

# PINELANDS DEVELOPMENT CREDIT BANK

20 West State Street  
Trenton, NJ

## Minutes

October 21, 2010

Meeting Location: 20 West State Street, Room 828, Trenton, NJ

Members Present: Guillermo Vivas, DOBI Commissioner's Acting Chair Designee and Executive Director, Pinelands Development Credit Bank  
Daniel M. Kennedy, Pinelands Commission Designee  
Terry Caruso, Alternate NJDEP Commissioner's Designee  
Susan Craft, Secretary of Agriculture Designee  
Kevin Auerbacher, Attorney General Designee.

Members Absent: Edward J. McGlinchey, At Large Member  
Robert C. Shinn, At Large Member

Others Present: William Schnurr, Deputy Attorney General, Department of Law and Public Safety (Board Counsel)  
Deputy Attorney General Helene Chudzick  
Marilyn Harvin-Henley, PDC Bank Staff

Acting Chairman Guillermo Vivas called the meeting to order at 2:03 p.m. and read the Statement of Compliance with the NJ Open Public Meetings Act.

**Roll Call:** Mr. Vivas called the roll of members present. Mr. McGlinchey had notified the Bank of a scheduling conflict, and Commissioner Shinn sent an email notification at 12:20 p.m. stating he would not be attending.

### **Reading and Approval of Minutes:**

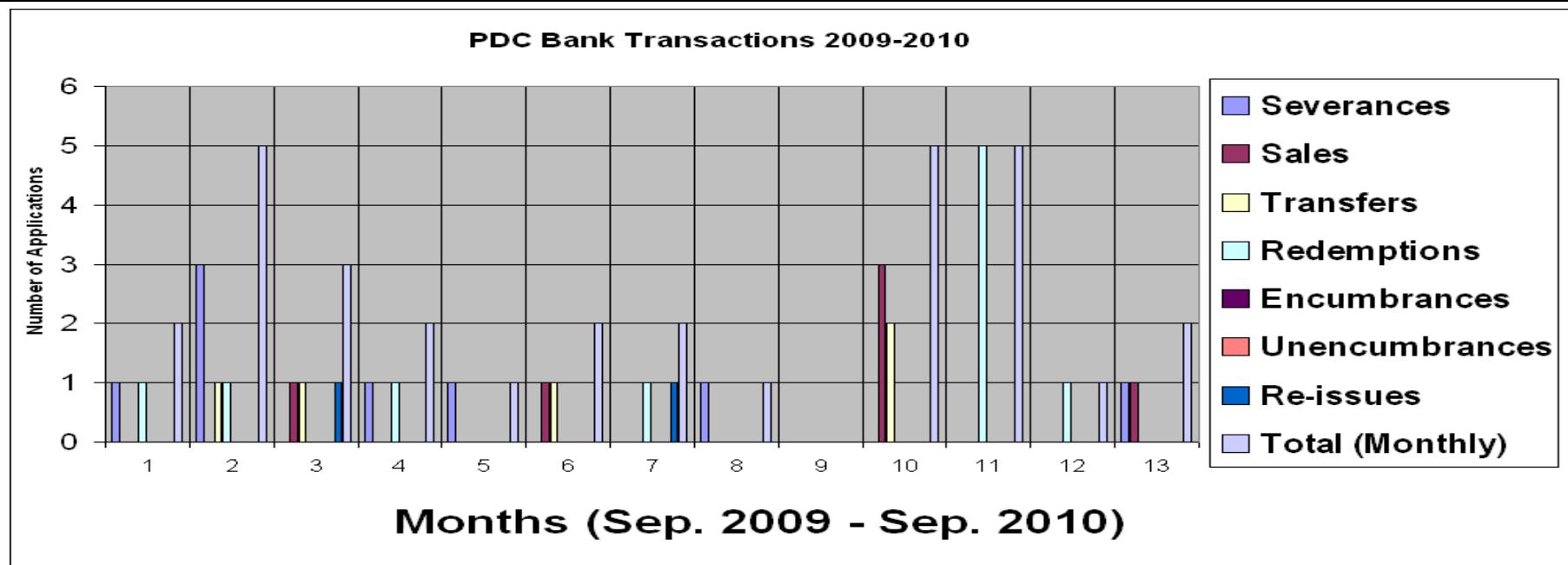
Mr. Vivas asked for comments or corrections. There were some minor corrections noted. He then called for a motion to accept the minutes of the April 15, 2010 meeting. Mr. Kennedy moved for approval and Mr. Auerbacher seconded; motion carried.  
Abstentions: Susan Craft.

