

Disclaimer

These minutes reflect the actions taken by the Commission during its January 30, 2015 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 23, 2015.

PINELANDS COMMISSION MEETING

Richard J. Sullivan Center
Terrence D. Moore Conference Room
15 Springfield Road
New Lisbon, New Jersey
Friday, January 30, 2015 – 9:30 a.m.

MINUTES

**PINELANDS COMMISSION SPECIAL MEETING
Conducted in conjunction with the
CMP Policy and Implementation Committee Meeting**

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Candace Ashmun (via telephone), Sean Earlen, Paul E. Galletta, Robert Jackson, Ed Lloyd, Richard Prickett and Ed McGlinchey (2nd Alternate)

OTHER COMMISSIONER PRESENT: Alan W. Avery, Jr.

STAFF PRESENT: Executive Director Nancy Wittenberg, Stacey Roth, Larry Liggett, Susan R. Grogan, Paul Leakan, Betsy Piner and DAG Kristen Heinzerling.

During the course of the Policy and Implementation Committee, DAG Heinzerling announced that a closed session was needed following which, it was possible that formal action would be taken. There were nine Commission members present, representing a quorum of the Commission, thus formal action was taken by the Commission.

The Policy and Implementation Committee continued its meeting in open session at 11:10 a.m.

Noting that this issue had not been on the agenda, Ms. Heinzerling read a resolution into the record regarding the maintenance of confidentiality by Commissioners in reviewing un-redacted documents. The text of that resolution (*PC4-15-02*) follows:

***WHEREAS**, in the course of working toward settlement of pending OPRA litigation Pinelands Preservation Alliance v. Pinelands Commission (BUR-L-1744-14), certain Pinelands Commission documents were produced in full and certain Pinelands Commission documents were produced in redacted form or withheld due to the confidential and privileged nature of these documents;*

***WHEREAS**, individual board members have asked to review the documents that were redacted and/or withheld due to the confidential and privileged nature of the documents; and*

***WHEREAS**, the documents were redacted and/or withheld under OPRA and in the ensuing litigation because certain privileges, including attorney-client privilege and deliberative process, attach to the documents; and*

***WHEREAS**, in addition to Pinelands Preservation Alliance v. Pinelands Commission (BUR-L-1744-14), the Pinelands Commission is also defending other litigation, to which the documents pertain, related to its January 10, 2014 vote on the proposed Memorandum of Agreement between the Pinelands Commission and the Board of Public Utilities, In the Matter of the Resolution Authorizing the Executive Director to Enter Into a Memorandum of Agreement With The Board of Public Utilities Regarding Construction of Approximately 15 Miles of 22-Mile, 24-Inch Natural Pipeline in the State Designated Pinelands Area (A-003035-13); and*

***WHEREAS**, due to the pending litigation, there is a need to ensure there is no inadvertent waiver of confidentiality or any privileges associated with the documents.*

***NOW, THEREFORE BE IT RESOLVED** that Pinelands Commission acknowledges that the subject documents are privileged and confidential;*

***BE IT FURTHER RESOLVED** that the Commission does not intend to waive any privileges attached to the subject documents and is specifically not waiving any privileges that attach to these documents when an individual board member reviews them; and*

***BE IT FURTHER RESOLVED** individual board members remain under a duty to keep the documents and information contained in the subject documents confidential pursuant to N.J.S.A. 52:13D-25.*

Commissioner Lloyd moved the adoption of the resolution. Commissioner Jackson seconded the motion and all Commissioners present voted in the affirmative with the exception of Commissioner Earlen, who voted No.

7. Other Items of Interest

Mr. Wolfe said that official action was taken today and he found it extraordinary at a Committee meeting.

Commissioner McGlinchey thanked Ms. Heinzerling for working to provide the documents to the members.

Commissioner Prickett reminded everyone of the upcoming Pinelands Short Course and encouraged attendance.

Chairman Lohbauer said he was not in the habit of commenting or responding to the public. However, today the Committee had heard some derogatory comments regarding the staff. The fact that Commissioners remain silent is not a reflection that public comment is condoned or that there is agreement. He said he took exception with derogatory comments and said he believed they merited an apology.

The meeting adjourned at 11:16 a.m. (moved by Commissioner Earlen and seconded by Commissioner Jackson).

Certified as true and correct:



Betsy Piner,
Principal Planning Assistant

Date: February 18, 2015