

Disclaimer

These minutes reflect the actions taken by the Commission during its February 9, 2024 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 15, 2024.

PINELANDS COMMISSION MEETING

MINUTES
February 9, 2024

All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=F5rBGUnXcgg>

Commissioners Participating in the Meeting

Nicholas Asselta, Alan W. Avery Jr., John Holroyd, Jerome H. Irick, Theresa Lettman, Mark Lohbauer, Mark Mauriello, William Pikolycky, Jessica Rittler Sanchez, Douglas Wallner and Chair Laura E. Matos. Also participating were Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Jay Stypinski and Governor's Authorities Unit representative Alexis Franklin.

Commissioners Absent

Dan Christy and Jonathan Meade.

Call to Order

Chair Matos called the meeting to order at 9:31 a.m.

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

Executive Director (ED) Grogan called the roll and announced the presence of a quorum. Eleven Commissioners participated in the meeting.

The Commission pledged allegiance to the Flag.

Minutes

Chair Matos presented the minutes from the Commission's January 12, 2024 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The minutes from the January 12, 2024 Commission meeting were adopted by a vote of 10 to 0. Commissioner Lettman abstained from the vote.

Committee Reports

Vice Chair Avery provided a summary of the January 26, 2024 Policy and Implementation (P&I) Committee meeting:

Due to a lack of voting members, the vote on the adoption of the November 29, 2023 meeting minutes was carried to the February Committee meeting.

The Committee heard and discussed a presentation from the East Coast Enduro Association. Mr. Thomas Hedden talked about the history of enduro riding, the types of events the Association holds, and the goals of the Association.

The Committee also received a presentation from the Chief Planner, Brad Lanute, with a year-end summary of 2023 trends in municipal conformance and a look ahead to anticipated conformance activities in 2024.

Commissioner Irick suggested giving a copy of Commissioner Lohbauer's enduro presentation, which he delivered to the P&I Committee during the fall of 2023, to the New Jersey Department of Environmental Protection (NJDEP). He said New Jersey is the only state with multiple enduro events and it attracts riders from out of state. He added that the Commission's recreation permit fees should be increased.

Vice Chair Avery said the presentation by Thomas Hedden is on the Commission's website and can be viewed on YouTube: <https://www.youtube.com/watch?v=YgwgKtDIaRA>

Executive Director's Report

ED Grogan provided information on the following matters:

- The State Auditor recently issued the Fiscal Year 2021 Audit report for the Pinelands Commission. She said it was a clean audit with no findings. A resolution to accept the audit report will be on Commission's March agenda. The Fiscal Year 2022 Audit will begin soon.
- Later in the meeting, the Commission will consider a resolution to accept a Preserve New Jersey Historic Preservation Fund Grant for the restoration of Fenwick Manor. The

Governor signed the appropriations bill, and the grant agreement with the NJ Historic Trust will be signed after the Governor's veto period for the minutes expires.

- Staff met with the NJDEP just before its open house for the Wharton State Forest Vehicle Use Map, during which the draft map was shared. Staff helped to promote NJDEP's open house that was held at Batsto on January 24th. A 45-day public comment period is underway. Assistant Commissioner John Cecil will be at the Commission's March 9th meeting to brief the Commission on the vehicle use map.
- Evesham Township representatives met with Chair Matos and the Executive Director on January 17th to discuss a potential Memorandum of Agreement (MOA) to authorize the surfacing of existing trails at the Black Run Preserve located in wetlands and wetland buffers.
- The Land Use Programs office is in the process of recruiting two Planners and one Planning Assistant.

ED Grogan introduced a new Commission staff member, Donna DiPalma, who joined the Regulatory Programs office on January 29, 2024.

Commissioner Avery expressed his gratitude to the two public members of Audit Committee: Brian Logan and Mike Mansdoerfer.

Commissioner Mauriello asked if the Preserve New Jersey Historic Preservation Fund Grant will cover the full restoration of Fenwick Manor.

ED Grogan said the grant requires matching funds. The \$575,000 grant and \$575,000 in Commission funding is expected to cover the foundation, the structural issues and the painting of Fenwick Manor. The Commission will seek additional funding if necessary.

