Attorney General Donlon read the Open Public Meetings Act Statement.

Mr. Stokes called the roll.

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

Acting Chairman Tomasello called for a moment of silence to honor the victims that perished on September 11, 2001.

Minutes

Acting Chairman Tomasello presented the August 14, 2009 Commission meeting minutes. Commissioner Ficaglia moved the adoption of the minutes. Commissioner Ashmun seconded the motion.

The Commission adopted the minutes by a vote of 11 to 0.

Commissioner Ficcaglia reported that the Personnel and Budget Committee did not meet this month.

Committee Chairs' and Executive Director's Reports

CMP Policy and Implementation Committee Meeting

Commissioner Ashmun reported that the CMP Policy and Implementation Committee met on August 28, 2009 and adopted the minutes of the July 24, 2009 meeting.

The Committee discussed Egg Harbor Township Ordinance 13-2009 which authorizes an increase in in-lieu recreation fees. Although the Executive Director recommended disapproval of the ordinance, the Committee voted to recommend certification. Mr. Stokes suggested that an alternate approach would be for him to determine the ordinance raises no substantial issues with respect to CMP standards. A finding to that effect was subsequently issued.

The Committee reviewed potential changes to the Land Capability Map; discussions will continue next month.

Public and Governmental Programs Committee Meeting

Commissioner Lloyd reported that the Public and Governmental Programs Committee met on August 31, 2009.

The Committee discussed the status report regarding Phase 2 of a grant (Intermodal Surface Transportation Efficiency Act) previously awarded to the Commission, National Park Service and NJDEP Parks and Forestry. Staff gave a presentation regarding Phase 2 of the Intermodal Surface Transportation Efficiency Act (ISTEA) Grant. The Federal Highway Administration (FHA) awarded a \$974,000 grant to the Commission, National Park Service (NPS) and NJDEP Parks and Forestry for carrying out the Pinelands Interpretive Plan. The Pinelands Interpretive Plan includes exhibits for a Welcome Center that would be located at Double Trouble State Park, a Pinelands brochure and interpretive signs. Due to NJDEP, Parks and Forestry, financial constraints, the proposed Welcome Center at Double Trouble State Park has not come to fruition. In July 2009, the FHA notified the NJ Department of Transportation (NJDOT) that these funds are in danger of being rescinded due to inactivity. Staff has contacted NJDOT to formally request a change in scope for Pinelands-themed exhibits at the Richard J. Sullivan Center, instead of Double Trouble State Park as originally planned. At this time, the staff is awaiting a determination from the FHA regarding the proposed change in scope. Staff indicated that there was also a possibility that the NPS could partially, or fully, fund the proposed exhibits at the Richard J. Sullivan Center, without using the remaining \$964,000 ISTEA grant money. Staff anticipated hearing from the NPS shortly regarding whether it would be able to fund, or partially fund, the proposed exhibits at the Richard J. Sullivan Center.

The Committee discussed staff recommendations regarding the Commission's Local Review Officer Program. Staff attended a Pinelands Municipal Council meeting on May 27, 2009 to

obtain comments regarding the evaluation of the Local Review Officer (LRO) Program. Staff reviewed the comments received from municipal officials and its recommendations regarding the LRO Program with the Committee. In those municipalities that processed an average of two or less Preliminary Zoning Permit (PZP) applications per year, for the benefit of applicants, municipalities and Commission staff, staff recommended that the LRO Program be discontinued. Staff would also encourage municipalities that could benefit from the LRO Program, such as Medford Township, Galloway Township and Egg Harbor Township, to consider establishing LRO Programs. Additionally, staff also recommended potentially expanding the program with a municipality, on a trial basis, to include home occupations, minor subdivisions and certain other minor, non-residential development.

The Committee received an overview of a potential NJDEP Forestry MOA. Staff reviewed the main principles that staff recommended be covered by the proposed MOA with the Committee. A meeting was scheduled for September 9, 2009 between NJDEP and Commission staff to discuss the principles of the proposed MOA. Five activities that should be addressed by the MOA are: forest stewardship plans for State lands, maintenance and repair of activities on State lands, other State development activities that would not require application to the Commission (e.g. fuel breaks), forest stewardship plans for private lands and scientific activities undertaken on State lands.

