

Disclaimer

These minutes reflect the actions taken by the Commission during its February 21, 2014 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 March 10, 2014.

**PINELANDS COMMISSION MEETING<sup>1</sup>**

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

**MINUTES**

**February 21, 2014**

Commissioners Present

Candace Ashmun, Alan W. Avery, Jr., Joe DiBello, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta, D'Arcy Rohan Green, Robert Jackson, Ed Lloyd, Ed McGlinchey, Richard Prickett, Gary Quinn and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorneys General (DAGs) Helene Chudzik and Kristen Heinzerling.

Commissioners Absent

Bill Brown and Fran Witt.

Chairman Lohbauer called the meeting to order at 9:37 a.m.

DAG Chudzik read the Open Public Meetings Act Statement.

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<sup>1</sup> Please note that all attachments are maintained with the original minutes, but are not attached to copies. For information about attachments, please contact the office.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum.

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

### Minutes

Chairman Lohbauer presented the January 10, 2014 Commission meeting minutes. Commissioner Prickett moved the adoption of the minutes. Commissioner Ficaglia seconded the motion.

The minutes of the January 10, 2014 Commission meeting were adopted by a vote of 12 to 0, with Commissioner Lloyd abstaining.

### Other

Chairman Lohbauer presented staff member Joel Mott with a plaque for his ten years of service at the Commission.

### Committee Chairs' Reports

Chairman Lohbauer said that there is a vacancy on some of the Committees because of John Haas' passing. He said Commissioner Avery has agreed to replace Commissioner Haas on the Personnel and Budget Committee, and Commissioner Witt has agreed to be Chair of that Committee.

Chairman Lohbauer said there is also a vacancy for the Vice Chairman. Commissioner Galletta nominated Commissioner Avery. Commissioner McGlinchey seconded the motion. Commissioner Avery accepted the nomination. All were in favor.

Chairman Lohbauer said that each Commissioner received a copy of a letter signed by Commission staff regarding union contract negotiations. Chairman Lohbauer said he has decided to create an Ad-Hoc Committee to try and address this longstanding issue. He said Commissioner McGlinchey has agreed to Chair this newly-created Committee. He said that any Commissioner who is interested in this Committee should contact Commissioner McGlinchey.

Chairman Lohbauer noted that both the Policy and Implementation Committee and Personnel and Budget Committee meetings were cancelled. As a result, there is nothing to report.

Commissioner Ashmun said that the Plan Review Committee will meet today. She asked her fellow Commissioners if they had any Comprehensive Management Plan (CMP) amendments they would like to see addressed during Plan Review. She requested that they submit them in writing to her within two weeks.

Executive Director's Reports

Ms. Nancy Wittenberg updated the Commission on the following:

- The Annual Pinelands Short Course will take place on Saturday, March 8, 2014 at The Richard Stockton College of New Jersey in Galloway Township. Commissioners can attend for free.
- The Municipal Council met on January 28, 2014 in Manchester Township. They did not have a quorum.
- She said, for the third consecutive year, she spoke to honors students at the Eagleton Institute on roles of Boards and Commissions in government.
- Staff will meet with the Department of Environmental Protection (DEP) next week to discuss a Forestry Memorandum of Understanding (MOU).
- A fact-finding meeting regarding union negotiations was held on January 27, 2014. The Commission's lawyer and CWA's lawyer continue to work to resolve outstanding issues.
- As part of continued efforts to improve Commission documents, a new application form that can be filled-out electronically has been created.
- An internal Committee has been formed to explore possibilities of redesigning the Commission's website, including the use of online permitting.

Mr. Larry Liggett updated the Commission on the following:

- Regarding Water Quality Management Planning, DEP continues to work on updating the County plans. Staff has been working closely with DEP to ensure that the proper boundaries of the Commission's Land Capability map are utilized. Once the boundaries are finalized, the next step in the process is to write the plans. The Commission has shared build out data from the Kirkwood-Cohansey study.
- At the next P&I meeting, U.S. Geological Survey (USGS) will deliver a presentation on the rapid landfill assessment study. Hammonton's wastewater plan will also be discussed at that meeting.

Mr. Charles Horner updated the Commission on the following:

- The property owner of a Barnegat Township parcel where 10 acres were cleared has been issued a fine by the Barnegat Township Municipal Court. The property owner must revegetate the parcel within six months.
- Discussions have taken place between Staff and Tabernacle Township officials regarding the development of a community wastewater system to serve a number of uses. The Township would like to have an opportunity to promote economic development on Route 206. However, because of the CMP water quality standards and lack of sewer service, opportunities are limited. The development of a community wastewater system could offer a solution to this issue.
- On February 10, 2014, a meeting was held with Partnerships for New Jersey Plant Protection to discuss threatened and endangered plant species.

Ms. Susan Grogan handed out Conservation Resources' Final Report on the Pinelands Conservation Fund acquisition program. She said that just about all of the money in the

fund has been spent. She said the Commission partnered with many different agencies to permanently preserve 7,300 acres. She said it was a very successful program. Here is the link to the report on the Commission's website:

<http://www.state.nj.us/pinelands/landuse/perm/Pinelands%20Conservation%20Fund%20Jan%202031,%202014%20Final%20Report.pdf>

Commissioner Ashmun encouraged her fellow Commissioners to read the report.