Gina Berg, Director of Land Use Programs, provided an update on the following:

- The February 23rd P&I Committee meeting agenda will include a discussion regarding Pinelands Conservation Fund (PCF) priorities and acquisition target areas. Evesham Township is tentatively scheduled to present its Black Run Preserve trail proposal as part of step five of the MOA process.
- The Land Use Programs office will coordinate efforts with the Science office to put together an America the Beautiful Challenge grant proposal with the NJDEP and a non-governmental organization as partners.
- The Commission staff will hold its 2nd Annual Land Preservation Summit on April 4th. A representative from the NJDEP Green Acres Program will be discussing the agency's upcoming rule amendments. Additionally, a representative from the Conservation Blueprint team will be attending to discuss a relaunch of the steering committee after an

extended break due to the COVID-19 pandemic. The hope is to add PCF acquisition target areas to the blueprint map.

April Field, Chief Permit Administrator, provided information on the following regulatory matters:

- Staff is working with Pemberton Township representatives and the Burlington County Health Department regarding two neighboring properties that have violations, both of which are located in the Agricultural Production Area. The first violation involves the construction of a single-family dwelling and septic system without application to the Township, Health Department or the Commission. The dwelling has been constructed in wetlands. The second violation includes the development of three unidentified structures, Staff has not determined the use of the structures other than a commercial kitchen. The structures have also been developed in wetlands. Ms. Field noted that commercial establishments are typically not permitted in the Agricultural Production Area. Letters have been sent to the property owners advising them on how to resolve the violations.
- The Town of Hammonton applied to the Commission to herbicide Hammonton Lake. As part of the application process, the Town had to determine if a known Threatened and Endangered (T&E) species was in fact present. The Town recently submitted a T&E study that confirmed the presence of a T&E plant species in the lake. Staff recently met with Hammonton officials to discuss the matter. Staff has reached out to NJDEP's Bureau of Pesticide Control Program for additional guidance.
- A pre-application conference was held with an applicant that is proposing to mine (resource extraction) 107 acres in Woodland Township. Due to the known T&E sighting on the parcel, staff advised that additional T&E survey work would be necessary, as well as the delineation of wetlands on the parcel. Staff also advised that it might be appropriate to consider development of an overall conservation plan for the parcel as a way of meeting the T&E standards.

Brad Lanute, Chief Planner provided the following update:

- The Commission adopted amendments to the Comprehensive Management Plan (CMP) related to Kirkwood-Cohansey protections that went into effect in early December. Those amendments trigger the need for Pinelands municipalities to adopt an implementing ordinance. Staff is actively preparing model ordinances for each Pinelands municipality with a goal of distributing them by the end of February. Under the CMP, Pinelands municipalities will need to adopt the ordinance by December 4th of this year. Those model ordinances will also include provisions implementing the NJDEP's stormwater amendments, which went into effect in July of last year. CMP stormwater rules cross-reference certain sections of the NJDEP statewide stormwater rules. Therefore, those NJDEP amendments prompt the need for Pinelands municipalities to update their stormwater ordinances.

- Staff is participating on an interagency workgroup that is reviewing the forthcoming update to the State Development and Redevelopment Plan. The State's Office of Planning Advocacy (OPA) is anticipating that the State Planning Commission will adopt a Preliminary State Plan in early March. OPA is currently soliciting feedback on the draft plan from state agencies. If the Commission has any comments on the draft, we will be submitting those by the end of the month. Once a preliminary plan is adopted, the Cross-Acceptance Process begins.

Stacey Roth, Chief, Legal and Legislative Affairs provided an update on the following matters:

- The Assembly and Senate Bills (A4/S50) to reform municipal responsibilities related to affordable housing have both been reintroduced as part of the 221st New Jersey legislative session and are moving at a fast pace, clearing their initial committees. She said Bill A4 Aca (1R) was reported out of Assembly Committee with amendments. Unfortunately, none of the comments that the Commission provided to the bill sponsors were included when the bills were reintroduced. She said the good news is the bills do not create any new obligations for the Commission.
- Staff met with the Board of Public Utilities (BPU) staff in early February to discuss their Dual Use Solar Pilot Program and the Commission's interest in ensuring that Pinelands farmers have an opportunity to participate in the program. The BPU rule proposal is expected to be voted on by the board in early spring and prequalification solicitation would begin soon after.
- An overview of the forestry bill (S2424) will be presented at the February Climate Committee meeting. The bill is a product of Senator Bob Smith's Forest Stewardship Task Force.