### **Executive Director's Report:**

Mr. Vivas discussed with the Board the continued decline in the prices if the Pinelands Credits and the slow-down in transaction activity, as they relate to the current recession and on-going market conditions. He used the 13-month chart that follows—instead of a quarterly chart—to illustrate the trends:

**Pinelands Development Credit Bank**  
**Application Activity 2009-2010**

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Severances (New Cert.)	1	3	0	1	1	0	0	1	0	0	0	0	1
Sales	0	0	1	0	0	1	0	0	0	3	0	0	1
Transfers	0	1	1	0	0	1	0	0	0	2	0	0	0
Redemptions (for Permits)	1	1	0	1	0	0	1	0	0	0	5	1	0
Encumbrances (for Loans)	0	0	0	0	0	0	0	0	0	0	0	0	0
Unencumbrances (Release)	0	0	0	0	0	0	0	0	0	0	0	0	0
Re-issues/Replacements	0	0	1	0	0	0	1	0	0	0	0	0	0
<b>TOTAL TRANSACTIONS:</b>	<b>2</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>5</b>	<b>5</b>	<b>1</b>	<b>2</b>



Prepared By: Guillermo Vivas, Executive Director  
Last updated: 8 October 2010

Mr. Vivas further described how the lack of funding for the PDC Bank, along with the decline in the PDC Program activity had resulted in the Department of Banking and Insurance stepping in so that the PDC Bank's services to the public could continue. The current structure since earlier this year is for the Director and the one support staff person to provide 75% of their time to DOBI work and reduce PDC Bank activity to 25%. DOBI is funding 75% of the salaries and operating expenses and only 25% is coming out of the PDC Bank remaining funds. Since June of this year, both individuals have been assigned to the Licensing Bureau.

He further explained how, during all this time, he has been striving to obtain approval for the PDC Bank to get the necessary authorization to move ahead with holding an auction in the manner that Chesterfield Township did some years ago, bringing private PDC owners into the auction process. He described his efforts in trying to get our DAG and the new Director of Legislation and Policy to meet; and even enlisted the help of the Board Chair (and Director of the Banking Division) to champion for this cause, but of no avail. About two weeks ago, word was received that the current administration would not support the auction.

### **Business of the Board:**

Ms. Craft mentioned that over a period of time the Bank Board has identified several areas of activity that need to be done. One of them is whether the Bank could assist in the area of whether we could be facilitating discussions about the enforcement of the recorded deed restrictions. Another is whether we buy and sell credits properly so that we facilitate the market. Also, do we do enough to facilitate the credit market in a manner that doesn't involve marketing? She wanted to know if Mr. Vivas' message to the Board is that is that there are not enough administrative resources to do any of these things as a Board; that we don't have administrative resources to do anything constructive? Mr. Vivas explained how the staff maintains information on the web site to assist sellers and buyers; how we interact with the public answering questions and providing information on the telephone. He explained that last year the balance of funding left was just around \$200,000. The concept of holding an auction and bringing in private sellers is an idea that has been suggested for many years by the NJ Builders Association. Commissioner Shinn had championed the idea of how an auction should be held and also to start re-establishing the procedures according the rule-making requirements, because he feels that it would help to realize the best value for the PDCs both for the PDC Bank and the private individuals. In the end, we have been told to forget about it.

