

Disclaimer

These minutes reflect the actions taken by the Commission during its March 13, 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 April 3, 2009.

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

Minutes

March 13, 2009

Commissioners Present

Candace Ashmun, Guy Campbell, John A. Haas, Robert Jackson, Daniel M. Kennedy, Stephen Lee, III, 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 Valerie Haynes.

Commissioners Absent

William Brown, Paul E. Galletta, and Leslie Ficaglia

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

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

Mr. Stokes called the roll.

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

Minutes

Acting Chairman Tomasello presented the February 13, 2009 (open and closed session) Commission meeting minutes. Commissioner Jackson moved the adoption of the minutes. Commissioner Witt seconded the motion.

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

Committee Chairs' and Executive Director's Reports

Personnel and Budget Committee Meeting

Commissioner Witt reported that the Committee met on March 5, 2009 and adopted the minutes from the February 5, 2009 meeting.

The Committee discussed the resolution To Reduce the Pinelands Commission's Fiscal Year 2009 Budgets for the Operating Fund and the Pinelands Development Credit Purchase Program Fund. Ms. Donna Connor discussed the details on each budget revision. Following the discussion, the Committee unanimously recommended Commission approval of the resolution.

The Committee discussed the check register and electronic funds transfer (EFT) disbursements for February 2009. Ms. Connor provided information on the checks and electronic fund transfers.

The Committee discussed employee actions. Ms. Connor reviewed the employee actions during February 2009.

The Committee was updated on Fenwick Manor renovations. Ms. Connor informed the Committee that the insurance company will be covering the costs regarding the pipe that froze and burst in the barn. She added that the renovations will be delayed because of the water clean up and reconstruction.

Ms. Connor updated the Committee on application fees for February and stated that the revised FY09 budget includes a reduction to the anticipated revenue for fees.

A closed session was held to discuss confidential items including the items pertaining to the Governor's budget and a CWA matter.

Audit Committee Meeting

Commissioner Witt reported that the Audit Committee met on February 26 and adopted the minutes from the October 21, 2009 and January 7, 2009 meetings. The Committee received a copy of the FY 2008 financial statements which were prepared by Donna Connor. Ms. Connor indicated that the statements were reviewed by both Kevin Frenia, the Commission's financial consultant and Chief Financial Officer, Irfan Bora, of the Meadowlands Commission. State Auditor Stephen Eells introduced the new auditing team, Rose Todaro, the managing auditor, and Kristen Menegus, auditor in charge. Ms. Menegus indicated that there would be two auditors on site starting Monday, March 2 for approximately 6-8 weeks. The Committee discussed conducting regular progress meetings and it was decided that the first bi-weekly progress meeting would be held around March 23. The Committee adjourned the meeting at 10:30 a.m.

Public and Governmental Programs Committee Meeting

Commissioner Lloyd reported that the Public and Governmental Programs Committee met on February 24, 2009.

The Committee reappointed Michael A. Hunninghake and John Volpa to the Pinelands Educational Advisory Council. Both of their terms expired in 2008 and both new terms would run until June 2011. (Once the Pinelands Commission Chairman appoints members to the Council, the Committee may reappoint Council members when his/her term expires.)

The Committee continued its discussion of the draft County/Municipal Public Development Streamlining MOA. In response to revisions and clarifications to the MOA suggested by the Committee members at the January 26, 2009 Committee meeting, Commission staff prepared a revised draft MOA. Commission staff reviewed the revised draft MOA and explained revisions to the MOA with the Committee. The MOA establishes a process for municipalities and counties to pursue a streamlined approval for certain development activities. Committee members suggested a few revisions and clarifications to the revised draft MOA. Members of the public expressed concern regarding the proposed MOA. Among other concerns, members of the public indicated that they were concerned as to whether MOA applications would be required to adhere to the same CMP standards as other Pinelands development applications. Commission staff confirmed that regardless of whether a project proposal was processed under the MOA or as a traditional development application, the proposed development would need to meet all applicable standards of the CMP. Committee members unanimously recommended that Commission staff brief the full Commission regarding the revised draft MOA.

Pinelands Agricultural Advisory Committee

Acting Chairman Tomasello reported that the Pinelands Agricultural Advisory Committee met on February 20, 2009 and adopted the minutes of the September 29, 2008 meeting.