The Committee received a legislative/rule making update. Commissioner Lloyd indicated that the NJ Builders Association had submitted a proposal to the NJDEP to have the Northern pine snake, a threatened species, de-listed.

Staff indicated that NJDEP was considering proposing new regulations regarding water allocation permitting.

The Committee received a MOA update. Staff indicated that there was preliminary discussion regarding the construction of solar facilities at the Southern Ocean Landfill. The landfill was located in a Forest Area where such solar facilities are not permitted. Therefore, it appeared that such a facility would require an MOA with the Commission.

#### Executive Director's Report

Mr. Stokes reported on the following items:

The resolution relating to Application #2007-0227.001, Joanne L. Mosier, Executrix, for a waiver of strict compliance approval that was included in the Commission's packet will not be acted on today. The applicant has requested that this matter be withdrawn from the Commission's agenda in order for them to pursue another use for the property.

Mr. Stokes sent an e-mail to members of the Commission earlier in the month regarding a project in Galloway Township referred to as Seashore Gardens. Seashore Gardens is an affordable housing project and requires the use of  $8 \frac{3}{4}$  Pinelands Development Credits (PDC). Staff "called up" Galloway Township's approval of the project because evidence had not yet been provided that the requisite number of PDCs had been redeemed. The applicant, a non-profit corporation,

submitted a request to the PDC Bank asking it to transfer all of those PDCs at no cost. There is a provision in the PDC Bank's enabling statute and in its regulations that spells out the circumstances under which the Bank can consider a no cost transfer. The Bank and its staff had been reviewing this request and, late last month, Mr. Stokes was asked by members of the Bank's Board of Directors if the Commission could host a meeting so that the applicant, Galloway Township and the Bank could further discuss the project. The Commission's role in this matter is to ensure that the requisite number of PDCs are redeemed and, if an agreement was reached in terms of how the applicant would fulfill its PDC obligations, determine how this would relate to the municipal permit that Commission staff has been holding. The applicant can't begin construction until after that permit is released by the Commission. The meeting was held and the three principal parties discussed the matter. Ultimately, the applicant requested that the Bank consider transferring 3.75 PDCs at no cost. The applicant, along with the Township, would be responsible for the other 5 PDCs. The PDC Bank Board held a special meeting in early September and approved that request. Since then, the applicant, Commission staff, PDC Bank, and Galloway Township have been working on an agreement that would guarantee that the requisite number of PDCs are redeemed so Commission staff can release the municipal approval.

On Saturday, September 12, 2009, from 11 a.m. to 4 p.m., Commission staff will hold its second annual Pinelands Garden Fair. This event is an outgrowth of the Medford/Evesham Conservation Plan and attempts to encourage landscaping practices that are more sensitive to the environment. The Garden Fair will be held at the Cedar Run Wildlife Refuge.

On October 15, 2009, Commission staff will be hosting the second World Water Monitoring Day event at Batsto. This is a worldwide educational program to provide students an opportunity to become more acclimated and familiar with water, water quality and the like.

Mr. Liggett reported on the following items:

Staff continues to talk to DEP about the water quality management planning areas. All the counties must redo their sewer plans for DEP. Staff feels sewer service areas are areas where sewers can be permitted (towns, villages and Regional Growth Areas) but DEP doesn't agree with that. DEP feels that sewer service areas are those that can be served right now since the sewers are there, the capacity is there and the recharge areas are there. Staff is trying to figure out a way that both can be accommodated.

Mr. Liggett met with Mike Winka of the BPU on the issues of solar and wind energy. BPU is requiring that all of the utility providers use sustainable energy. There is a big incentive for people to build on top of roofs, buildings, brown fields, etc. Ocean Township has submitted a package to the Commission for the possibility of building solar on top of the Southern Ocean Landfill. Towns that are desperate for money are very interested in this as well. He said that there are a lot of issues noting that most of the landfills in the Pinelands are not closed and many are located in Forest Areas. Wind energy is not as significant because wind potential is mostly along the coast. Both of these are issues that the Commission should look at in plan review.

Monroe Township continues to be interested in moving ahead with a Regional Growth Area designation along the Black Horse Pike. The Township is looking at ways to come up with the off-set that they need rather than wait for the EIA management changes to go through. Commission staff continues to work with the Township on this matter.