Ms. Craft asked him if it was because there would be fees passed on to the buyers. She suggested putting that issue aside for the time being. She asked if there had been any discussions about the auction, not as a money-making venture but as a function of state government and the PDC Bank Board. She wanted to know if the funds are so limited that we can't do the functions that the Board has decided are essential. Mr. Vivas explained that in the past the Bank held auctions to sell its own PDCs and it was done with sealed bids. However, we are not equipped to all the required bookkeeping, issuing checks to the sellers, etc. that is required if you bring private sellers into the auction.

Mr. Kennedy asked if two people with only a handful of transactions a month (at 25% reduced work time allocation) cannot do anything else besides handling a couple of transactions and updating the web site? He clarified that he was not looking to hold an auction this year. But,

we could spend the next year—even if it is one day a month—thinking about the process, creating the framework, so that when the time is right, we have the framework and pull the trigger, instead of starting from zero when the market is right. If we spend one hour a week in the eight months since we last met in April, we would have something. We need to do something, more than nothing, to stimulate the market.

Ms. Craft added that we should bring the ideas to the table that we want to develop to have the Bank function fully; then prioritize what those issues are, and give the staff some direction on where they should focus. It could be a big thing to handle, so we should prioritize the areas to focus. We've talked about some good initiatives since I've been coming to these meetings. We talk about them, and then it fades away.

Mr. Kennedy added that he didn't want it misconstrued that this is solely the staff's job. If we need, we could establish a working group. We have the resources, including Ms. Craft—who knows more about TDRs than anyone else in the State, and Commissioner Shinn—who was there during the enactment of all the legislation.

Mr. Vivas asked for some direction as to where to start. Ms. Craft suggested setting up a meeting; a brainstorming session about the PDC Program, as it relates to the Bank's functions. We could invite New Jersey Conservation Foundation, the Farm Bureau, etc. It was finally decided to have four Board Members representing the Pinelands Commission, Agriculture, Commissioner Shinn, and the DEP. Mr. Kennedy suggested that perhaps a staff member from the Pinelands Commission may bring a different view point than he would offer. Mr. Vivas suggested that to start putting a framework together we may be better off not including outside agencies and non-profits. Ms. Caruso suggested inviting someone from the Highlands Council, as they will be dealing with many of the same issues. Ms. Craft asked Mr. Vivas to start putting together a mission statement.

**Other Business:** Terry Caruso offered a follow-up on the discussions at the last meeting with Judeth Yeaney. At that meeting, Ms. Yeaney had requested copies of the filed deed restrictions for the Zemel properties and the Bank provided these for her. She is still reviewing them as they relate to possible violations there. Regarding the bigger picture, she had discussed easements in general and the various types, including Pinelands easements. At the time she was the administrator for the Green Acres Program and there is now a new administrator, Rich Boornazian. She needs to talk to him, as well as the new Commissioner and Assistant Commissioner to see how they want to proceed with this. Mr. Kennedy added that Burlington County (not the Pinelands Commission) has been pursuing this matter through enforcement of the municipal Zoning Regulations. The matter was heard in Municipal Court two days ago and the land owner has agreed to a settlement that includes remediation to bring the property back into compliance with the terms of the easement.

Mr. Kennedy indicated there was one other pending issue that came to life after the Seashore Gardens application for the transfer of PDCs at no cost. We could have a process in place or, better define the process, to enable the Board to be in a better position to make those decisions. This would be a lesser priority than starting to work on the auction process, but

something nonetheless that we should work on. There have been a lot of questions asked at the Pinelands Commission by landowners.

We need to clearly define what the tests are for granting any such request. We are currently in a development lull and we need to take opportunity to do something at this time.

**Adjournment:** Mr. Vivas adjourned the meeting at 2:47 p.m. on a motion by Ms. Craft, seconded by Mr. Auerbacher and a unanimous affirmative vote.

Respectfully submitted,

Guillermo Vivas  
Executive Director