The Committee expressed extreme disappointment in the opinion issued by the State Ethics Commission and encouraged the Commission to seek remediation of the problem.

The Committee received an update on the following issues: PDC policy changes, management area changes based on the Environmental Integrity Assessment (EIA) project, and draft wetlands restoration rule proposal.

The Committee asked to meet to again discuss the draft forestry rules.

CMP Policy and Implementation Committee Meeting

Acting Chairman Tomasello reported that the CMP Policy and Implementation Committee met on February 27, 2009 and adopted the minutes of the January 30, 2009 meeting.

The Committee recommended that the Commission certify Plumsted Township Ordinance 2008-21.

The Committee recommended that the Commission propose rules related to the management of vegetation in electric transmission rights of way. This will be on the April agenda.

The Committee discussed draft rules related to Septic Management, Wetlands Restoration and Forestry.

On February 18, 2009, the CMP Policy and Implementation Committee conducted the first of 4 Special meetings to discuss the draft revisions to the Land Capability Map based on the EIA.

Executive Director's Report

Mr. Stokes reported on the following items:

The Pinelands Short Course was held in cooperation with Burlington County College this past weekend. A new attendance record was set with almost 700 people. Staff members Paul Leakan and Joel Mott continue to do an outstanding job of organizing the short course and get good support from the College. He indicated that more courses were offered this year than in the past as well as an all day bus tour.

Commissioner Haas stated that he and Commissioner Ficaglia were at the short course and everyone seemed to enjoy the courses.

Mr. Liggett and he had the opportunity to attend the January 29, 2009 Pinelands Municipal Council meeting at which Mr. Liggett briefed representatives of the Municipal Council on a number of the Land Capability Map changes. Mr. Liggett also had an opportunity to meet individually with a number of towns. The Planning Office continues to meet and discuss a number of the changes with the towns and others in an effort to collect as much information as it can.

The first Special meeting of the CMP Policy and Implementation Committee was held on February 18, 2009 and the next meeting is scheduled for March 23, 2009 at Southampton Township Municipal Building at 1:00 p.m. Two other special meetings will be held and will be confirmed in the near future.

The Agriculture Advisory Committee met on February 20 and they are slated to meet on March 20 to again review the draft forestry rules.

The Governor presented his budget to the Legislature earlier this week. The recommended appropriation relative to the Pinelands Commission is a little over \$2.8 million. This is \$16,000 less than the adjusted budget for last year. The Governor's budget also anticipates \$177 million in other personnel related cuts and he has not yet decided exactly how those budget reductions are going to be allocated. It is conceivable that the Commission will be asked to absorb some additional reductions related to the Governor's effort to reduce the personnel related operations of State government.

The next Commission meeting is scheduled for April 17, 2009 which is the third Friday of the month. It is likely that there will be one or more rule proposals for the Commission to consider at that meeting.

Mr. Horner reported on the following items:

A previous application by the South Jersey Transportation Authority has been reactivated for the third westbound lane on the Atlantic City Expressway.

Staff was contacted by the Mayor of Manchester Township who is concerned with a violation that is occurring at an automobile junk yard. A meeting has been scheduled at the Township in an attempt to resolve the matter.

Mr. Liggett reported on the following items:

Ed Wengrowski is continuing to have a lot of community meetings on the issue of septic management.

Mr. Liggett had his first meeting with Weymouth Township on the clustering rules and how they are going to work. The clustering rules will go into effect on April 6, 2009.

A consultant that deals with the Commission on landfill initiatives is considering applying to the state to have the landfills in the Pinelands deemed brownfields to gain access to funding on investigations. A steering committee is being put together and staff is exploring whether to be involved or whether there might be some kind of a conflict as it looks at changes and regulations that might come out of that.

It was noted in the monthly report that staff thought that stormwater was completely done and that Jackson was the last Township. An issue regarding Jackson Township has come up during this past week and staff is attempting to work this out.

Staff had a meeting with Hammonton Town with regard to its wastewater recharge facility. Hammonton Town officials came to the table with a lot of good ideas that they will look at during the next year. Officials from the Department of Environmental Protection were in attendance at that meeting and will also be looking at some of those ideas. Staff hopes to see good progress on this matter over the next year.