Winslow Township, Camden County and Commission staff have agreed upon a draft MOU to close the Sicklerville Wastewater Plant which is located outside the Pinelands Area in Winslow Township. The plant would be closed and the wastewater would be transferred to the Delaware River Plant in Camden County at a large cost savings. The Great Egg Harbor River will be impacted because the current plant recharges the wastewater to the river. Staff had to look at this issue and has come up with a proposal for the Commission to consider.

Mr. Horner reported on the following items:

On August 13, Mr. Stokes and he attended a meeting at the Department of Environmental Protection (DEP) to discuss a potential MOA for forestry activities in the Pinelands. A follow-up meeting was held on September 9 where he met with several members of DEP's staff, at which time they provided a revised draft of the MOA. Commission staff will review the revised draft and submit it to DEP by the end of next week. This matter will tentatively be scheduled for the September 29 Public and Governmental Programs Committee.

Staff continues to review the Ocean Acres Conservation Plan as it relates to Barnegat Township. The settlement agreement that was entered into provided the applicant the opportunity to demonstrate that a 38 acre portion of the conservation area was, in fact, not critical habitat for Northern Pine Snakes. The applicant has submitted its 2-year survey in an attempt to demonstrate that fact. On July 10 staff posted its preliminary recommendation on the matter indicating that it thought the information provided by the applicant demonstrated that the area was not critical habitat. Public comments have been received on the preliminary recommendations and staff is continuing to review the matter. Staff anticipates reaching a conclusion on this issue next week.

On August 25, in response to some representations and statements that were made at the last Commission meeting, he along with other Commission staff met with the Mayor of Buena Vista Township and its engineer to review some of the matters that had been brought to staff's attention concerning uses and development occurring without application to the Commission. A long list of potential issues was discussed and Commission staff indicated those matters that required an application to the Commission. The Township agreed to file those applications and staff has received a number of those applications as of this date. Most of the applications involved changes of uses of single family dwellings, improvements to an existing Township park, and improvements to an existing parking area. Staff also continues to review and discuss with New Jersey Transit certain activities that occurred within the railroad right-of-way within Buena Vista Township.

In terms of a matter that was brought before the Commission by Fred Akers relating to a number of stormwater basins that was failing in Hamilton Township, staff contacted the Township and a meeting was convened to discuss the issues that were involved in the different basins and

determine how to prioritize the approach. Staff worked closely with the Township and four of the major basins are either being remediated or feasibility studies are being done on how to correct the problems. Mr. Horner thanked not only Mr. Akers for bringing this matter to the Commission's attention, but also Hamilton Township for helping to resolve these problems.

Staff is about to issue a certificate of filing which denotes completion of an application with the Commission for a very large project in Hamilton Township. The project is for 625 dwelling units, bounded by Route 40, Cologne Avenue and the Black Horse Pike. This is the first time that an applicant has applied to the Commission for what is known as a general development plan under the Municipal Land Use Law.

Mr. Stokes referred to the Ocean Acres matter and stated that he sent an e-mail to the Commission indicating that, if members have interest in re-familiarizing themselves, Mr. Horner and staff will have information available on this issue following today's meeting.

Acting Chairman Tomasello referred to the PDCs that are to be given to Seashore Garden and asked how the PDC bank came up with this idea. He asked if this will hurt the sale of PDCs.

Mr. Stokes replied that the PDC Bank Board is in the best position to answer this. However, he said that both the statute that created the PDC Bank and the PDC Bank's regulations expressly recognize that the Bank has the authority to transfer PDCs at no cost for a project that satisfies a compelling public need. The Bank Board needs to make five or six specific findings when it does so and he believes the Board made those findings. He said he believes the question as to private sales could depend upon whether a project could proceed without the PDCs being transferred at no cost. If PDCs aren't transferred and the project evaporates, there would be no private sales whatsoever. The question might hinge on whether or not it's better for the market to have this project purchase 20 development rights (5 PDCs) or no PDCs if the project is shelved.