Commissioner Irick asked if there has been any consideration given to blueberry farmers in Atlantic County regarding participation in the Dual Use Solar Pilot Program.

Ms. Roth said comments and concerns raised by Commissioners and staff about have been provided to BPU staff.

Commissioner Avery asked if lands that have a Pinelands Development Credit deed restriction can participate in the Dual Use Solar Program.

Ms. Roth said no, any preserved farms are not permitted to participate. She added that Dual Use solar is also not permitted on prime farmland.

ED Grogan said when you include all the land where a dual use solar facility cannot be sited, based on wetlands, CMP regulations and the Dual Use Solar Act, there is not much land that qualifies for participation in the pilot program. Staff raised this issue with BPU staff and suggested pursuing an MOA or Memorandum of Understanding so that a large portion of South Jersey would not be excluded from the pilot program. She said BPU was not opposed but they did raise concerns about the timing. BPU is in the midst of a rule making that must adhere to a

very tight schedule. She said conversations about an agreement with BPU will continue and staff will keep the Commission apprised.

Ms. Roth added that an additional process may need to be established in order for the waiver process in the Dual Use Solar Act to be consistent with the CMP.

Commissioner Asselta noted that when he spoke with a contact at the New Jersey Farm Bureau, they were unaware of the Dual Use Solar Program. He said it's crucial for the success of the pilot program to have buy-in from the farmers.

Commissioner Mauriello suggested that the Commission do rulemaking of its own to deal with the administrative inconsistencies of the Dual Use Solar Program so Pinelands farmers don't miss out on the agrivoltaics opportunity.

ED Grogan said that a rulemaking effort would take approximately the same time as an MOA. Because a pilot program is involved, she would rather proceed with an MOA or MOU. She said that after the pilot, if the results show that it's been a success, then the Commission could proceed with formal rulemaking.

Paul Leakan, Communications Officer, said registration for the upcoming Pinelands Short Course is going very well. He said 378 have registered thus far and five courses have closed.

He added that staff is busily preparing the 2023 Annual Report that will be presented and adopted by resolution at the March Commission meeting.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution for the installation of an artificial turf athletic field and the construction of a 5,900 square foot paved storage area at the Cedar Creek High School.

Commissioner Irick made a motion Approving With Conditions an Application for Public Development (Application Number 2003-0530.011) (See Resolution # PC4-24-02). Commissioner Lohbauer seconded the motion.

Ms. Field noted that two public comments were received for this application and both were opposed due to the toxic materials associated with artificial turf. She said that the CMP does not regulate construction materials. She said in the past few years, the Commission has approved a number of artificial turf fields.

Commissioner Rittler Sanchez asked where the stormwater generated from the field will go.

Mr. Ernest Deman, Supervising Environmental Specialist, said there is an underground storage facility that will capture the stormwater located under and immediately adjacent to the turf field. He added that the stormwater infiltrates into an underground storage facility, which is designed to store a certain amount of water before overflowing to a natural basin on the property.

Commissioner Rittler Sanchez asked if the NJDEP has any applicable standards related to the leachate from the artificial turf. She raised concerns about the metals found in the artificial turf, specifically zinc, which are toxic to aquatic ecology.

Mr. Deman said staff are not aware of any NJDEP regulations related to artificial turf. He said that there are no freshwater wetlands with 300 feet of the turf field.

Commissioner Asselta said artificial turf fields are a medical hazard to both students and athletes and he only supports natural turf fields.

The resolution was adopted by a vote of 9 to 2. Commissioner Asselta and Commissioner Rittler Sanchez voted no.

Public Comment on Development Applications and Items Where the Record is Open

No one from public provided comment.

Ordinances Not Requiring Commission Action

Chief Planner Lanute said staff reviewed two ordinances from Hamilton Township that did not raise a substantial issue. He said Ordinance 2054-2023 amends the number of municipal, adult-use, recreational cannabis licenses based on cannabis class. He said Ordinance 2058-2023 amends the Townshipwide Redevelopment Plan by establishing an overlay zone and the addition of car washes as a permitted use.