Commissioner Kennedy referred to an article in the press packet handed out to the Commission this morning relating to Burlington County's decision to preserve the farm around the Commission's property through an agricultural easement. He noted that the County expects to close on that property soon.

Public Comment on Agenda Items

Mr. Russell Juelg, Pinelands Preservation Alliance, stated that he would like to comment on the proposed streamlining memorandum of agreement which is on the Commission's agenda today

for discussion. He stated that he has distributed a copy of his comments to the Commission (attached). He stated that the Pinelands Preservation Alliance's conclusion is that there is a fundamental disconnect between the directions that this MOA will take and the direction that the public would like to go. Mr. Juelg displayed photographs of routine mowing, graded and disturbed road shoulders that wipe out existing native plant population and other photographs showing native plant populations on road shoulders that have not been mowed or graded.

Mr. Juelg also read an excerpt from material (see attached) that Mr. Joseph Arsenault provided to the Pinelands Preservation Alliance noting that without normal development applications there is no provision in the streamlining agreement to inspect each proposed road work area.

Mr. Ted Gordon, former Commission member, commented on the Streamlining MOA. He commented on various plants totally expunged by roadside ditch clearing and untimely mowing. He indicated that if the road work and cleaning had been conducted during the dormant season a number of the plants would still be there today. He said that it would take little effort to collaborate with the botanical community, the conservation community, and the county agencies responsible for roadside maintenance and come up with a sensible plan to protect these plant populations.

Ms. Robin Jess, Director of the American Society of Botanical Artists, and Designer of the Pinelands license plate, expressed her support of reduced and appropriately timed mowing of roadsides in New Jersey and specifically in the Pinelands Barrens. She urged the Commission to raise the bar for enlightened roadside mowing (see comments attached).

Mr. Bob Moyer of Bamber, New Jersey, stated that his hobby and passion is the vegetation of the Pine Barrens. He stressed his concerns about the Commission's implementation of the MOA noting that it will not help the situation, but rather, worsen the protection of the plant population (see comments attached).

Ms. Jane Nogaki, Vice Chair of the New Jersey Environmental Federation, supported the comments made by the Pinelands Preservation Alliance and others who have testified against the Streamlining MOA. She said that the New Jersey Environmental Federation opposes the adoption of the proposed Streamlining MOA. She commented on how the MOA fails to provide the equivalent protection test that MOAs are supposed to provide. She said that existing practices are destroying roadside vegetation and urged the Commission not to adopt the MOA (see comments attached).

Ms. Elaine Latten, resident of Jackson Township, commented on her enjoyment of plants in the Pinelands, in particular a bog located on Route 539, and how this wetland was destroyed by roadside improvements.

Ms. Ann Marie Woods, resident of Ocean County, commented on the roadside populations of threatened and endangered plants species and animal species along the public right-of-ways. She indicated that some of these sites remain undocumented and even undiscovered. She stated that the Pinelands Commission is supposed to be vigilantly protecting the resources and is in

possession of the knowledge that more needs to be done to protect these species (see comments attached).

Mr. Michael Van Clef, Ecological Consultant, stated that he is working with the Pinelands Preservation Alliance on recommended best management practices for roadsides. He said that the Streamlining MOA suggests a diminished ecological value of roadsides. The roadsides are important ecological communities. He said that open habitat in the Pinelands has become much less common over time because the natural fire regime has been altered. He said that individuals have to go out of their way to protect roadside plant populations. He indicated that his written comments include best management practices that could be considered for roadsides (see comments attached).

Mr. Chris Jage, New Jersey Conservation Foundation, stated that they are the owners and managers of over 14000 acres of land in the Pinelands and also over 100 acres of roadsides, both public and private. He said that these plants depend on disturbance and fire, the types of disturbance that occur along roads. He provided examples of the Parker Reserve in Woodland.

Mr. Stokes stated that a little later in today's meeting, Mr. Chuck Horner will be briefing the Commission on staff's recommendation regarding the Streamlining agreement. He said that it seems appropriate for staff to have a discussion with the Commission about the agreement at that time.