Commissioner Kennedy added, as the Commission's designee to the Bank Board, he felt all of the regulatory items that the applicant needed to meet were met. He said that this doesn't mean that he personally felt that the opportunity should exist; however, he narrowed his decision, as the designee to the Bank, to the facts that were presented. He put aside any thoughts that he had as to whether or not this was an opportunity that the State of New Jersey should be offering at this time. He said that Mr. Stokes stated pretty clearly his thoughts on getting past the hurdle as to whether this application could negatively impact the market for credits. He said if the project went away, the demand for 8.75 credits would go away. The compromise that was reached with the Bank Board providing 3.75 credits creates a demand for 5 credits that would not exist if the project went away. This is what caused him to support the application for that specific item. He said that the Bank Board pushed for the PDC Bank Board staff recommendation and an Attorney General recommendation as to whether this could be done and wasn't provided one. He said that there is no policy to deal with these decision making roles that the Board has. The Board used its professional and personal opinions on the matter and this is how it reached the conclusion to vote in favor of the application. He said that this development application is consistent with the Comprehensive Management Plan (CMP) short of the credit issue. The applicant was in the

right place with all of its requisite approvals and met an affordable housing demand. He said with all of these things in place, he felt it was the right thing to do.

Commissioner Lloyd referred to the water quality management plans that the counties are moving forward with and asked if staff is commenting on those plans that are submitted to DEP.

Mr. Liggett replied that staff has commented to the counties. Counties are in a “catch 22” situation. He said that there may be a way to resolve the DEP and Pinelands approaches and that staff is putting together some ideas to share with DEP. He also said that he is concerned about the use of onsite wastewater treatment systems.

Deleted:

#### Public Comment on Agenda Items

Mr. Edward McGlinchy, Director of Public Works in Winslow Township, and a member of the PDC Bank Board stated that he would like to reiterate Commissioner Kennedy’s feelings as to how the Board came to its conclusion on the Seashore Garden’s application. He said that it was a long process and many meetings were held on the issue and that there was no public comment provided. He indicated that the acting chairman attended one of the meetings along with a member from the Farm Bureau, but that there was no public comment at any of the meetings. He said that his feelings are the same as Commissioner Kennedy’s. He further noted that the legislature allows for it. He thanked Mr. Stokes for heading up that meeting to try and bring both sides together. He said that the applicant was originally asking for the whole 8.75 credits and he doesn’t think anyone felt comfortable with that request. Mr. McGlinchy referred to the proposed Winslow Township MOU and thanked Mr. Liggett for all his help in this matter, noting that it has been a long process. He said that Winslow Township has reviewed the MOU and they are ready to sign it. He said that he hopes that the MOU will go before the P&G Committee and ultimately the Commission will be in agreement so the matter can be brought to rest.

#### Development Review Matters

##### Review of Public Development Projects

Mr. Stokes stated that Application Number 1984-0655, South Jersey Transportation Authority, is an application for public development recommended for approval with conditions.

Commissioner Witt moved the adoption of the Resolution Approving with Conditions an Application for a Public Development (Application Number 1984-0655.015). (See Resolution #PC4-09-49 attached). Commissioner Galletta seconded the motion.

Commissioner Ashmun said that she has discussed this matter with Mr. Horner because it was not clear to her that the widening takes place in an existing paved shoulder. She asked whether there will be another shoulder added that will be paved.

Mr. Horner replied that is correct and that there will be a total of 12 feet of pavement added to the median side of the roadway, not on the outside.

Commissioner Ashmun referred to the loss of 1.24 acres of wetlands and stated that the 5<sup>th</sup> requirement in the conclusion and conditions relates to getting all the other necessary permits, one of which will be a wetlands permit from DEP which will hopefully require some mitigation for those 1.24 acres.

Mr. Stokes stated that the Commission's regulations as a general rule don't afford applicants the opportunity to do something that is inconsistent with Pinelands standards and then mitigate it. He said that the only time that comes up is if someone asks for a special intergovernmental agreement. He said that in terms of the wetlands issue, the Commission's regulations prohibit development in wetlands with a couple of exceptions, one being linear development. The Commission's regulations do not require mitigation if the applicant can make the appropriate demonstrations that the rules require them to make. Mr. Stokes added that although the Commission's regulations in this case do not require it, staff was interested in trying to get a better idea as to whether or not this third west bound lane might create secondary impacts. Staff consulted with Delaware Valley Regional Planning Commission (DVRPC) which confirmed that this project would not have any secondary impacts relative to commutation. He said that the addition of the third lane is to avoid congestion of travelers to and from Atlantic City during tourist periods.