Chairman Lohbauer commended Michael Catania and Commission staff for administering a great program.

#### Public Development Projects and Other Permit Matters

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 1988-0706.017) (See Resolution # PC4-14-04). Commissioner Prickett seconded the motion.

Commissioner Galletta recused himself and left the room.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Galletta rejoined the meeting. Commissioner Prickett recused himself and left the room.

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 2011-0157.001 & 2013-0154.001) (See Resolution # PC4-14-05). Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 2011-0140.001) (See Resolution # PC4-14-06). Commissioner Galletta seconded the motion.

At the request of Commissioner Prickett, Mr. Horner provided a brief description of waiver applications.

The Commission adopted the resolution by a vote of 13 to 0.

#### Public Comment on Agenda Items and Pending Public Development Applications

Fred Akers of the Great Egg Harbor Watershed Association said the Commission should make note of Public Development applications that resolve violations, prior to voting on them.

Ordinances Not Requiring Commission Action

Chairman Lohbauer asked if any Commissioner had questions regarding the ordinances not requiring Commission action:

- Manchester Township Ordinances 10-013 & 13-013

No members of the Commission had questions.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Jeff Tittel, Director NJ Sierra Club, thanked the Commission for its hard work during the pipeline debate and its role in preserving the Pinelands. He said that two recent changes to legislation can affect the Pinelands in negative ways and that the Commission should be mindful of these issues. He said the recent changes to Water Quality Management Planning make it easier for counties to do amendments which, in turn, could produce negative results for the CMP. He said the package plant in ground discharge rates have increased from 20,000 to 50,000 gallons. He believes the increase will add more development pressure to the Regional Growth Areas, Villages and Towns.

Jonathan Atwood read a statement on behalf Senator Jeff Van Drew regarding the natural gas pipeline project. Senator Van Drew specified a number of reasons why he felt the pipeline should have been approved and why South Jersey needs the pipeline. He asked the Commission to revisit the project at the Commission's next meeting. (See attached full statement).

Georgina Shanley said she believes that the pipeline application is not over, based on a recent quote from Senator Van Drew. She said she had concerns with the reasoning given by each Commissioner who voted yes on the pipeline application. She suggested the Commission look at the effects of climate change as part of Plan Review.

Margo Pellegrino of Medford Lakes said she is excited to see the Commission engaged in prototype studies such as the alternate design septic program and looks forward to more things like it. She said water quality is a big issue and it needs to be conserved.

Bob Filipczak, an Atlantic County resident, said he was not in support of the pipeline and said it was not in the best interest of the Commission. He would like to see wind turbines and solar energy at the B.L. England site. He said the Oyster Creek Nuclear Generating Station should be decommissioned.

Frank Formica, Chairman of the Board of Chosen Freeholders for Atlantic County, said the Pinelands is a jewel. He said as owner of Formica Brothers Bakery in Atlantic City, NJ, the water coming from the Kirkwood-Cohansey aquifer is perfect for making bread. He said the economy in South Jersey is suffering. He referenced a report by a Stockton College professor who said the economy needs to be diversified, but that could be difficult with a fragile electrical grid. He said the proposed pipeline has little to no environmental

impact on the Pinelands. He would like to work with the Commission to come up with a solution so that households in South Jersey can have an opportunity for economic regrowth and a stable grid.

#### Miscellaneous

Commissioner McGlinchey asked if entering into an agreement with the Board of Public Utilities was legally problematic.

DAG Chudzik responded and said the Attorney General's Office takes active steps to prevent any improper or illegal activity from coming before the Commission.

Commissioner Galletta said he respects each of his fellow Commissioner's opinion and how they voted on the pipeline matter. However, he took great offense after reading Chairman Lohbauer's letter to the editor in The Press of Atlantic City. He said not all members of the Commission share Mr. Lohbauer's opinion regarding the pipeline. He said Mr. Lohbauer's letter was submitted unbeknownst to staff or other Commissioners. He also said Mr. Lohbauer should not have signed the letter as the Chairman of the Commission.

Chairman Lohbauer said he responded to the editor because he disagreed with the editorial. He said he expressed his opinion as a Commissioner and no one else's. Chairman Lohbauer invited Commissioner Galletta to write a rebuttal.

Commissioner Galletta declined.

Chairman Lohbauer said he has never questioned any one's rationale on how they voted.

#### Closed Session Resolution

DAG Chudzik read a resolution to retire into closed session to discuss a matter that has been designated to be confidential by rule.

Commissioner Jackson moved to retire into closed session. Commissioner McGlinchey seconded the motion. The Commission agreed to retire into closed session by a vote of 13 to 0.

#### Adjournment

Commissioner McGlinchey said for those who are interested in the Ad-Hoc Committee to contact him.

Commissioners Ashmun, Lloyd and Prickett said they would like to be on the Committee.

Commissioner Ficaglia moved to adjourn the meeting. Commissioner Rohan Green seconded the motion. The Commission agreed to adjourn at 11:50 a.m.

Certified as true and correct:

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Jessica Noble, Executive Assistant

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