Development Review Matters

Review of Public Development Projects

Mr. Stokes stated that a packet resolution recommends approval of two public development applications. There are substitute resolutions that address each application separately for the Commission to consider. The resolutions have been distributed to the Commission. One is the Camden County Municipal Utilities Authority application to install a sanitary sewer force main to serve the Ancora Psychiatric Hospital Facility. He said that this project is pursuant to the agreement that the Commission entered into with a number of parties last year, which calls for Ancora to obtain its water supply from other sources. He said that he is happy to say that the Department of Human Services has moved ahead on a number of fronts, specifically by installing two test wells that seem to offer hope for water supply. He said that there is an obligation in the agreement for the water supply to be arranged such that it does not require Kirkwood/Cohansey water before the sewer line is actually utilized. He said that Ancora will need to accelerate its efforts to ensure that the alternative water supply is in place so when the sewer line construction is complete the facility can take advantage of it.

Commissioner Lee asked Mr. Stokes to be little more specific about the inability of the two wells to meet the needs.

Mr. Stokes asked Mr. Liggett and Mr. Wengrowski to explain the details to Commission members.

Mr. Wengrowski explained that staff member Rhonda Ward and he attended a meeting with representatives from Ancora and two divisions of DEP on Wednesday to talk about what has been learned about the potential for the two Piney Point wells to provide sustainable yield to the facility. The pump tests had been reviewed by a geologist from the New Jersey Geologic Survey. It was determined that the two wells, identical in construction, yielded substantially different results when they were pumped tested over a 72 hour period. One of the wells would provide far in excess of the average historic water use that the facility has experienced, well over two times that quantity. The adjacent well produced a yield that was just below the average water use that current occupancy of Ancora has demanded. The geologist was unable to predict whether or not pumping of the two wells as required to supply Ancora's needs would be sustainable over the long term.

Commissioner Jackson referred to historic needs and asked if Ancora did a comprehensive upgrade of their water facilities.

Mr. Wengrowski replied that they have over the years gone through and retrofitted their facility to replace older sanitary fixtures with water conservation fixtures, put in a significant investment in their laundry operations and spent over a million dollars to acquire some new water conserving laundry facilities on site. He said that they have done everything they can to curtail their water use. He referred to future growth of the facility indicating that, in addition to the psychiatric facility, there are also a jail facility and a veteran's hospital. He said that staff is concerned that although the sewer seems to address the sanitary needs for future growth, limits that may be imposed upon future growth as a result of the Piney Point wells need to be dealt with as well. He indicated that Ms. Catherine Fling, a representative from Ancora, is present today and may be able to also address some of the Commission's question.

Commissioner Jackson stated that he is trying to figure out how the facility calculated historical water use.

Mr. Wengrowski replied that the current projections are based upon historical use and don't really account for the latest conservation measures. Representatives from DEP Water Allocation said that although some of the water conservation measures would be significant, they wouldn't be significant to the extent that they would obviate a concern with the supply obtained for these wells. They may see a 10 percent reduction in water use if everything stays the same. He said that it doesn't get them close enough to that comfort level that would need to be reached to determine that the two Piney Point wells are sufficient to meet current and future demands.

Commissioner Jackson asked if wastewater reuse issue might help.

Mr. Wengrowski replied that it certainly could, as could the ultimate yield of those wells.

Commissioner Lloyd stated that the laundry facilities take a substantial amount of water at the facility and asked what those numbers are and if there are any new numbers as a result of the conservation investments.

Ms. Fling replied that the laundry facility at Ancora currently adds 10 million gallons of water to its wastewater per month. Once the \$1.8 million worth of improvements are installed the wastewater added by the laundry will go down to 2.5 million gallons. This will cut the usage of the water in the laundry by three quarters.

Commissioner Lloyd asked what the total use is on a monthly basis.

Ms. Fling stated that she doesn't have that answer but can get it for the Commission.

Commissioner Jackson asked if Ancora had considered outsourcing its laundry.

Ms. Fling replied that Ancora did a calculation and came to the conclusion that making the investment in the new equipment on site would be the most cost effective.

Acting Chairman Tomasello asked if Ancora is still bringing in laundry from other facilities.

Ms. Fling replied that is correct.

Commissioner Jackson asked whether Ancora might stop bringing in laundry from the other facilities.