Commissioner Ashmun referred to the Manager's Report of last month and said that it notes that the staff was looking at the land around the various interchanges.

Mr. Stokes stated that staff was in the process of doing that in the event that the DVRPC said that that the third lane might spur development at one or more interchanges. DVRPC's conclusion was that it would not.

The Commission adopted the resolution by a vote of 11 to 0.

Mr. Stokes stated that Application Number 2009-0134.001, Egg Harbor Township Municipal Utilities Authority, is an application for public development recommended for approval with conditions.

Commissioner Lloyd moved the adoption of the Resolution Approving with Conditions an Application for a Public Development (Application Number 1984-0655.015). (See Resolution #PC4-09-50 attached). Commissioner Ficaglia seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0.

Mr. Stokes stated that the Waiver of Strict Compliance approval has been held.

Commissioner Ashmun asked what the effect is on the time frame relative to the waiver.

Mr. Horner stated that the applicant requested that the Commission not act on the application, but be heard at the next Commission meeting. Staff has written back to let them know that the matter will be considered at that time.

Other Development Review Matters

Mr. Stokes stated that there were 5 PDC Letters of Interpretation issued this month. They allocated 4.25 PDCs to a total of 197.91 acres.

Resolutions relating to Municipal Ordinances

Mr. Stokes stated that Commissioner Ashmun reported that the P&I Committee reviewed an Egg Harbor Township Recreation Fee Ordinance. This matter has been disposed of and a no substantial issue letter was transmitted to the Township. He said that the ordinance is covered in Ms. Grogan's memorandum to the Commission.

Other Resolutions of the Commission

Mr. Stokes presented the Resolution To Approve the Pinelands Commission's 2008 Annual Report. (See Resolution #PC4-09-51 attached).

Mr. Stokes stated that the Commission has a statutory obligation to issue an annual report. In addition, Governor Corzine issued an Executive Order requiring agencies to issue an annual report with certain requirements. For the first year or two staff was issuing two reports. These reports were combined last year and we are continuing that practice this year. This report satisfies both of those obligations. He indicated that if the Commission approves the report, it will be posted on the Commission's web site as well.

Commissioner Ashmun moved the adoption of the resolution. Commissioner Haas seconded the motion. The Commission adopted the resolution by a vote of 11 to 0.

Commissioner Ashmun said that the report was well done. Commissioner Ficcaglia concurred and said that it is attractive and informative.

Ordinances Not Requiring Commission Action

Mr. Stokes stated that Barnegat Township Ordinance 2009-23, Egg Harbor Township Ordinance 13-2009, Vineland City Ordinance 2009-52, Wrightstown Borough Ordinance 1999-05 and Wrightstown Borough Ordinance 2009-03 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.

Commissioner Galletta said that it is a nice compromise for Egg Harbor Township but that this is not the remedy. He said that the Commission should amend the CMP so that these towns know what latitude they really have with the Commission. He said that the Commission certified the Egg Harbor Township ordinance a couple of years ago and the other towns that have a recreation ordinance could come back with the same increase that Egg Harbor Township did and the Commission will do the same thing and give them a no substantial issue letter. He said that he does not believe this is the correct way to handle this type of issue in the long run. He said that this should be defined in the CMP so towns know how to proceed.

Mr. Stokes indicated, for those members that are not familiar with the issue, that the question before it is an ordinance that increases in-lieu payment for recreation facilities. He said a developer that comes forward with a subdivision or site plan has an obligation to provide on-site recreational facilities. He noted, however, if the Township has provided an alternative the development can either provide those facilities on site or elect to pay an in-lieu payment and not provide those facilities on site. Traditionally, the Commission, in reviewing those ordinances, reviews the ordinance from an on-site development standpoint because its principal concern is to ensure that a municipality doesn't impose a series of obligations which prevent a developer from achieving the zoning densities that the Township assigns. Then a question arises whether an amendment to a certified ordinance should come before the Commission. The dilemma the Commission faces at this point is that court decisions have found that municipalities do not have the authority to impose onsite recreation facility requirements in all developments. Secondly, in no case does the Municipal Land Use Law provide for in-lieu payments. The question then turns to, does the Pinelands program allow for in-lieu payments. The dilemma the Commission faces is that its regulations do not establish any sort of minimum standards for on-site recreation facilities and are silent as to in-lieu payments. He said that everyone who discussed this matter at the P&I Committee would agree that the CMP should include specific regulations so everyone knows what is permissible.