Other Resolutions

Chair Matos introduced a resolution for the New Jersey Historic Preservation Fund Grant.

Commissioner Lohbauer made a motion To Accept a 2023 Preserve New Jersey Historic Preservation Fund Grant from the New Jersey Historic Trust and Authorize Execution of a Grant Agreement with the New Jersey Historic Trust (See Resolution # PC4-24-03). Commissioner Mauriello seconded the motion.

ED Grogan said this resolution will allow her to sign the grant agreement. She said the Commission's archaeologist, Marc Paalvast, recently attended a workshop for grant recipients. Staff will coordinate with the Division of Property Management and Construction on a Request for Proposals and construction contracts. It is anticipated that the work on Fenwick Manor will begin in late 2024.

The resolution was adopted by a vote of 11 to 0.

Presentation

John Bunnell, the Commission's Chief Scientist, gave a presentation on Science Office research. He mentioned past research topics and described current studies and monitoring efforts. He

discussed ongoing environmental monitoring projects that focus on measuring forest groundwater and pond surface water levels, the sampling of a group of streams for water quality monitoring, and vocalization surveys for frogs and toads. He then described the multi-faceted snake research program that includes in-depth studies of corn snakes and kingsnakes, a rare snake monitoring program, and studies of snake fungal disease. Lastly, he described a recently initiated study of eastern box turtles and a new four-part grant proposal that was submitted to the Environmental Protection Agency (EPA) back in October of 2023.

Commissioner Rittler Sanchez asked when will the science office be finished analyzing the snake data and asked about the expected results.

Chief Scientist Bunnell said they are currently analyzing the kingsnake data. After that, they will analyze the corn snake data using the same methodology. He said the data will show the size of the snake's activity range, habitat type and the timing of the snake's activities. He said his office will document these findings in a report and hopefully publish a few papers. He said they have GIS data for approximately 150 rare snake dens and shed sites, which will hopefully lead to conservation of the sites on state lands.

Commissioner Mauriello asked if there was a correlation between kingsnakes and their vernal and wetland habitat to the high mortality rate.

Chief Scientist Bunnell said of the four wetlands areas where kingsnake were found, the abandoned cranberry bogs had both the highest population and an increased mortality rate. He said cranberry bogs attract a variety of reptiles. He said it could be that predators can hone in on the snakes more than other areas or it may have something to do with the sandy, grassy habitat of the bog.

Commissioner Lohbauer asked if the Science office research might lead to future prevention of snake fungal disease.

Chief Scientist Bunnell said snake fungal disease has been around for decades. It was commonly referred to as hibernation sores because the snakes didn't look well after they came out of hibernation. He said the Science office is conducting basic research on snake fungal disease and is not searching for a cure but a better understanding of its effects.

Link to Presentation:

<https://www.nj.gov/pinelands/home/presentations/PC%20Research%20February%209,%202024%20PC%20Meeting.pdf>

General Public Comment

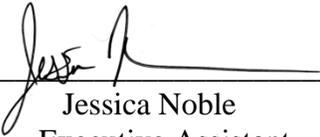
Heidi Yeh of the Pinelands Preservation Alliance (PPA) said PPA is looking to hire a new Director of Science to lead the Pinelands Research Institute. She urged the Commission to update the CMP's list of protected plant species. She said the last update was 15 years ago. Lastly, she notified the Commission of a violation in Pemberton Township in which numerous dump trucks were observed for a few days along Magnolia Road and Ong's Hat Road. She said a

member of the public followed one of the dump trucks to a recycling facility in Rahway. She said both WARN NJDEP and Pemberton Township were notified about the potential illegal dumping. She said this situation highlights the ineffectiveness of relying on municipalities to enforce their own ordinances. She also asked for clarity on who has jurisdiction in situations like this and the best way to approach them in the future.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Irick seconded the motion. The Commission agreed to adjourn at 11:31 a.m.

Certified as true and correct:



Jessica Noble
Executive Assistant

Date: February 15, 2024