Ms. Fling replied that it would still be more cost effective to do the laundry at Ancora but it would be an option that the facility would explore if there was not enough water.

Mr. Stokes indicated that all of these things were evaluated and reviewed extensively when the Commission considered the agreement. He stated that there are a number of water supply alternatives that can be pursued and maybe none of them will be needed. He said that no one knows today exactly what those wells will be able to produce and what, if any, steps Ancora may need to take to supplement water use. He said that it is prudent for the Commission to restate clearly what the terms of the agreement are. He said that a plan has to be in place when the construction of the force main is completed and arrangements in place to ensure that the Kirkwood/Cohansey water will not be needed in the long term.

Commissioner Haas moved the adoption of the Alternate #1 resolution Approving with Conditions an Application for a Public Development (Application Number 1981-0656.021). (See Resolution #PC4-09-13 attached). Commissioner Lee seconded the motion.

Acting Chairman Tomasello asked if the project will go forward when the force main is completed.

Ms. Fling replied that is correct. She indicated that Ancora is attempting to use stimulus dollars and they may be asked to delay the opening of the bids until the approval of that funding. She said that they should know about the stimulus funding in the next few weeks.

Acting Chairman Tomasello said that he doesn't want to see the water situation hold up construction of the sewer line.

Mr. Stokes stated that it should be clear that the sewer line can be constructed in accordance with the agreement. At the same time, before the line is open and services Ancora, there needs to be clarity in terms of how the long term water supply will be handled. He said if this is not done, Ancora will not be able to utilize the sewer line according to the agreement. He said that he does not expect that to happen and he doesn't think Ancora expects this to happen as well.

Commissioner Jackson asked how disturbance along the right-of-ways is being addressed.

Mr. Horner replied that the majority of the sanitary force main is located under existing paved roads. He asked Ms. Ward if the remainder is located within sand roads.

Ms. Ward replied that on the Ancora property there is an existing sand road where the sewer line will be located. There is another section going through a wooded area and sections going through wetlands, but those will be directionally drilled so there will be no impacts to the wetlands.

Mr. Horner noted that the areas that Ancora will be disturbing will be stabilized and revegetated under the Commission's rules.

Commissioner Jackson asked if the people dealing with this project understand the Commission's rules.

Mr. Stokes replied that, because of past experience, the answer to that is no. He said that the issue with protection of rare plants along roads and rights-of-way is really one of enforcement and the Commission's ability to enforce project conditions and address routine ongoing maintenance practices which the Commission does not directly regulate. These are the two principle issues that arise.

Commissioner Lloyd stated that the proposal here said that the sanitary sewer is primarily under paved and dirt roads, maintained grass shoulders, maintained grass areas and this is precisely the issue the Commission heard about this morning. He asked if there is a discussion the Commission should have with the applicant or the contractors that addresses the plant issues we heard about this morning. He asked if there are other conditions that should be attached to this application. One of the conditions says that landscaping should adhere to the requirements of the CMP and he asked if there is more specificity that should be put in that condition.

Commissioner Jackson stated that the Commission needs to have the applicant commit that they are going to follow the requirements.

Commissioner Lee said that the Commission is having a well intentioned discussion of a particular application but, if there is a question about how the Commission is applying standards in general and whether these standards are adequate to address pictures that it saw this morning, that discussion should not be targeted to an individual application.

Commissioner Lloyd concurred, but said that this is an application that may raise these very issues and that is why he is asking the question as to whether something can be done here.

Mr. Horner stated that it needs to be clear that the staff has reviewed this project for threatened and endangered species and is confident that this project won't impact those species. Staff also thinks that the project is consistent with the Commission's landscaping standards and revegetation requirements. He suggested that staff reiterate and expand upon the concerns of the Commission regarding the use of native species and the use of fill in the letter that goes out to the applicant.

Commissioner Ashmun asked what constitutes surety in terms of the water supply from these wells.

Mr. Stokes replied that all of the parties to the agreement must agree with and the Commission is one of those parties.

Commissioner Ashman asked if DEP has an allocation permit.

Mr. Stokes replied that yes but DEP might change that allocation permit.

Commissioner Jackson asked when this is going to be decided.