Commissioner Ashmun asked Mr. Stokes if he is suggesting taking the guidelines that is now in the CMP and making them into something more.

Mr. Stokes replied that when the Pinelands Plan was first adopted those were minimum standards and the Commission decided that it should not impose those requirements on municipalities, but rather, offer them as suggestions. They were then changed from minimum standards to guidelines. He said that minimum standards should be established but that these guidelines shouldn't just be converted to minimum standards.

Commissioner Lloyd asked how many of these in-lieu payment ordinances have been certified.

Ms. Grogan replied approximately 15 or 20 ordinances.

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

Mr. Fred Akers, Great Egg Harbor River Association, stated that he is critical of the management area change project. He said that he has great admiration for the Commission and the staff. He said that this Commission is the only Commission that he knows of that actually has working subcommittees that really do a lot of work. He thanked Mr. Horner for his work on the stormwater basins in Hamilton Township. He said that direct discharge of stormwater is a significant issue in the Pinelands. He said that the new stormwater rules and better management practices do help, but it is difficult to go back and correct some of the older situations. He referred to a proposal for an ORV park in Little Egg Harbor Township, east of the Garden State Parkway and outside of Pinelands jurisdiction, which is being backed by DEP with over \$2.3 million. He said that this matter came before the Little Egg Harbor Township Zoning Board for

a variance but was denied. He said that he is not sure what will happen next, but does know that DEP is really pushing for a regional ORV Park so they don't lose federal highway administration recreation funds. He said that he doesn't know if they will come back and push for a site in the Pinelands but wanted to bring this matter to the Commission's attention.

Mr. Mark Demitroff, resident of Richland Village, Buena Vista, referred to some of the remarks made today and those made at the last Commission meeting with regard to violations undertaken within Buena Vista Township. He thanked the Commission for picking Buena Vista Township as being a good example of what smart growth and redevelopment can be in the Pine Barrens because it's being done in such a manner that it shows what the dangers are without regulations and without careful watching. He commented on the violations in Buena Vista Township and said that one might get the impression that these are minor violations but in fact there are numerous major violations that the Township and others, such as NJDOT, is involved in right now. He said that there are no permits for a good deal of the work they are doing and they don't have redevelopment permits. He said that this all falls on the Commission since it has taken on the responsibility of redevelopment. He said that this is why DEP is fighting the Commission as far as who has jurisdiction over redevelopment. He distributed material to the Commission relating to Buena Vista Township and commented on the various violations occurring for which the Township is saying they have permits. Mr. Demitroff said that he finds it hard to believe that the Mayor didn't know he needed permits. He stressed the fact that a cultural resource survey and environmental survey needs to be done in the Township noting that historical resources are located there. He referred to the proposed sewer plant and stated that it is proposed to be located in wetlands. He said that redevelopment has begun and that surveys need to be done because they are losing the heritage in Richland Village. Mr. Demitroff distributed various materials to illustrate his points.

Mr. Stokes agreed that the Commission needs to be careful how development proceeds in Richland Village. Staff also recognizes there have been some violations in Richland Village and, as Mr. Horner has said, he and his staff are investigating these. He said that the violations in the Township have not all been undertaken by the Township but there are also rail facilities there. Staff has looked at the issue of wetlands in the Village and indicated that there will be no development in wetlands. He said that staff does have an interest in cultural resources and that the Commission has a cultural resource management program. He said that he is not aware that anything has proceeded in Richland Village with the Commission's approval that has negatively impacted any historical resource. He said staff is working with the Atlantic County Utilities Authority and Buena Vista Township on the examination of a small scale wastewater treatment facility which is one of the things that is part of the investigation process.