Mr. Stokes replied that there needs to be a plan in place that anticipates, based upon the best information available, what is going to be done to avoid a water supply problem. He said that Ancora doesn't want to incur any more cost than it has to. He said that by the time the force main is going to be open for use the Commission is going to have a plan.

Ms. Fling stated that Ancora's understanding is a little different in that Ancora will be able to use the Piney Point wells for a period of two years while it continuously monitors the depth of the aquifer and the rechargeability of the aquifer for DEP and Pinelands. It will then be told whether or not there is a deleterious affect on the aquifer. If an impact exists, they will have a period of time to develop alternatives that avoid the Kirkwood/Cohansey aquifer.

Commissioner Jackson asked Ms. Fling about the time frame for Ancora to come up with a solution.

Ms. Fling replied 2 years.

Mr. Stokes stated that Ancora cannot use the force main until there is assurance that the Kirkwood/Cohansey aquifer will no longer be a water supply source. He said that this is what the agreement provides for.

Ms. Fling concurred.

Commissioner Witt stated that if the wells fail, Ancora has an alternative in New Jersey American Water. He asked for the vote to be called.

Commissioner Lloyd stated that he would like the language added that Mr. Horner suggested today.

Mr. Stokes stated for the record that staff will add the language in the letter to be sent to the applicant. He said that staff can also have a conversation with CCMUA representatives so that there is a greater level of understanding when they draw up their specifications and give their contractors field instructions.

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

Mr. Stokes stated that Application 1991-0320.004, Mullica Township, is an application for public development recommended for approval with conditions. He said that the Commission received a separate resolution for this application today.

Commissioner Witt moved the adoption of the Resolution Approving with Conditions an Application for Public Development (Application Number 1991-0320.004). (See Resolution #PC4-09-14 attached). Commissioner Jackson seconded the motion.

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

Other Development Review Matters

Mr. Stokes stated that there were two PDC Letters of Interpretation issued this month allocating 2.25 PDCs to a total of 81.31 acres. There were also two Letters of Interpretation issued for wetlands delineations this month.

Resolutions Relating to Municipal Ordinances

Mr. Stokes presented the Resolution Issuing an Order to Certify Ordinance 2008-21, Amending Chapter 15 (Zoning) of the Revised General Ordinances of the township of Plumsted. (See Resolution #PC4-08-15 attached).

Commissioner Haas moved the adoption of the resolution. Commissioner Witt seconded the motion. The Commission adopted the resolution by a vote of 9 to 0. Commissioner Kennedy was not present for the vote.

Other Resolution of the Commission

Mr. Stokes presented the Resolution To Reduce the Pinelands Commission's Fiscal Year 2009 Budgets for the Operating Fund and the Pinelands Development Credit Purchase Program Fund, (See Resolution PC4-09-16 attached).

Mr. Stokes stated that this resolution was reviewed by the Personnel and Budget Committee. He added that the budget recommendations reduce the budget by approximately \$103,000 and highlighted a number of items in the budget.

Commissioner Campbell moved the adoption of the resolution. Commissioner Witt seconded the motion. The Commission adopted the resolution by a vote of 8 to 0. Commissioners Ashmun and Kennedy were not present for the vote.

Ordinances Not Requiring Commission Action

Mr. Stokes stated that Egg Harbor Township Ordinance 60-2008, Stafford Township Ordinance 2008-58, and Vineland City Ordinance 2008-87, 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 Other Agenda Items

Mr. Fred Akers, Great Egg Harbor River Association, stated that he appreciates the Commission's dedication and hard work dealing with all the issues that come before it. He commented on how the Pinelands are being damaged by ATVs. He stated that work is being done on legislation and anyone supporting Senate Bill 2055, the Senate Environment Committee will be meeting at 10 a.m. this coming Monday. He stated that there is also a companion bill to create ATV parks in the State. He said that they have been working to keep these issues separate.

Mr. Bill Smith, Warren Grove, said that he watches when the county comes out and mows the roadside. He said that listening to the presentation of the other people today the Commission can take it on faith that these plants are the jewels of the Pinelands' crown. He said that the Commission in general has done a good job. He further stated that he doesn't believe that it is a major thing to attack this problem. He said that the first level is to say stop the mowing and everyone should sit down to discuss the issue.