#### Presentation – Update on Regulatory Initiatives

Mr. Horner provided the Commission with an update on regulatory initiatives through a power point presentation. He said that over the last couple of years staff has attempted to change its business practices in recognition of dwindling resources and has tried to focus on those things that are most important. He went through some of the efficiency enhancements staff has been undertaking. These consisted of evaluating the local review officer program, entering into memoranda of agreement with counties and municipalities that will address minor development

activities (which will enable Commission staff to process minor applications on behalf of the Commission), a memorandum of agreement for forestry activities and the development of a stormwater application requirement checklist. He went through a number of items that still need to be accomplished which included a mechanism to better partner with municipalities in violation matters, segregate out correspondence and to try to help applicants for single family dwellings on existing lots. He explained clock tracking reports indicating that the report identifies all the application material that is due out over the next 30 days. This enables supervisors in the regulatory programs office to constantly monitor what is due. He said that the tracking report effectively streamlines the process by giving staff a handle on workload and an opportunity to anticipate what is coming up. Lastly, he compared workload processing times from 2008 to 2009 showing that the average processing time is faster and noted that those processing times will come down as staff continues to implement some of the enhancements. He noted that the workload is 11 percent less but the processing times are being reduced by an average of 18 percent. He stated that Regulatory Programs staff has dropped to 8 ½ staff members. He said that there are challenges, but staff feels it should be able to continue to streamline the process. (See presentation attached).

Commissioner Haas asked when staff anticipates moving forward with the MOA for counties.

Ms. Young replied that before the MOA was sent she called each county engineer to explain the idea behind the MOA and that it was being sent out to them in the mail. She said that they are in the process now of arranging meetings to meet with each engineer to gather their comments on the MOA.

Commissioner Haas said that he spoke with the Ocean County engineer who seemed very pleased with the draft MOA.

Commissioner Kennedy asked how much time the Regulatory Programs staff or other Commission staff spends on responding to Open Public Records Act (OPRA) requests.

Mr. Horner replied staff spends a lot of time on OPRA requests because most are very cumbersome. He said that staff attempts to work with the Public Programs' office, and contacts the applicant directly by phone to find out what they really want and to try and satisfy their needs outside of the context of an OPRA request.

Mr. Paul Leakan concurred with Mr. Horner and said that the key is to try and make sure that people are specific in their request and to let them know what is in the file. He said at times people come in to do a file review and then they indicate to staff what documents they would like. He said that last year the Commission received 22 OPRA requests. He said it isn't the quality of requests as it is what they are seeking.

Mr. Stokes stated that, in addition to OPRA requests, staff receives other requests for information as well as requests to come in for a file review. He said that a file review request requires the staff to review the file to remove things that are not available for public review. He said that this is a very time consuming process as well.

Mr. Stokes added that the use of information technology is providing benefits to the Regulatory Programs office and will continue to do so in the coming years. He provided examples of this indicating that all of the Commission's permitting correspondence is available electronically and tied to the application file. Staff is now scanning incoming correspondence which will also be accessible, enhancements are being made to the PCIS, and an agreement is in the works with DEP to share information. He said that staff is also trying to move forward with public access. He indicated that the GIS and MIS offices are scheduled to provide the Commission with an update on the Commission's geographic and information management initiatives in November.

Commissioner Galletta announced that Hammonton is having its second annual Green Day. He displayed a poster which explains the activities that will be held and the time of each. He said that the event will be held on Vine Street in Hammonton and invited all to attend. He said that he has copies of the registration if anyone would like to have an exhibit at the event.

Closed Session Resolution

DAG Donlon read a resolution to retire into closed session to discuss personnel matters.

Commissioner Ficcgaglia moved to retire into closed session. Commissioner Haas seconded the motion. The Commission agreed to retire into closed session by a vote of 11 to 0.

Return to Open Session

Acting Chairman Tomasello reopened the public portion of the meeting.

Commissioner Ashmun stated that the Commission discussed the executive director's evaluation in closed session.

Adjournment

Commissioner Ficcgaglia moved to adjourn the meeting. Commissioner Link seconded the motion. The Commission agreed to adjourn the meeting at 12 noon.

Certified as true and correct:

\_\_\_\_\_  
Nadine B. Young,  
Executive Assistant to the Commission

Date: \_\_\_\_\_