Mr. Jay Mounier, former Commission member, stated that the Commission has prepared a long term monitoring report funded by the National Park Service. There is an ongoing problem with the report and that is the definition of Pinelands because economic activity may or may not actually occur in the Pinelands. He said that much of the economic activity in the Pinelands Towns takes place outside of the Pinelands boundary. He said that, with advances in information and technology, one can do a better job now. He urged the Commission to direct its staff to study improving the definition of Pinelands economic activity.

Mr. Rich Bizub, Pinelands Preservation Alliance, referred to the Ancora discussion and stated that PPA is encouraged and pleased that the Commission restated its commitment to having the Kirkwood/Cohansey decommissioned before any wastewater would be conveyed off site. This was one of the key features of the original MOA, along with solving a real health and environmental problem.

Other Agenda Items

Presentation - Proposed Public Development Streamlining Memorandum of Agreement

Mr. Stokes stated that staff wanted to up-date the Commission on the public development streamlining agreement that Mr. Horner and Ms. Young have been working on with the Public and Governmental Programs Committee. This streamlining agreement is a fairly modest step to simplify some of staff's business practices. He said that there is nothing in this agreement that eliminates or otherwise changes any public agency's responsibility to meet the requirements of the Pinelands program. Rather, it is an effort to reduce the processing and paperwork stream. The obligation still remains for public agencies to meet applicable standards along roadsides and where required, an application must be filed with the Pinelands Commission. He said that an application for approval under the MOA would not go through a formal application process so it will save municipalities and counties and Commission staff time.

Mr. Horner updated the Commission through a slide presentation on the proposed public development streamlining memorandum of agreement. He reviewed the basic sections of the agreement (see attached presentation). Mr. Horner indicated that if the Commission is in agreement with the proposed agreement, staff will begin the process of contacting Pinelands counties and municipalities to enter into the agreement. If the Commission has substantive issues with the agreement, staff will review those issues with the Public and Governmental Programs Committee.

Mr. Stokes noted that most of the concerns the Commission heard today with regard to road maintenance activities do not require application to the Commission.

Discussions ensued whether the definition of development could include mowing and disturbance of rights-of-way and whether a permit for road maintenance activities is required. Also discussed was developing a right-of-way maintenance plan for roadways which would include some best management practices and standards and the need to partner with counties and/or municipalities to get a common commitment to address road shoulder activities.

With respect to road shoulder maintenance activities, Mr. Stokes stated that he would like to focus on classes of roads and develop recommendations for those specific roads as it would not be possible to do a plan for every road in the Pinelands. Also, guidance would need to be provided to all counties and municipalities including the location of threatened and endangered plant communities.

Commissioner McIntosh asked about adding language in the agreement in terms of suspending the agreement.

Mr. Stokes indicated that a provision could be included that allows for a temporary suspension of the MOA.

Commissioner Lee stated that the construction and maintenance of roads in the Pinelands over many decades have provided a level of disturbance that has actually created habitat that the Commission is talking about protecting. Many road maintenance practices over the years were destructive, but many were very good. He said, however, those same shoulders that provided habitat also were dangerous to motorists. He indicated that it was better to pave the shoulders to provide safer maneuverability for vehicles. He said that the Public and Governmental Programs Committee has spent a significant amount of time on this issue and it sounds like it is going to spend more time in the future as it goes through each municipal and county application for an MOA. He indicated to Commissioner Ashmun that the P&G Committee will find a way for her and the public to get adequate notice.

Mr. Stokes summarized what he believes the Commission was asking the staff to address. He said relative to the MOA itself, it will be worthwhile to make sure that a suspension provision is clearly articulated. He also believes that there might be a way that staff can reflect an agreement in principle amongst our partners to undertake ongoing road shoulder maintenance activities in a sensitive way. While we might not be in a position to say what should happen on each and every segment of each and every road, there would be an agreement in principle that ongoing routine road shoulder maintenance activities need to respect the environment. In addition to that, staff can continue to talk to the Public and Governmental Programs Committee about the application approval and notification process apart from the agreement itself. Relative to affirmatively advancing protection of rare plant communities along road rights-of-way, staff will extend an invitation to all of the botanists who submitted comments to provide information to staff as soon as possible on "hot spots" along Pinelands roads. Staff's efforts initially would be to identify those roadways that should get everyone's attention first. Secondly, he will reach out to Carleton Montgomery at PPA relative to identifying best management practices, and then to consult with DEP again to see if they will become engaged in the process. If not, work can continue independent of DEP, including working with counties and municipalities to put them in place.

Commissioner McIntosh referred to the Scenic By-way plan and stated this plan may provide the opportunity for a road shoulder maintenance demonstration project. Secondly, since the Short Course is so successful, perhaps a short course on road shoulder maintenance activities could be held for public development.

Mr. Stokes said that this has merit, but there will need to be something fairly specific to present at a short course.

Mr. Horner stated that he attached a number of public comments that were submitted to the Commission to his memorandum of March 4. He said that those comments should be considered equally with the comments received today. He further stated that staff received a letter today from the Citizens United to Protect the Maurice River expressing similar comments.

Commissioner Lloyd asked for clarification on the process to be taken regarding the suspension provision and language that is going to reflect how the Commission is going to have a dialogue with the Counties.

Mr. Stokes replied that his suggestion was that staff would work with the P&G Committee on the notification and review process for individual development proposals that Commissioner Ashmun had talked about. He said that he thought the suspension provision and the maintenance principle could be readily incorporated into the MOA and wouldn't require continued review.

Commissioner Lloyd said that he has concerns about the maintenance provision.

Mr. Stokes stated that staff will make some suggested changes and send them out to the Committee for review.

Commissioner Lloyd concurred.

Due to the length of the meeting Mr. Stokes suggested that rather than providing the Commission with a briefing on the Pinelands Development Credit Policies today, Mr. Liggett will distribute his written presentation to the Commission. He said that the PDC policies will be discussed with the CMP Policy and Implementation Committee at its next meeting.

Commissioner Lee indicated that he has been advised by Ms. Roth that he needs to recuse himself from the following presentation regarding forestry rules.

Commissioner Kennedy asked for an update on the last meeting where Mr. Stokes indicated that he was disappointed that State Ethics Commission representation wasn't here to discuss its findings. He asked if there is any progress on State Ethics Commission attendance at an upcoming meeting.

Mr. Stokes replied that he doesn't know if that will happen.

Presentation - Draft Forestry Rules

Mr. Stokes stated that Mr. Kutner will provide the Commission with brief highlights of the Draft Forestry Rules with the hope that the CMP Policy and Implementation Committee might be in a position to make a recommendation on these at its next meeting.

Mr. Kutner stated that the Forestry Advisory Committee was reestablished in 2004 when then Chairman Florio brought together a fairly diverse group representing a cross section of the forestry community. He directed the Committee to evaluate how well the Commission's Forestry Program was doing and to evaluate and clarify the rules in an effort to try and promote and encourage more forestry to occur (see attached presentation).

Commissioner Kennedy referred to one of the slides and asked when those Forestry Committee recommendations were made.

Mr. Kutner replied that the report was issued in 2006.

Commissioner Kennedy said that he does not agree with the objectives. He said he looks at forestry as an agricultural industry and does not agree with those objectives.

Mr. Kutner said that these are observations of what forestry is likely to be in the Pinelands.

Commissioner Kennedy stated that forestry is a business that needs processors and distributors. He said that those processors and manufactures will never be able to survive if it is put in this box.

Mr. Stokes stated that the Committee said plantation forestry style, which is by nature, large scale, is not only infeasible in the Pinelands, it is counter to maintaining the characteristic Pinelands environment. However, traditional forestry operations can be advanced. The second observation, based on what Committee members have seen in the past 30 or 40 years is that forestry will probably remain a niche industry. The rules are not intended to keep it a niche industry but, to the extent it could become larger in scale, everyone agrees that disturbance is what contributes to ecological diversity.

Mr. Kutner said that the objective is to try and encourage more forestry to occur in the Pinelands.

Commissioner Kennedy said that he believes that if one starts with a small vision, one will get small action.

Adjournment

Commissioner Jackson moved to adjourn the meeting. Commissioner Lloyd seconded the motion. The Commission agreed to adjourn the meeting at 1:20 p.m.

Certified as true and correct:

Nadine B. Young,
Executive Assistant to the Commission

Date: _____