



State of New Jersey  
THE PINELANDS COMMISSION  
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PHILIP D. MURPHY  
Governor  
SHEILA Y. OLIVER  
Lt. Governor

LAURA E. MATOS  
Chair  
SUSAN R. GROGAN  
Executive Director

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## NEW JERSEY PINELANDS COMMISSION MEETING AGENDA

Friday, March 10, 2023 - 9:30 a.m.

**This meeting will be held in-person and virtually**

Richard J. Sullivan Center for Environmental Policy and Education  
Terrence D. Moore Conference Room  
15C Springfield Road  
New Lisbon, New Jersey

Watch the meeting on the Pinelands Commission YouTube channel:

[www.youtube.com/c/PinelandsCommission](https://www.youtube.com/c/PinelandsCommission)

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 817 8170 7201

### 1. Call to Order

- Open Public Meetings Act Statement
- Roll Call
- Pledge Allegiance to the Flag

### 2. Adoption of Minutes

- February 10, 2023

### 3. Committee Chairs' and Executive Director's Reports

### 4. Matters for Commission Consideration *Where the Record is Closed*

#### A. Permitting Matters

- Office of Administrative Law
  - None
- Review of Local Approvals
  - None
- Public Development Projects and Waivers of Strict Compliance:

Resolution Approving With Conditions (3) Applications for Public Development:

- Application No. 1985-0204.010 - Greater Egg Harbor Regional High School District Installation of an artificial turf field at Oakcrest High School

## Hamilton Township

- Application No. 2022-0135.001 - Monroe Township  
Two lot subdivision and no further development  
Monroe Township
- Application No. 1989-0349.023 - Burlington County  
Demolition of a juvenile detention building, 50 years old or older  
Pemberton Township

## B. Planning Matters

- Municipal Master Plans and Ordinances
  - None
- Other Resolutions
  - None
- CMP Amendments
  - None

5. Public Comment on Public Development Applications and Waivers of Strict Compliance *Where the Record is Not Closed*

## A. Public Development Projects

- Application No. 1981-0809.010 - New Jersey Department of Transportation  
Replacement of an existing access road bridge at the NJDEP Forest Research Center  
Jackson Township
- Application No. 2005-0232.006 - Borough of South Toms River  
Five lot subdivision, construction of an 800 square foot building addition and the expansion of an existing parking lot  
South Toms River Borough

## B. Waivers of Strict Compliance

- Application No. 1988-1096.001 - Wildman  
Single family dwelling  
Pemberton Township
- Application No. 2000-0528.001 - Golden Bison Investment  
Single family dwelling  
Pemberton Township

6. Master Plans and Ordinances Not Requiring Commission Action

- Buena Vista Township 2022 Master Plan Reexamination Report
- Buena Vista Township Ordinances 123-2022 & 124-2022
- Corbin City Ordinance 13-2022
- Hamilton Township Ordinances 1963-2021, 1989-2022 & 2023-2022
- Maurice River Township Ordinances 718 & 720

7. Other Resolutions

- To approve the Pinelands Commission’s 2022 Annual Report

8. General Public Comment

9. Resolution to Retire into Closed Session (if needed) – Personnel, Litigation and Acquisition Matters  
*(The Commission reserves the right to reconvene into public session to take action on closed session items.)*

10. Adjournment

<b>Upcoming Meetings</b>	
Tue., March 21, 2023	Personnel & Budget Committee Meeting (9:30 a.m.)
Fri., March 31, 2023	Policy & Implementation Committee Meeting (9:30 a.m.)
Fri., April 14, 2023	Pinelands Commission Meeting (9:30 a.m.)

To ensure adequate time for all members of the public to comment, we will respectfully limit comments to three minutes. Questions raised during this period may not be responded to at this time but where feasible, will be followed up by the Commission and its staff.

Pinelands Commission and Committee meeting agendas are posted on the Commission’s Website and can be viewed at [www.nj.gov/pinelands/](http://www.nj.gov/pinelands/) for more information on agenda details, e-mail the [Public Programs Office](mailto:Info@pinelands.nj.gov) at [Info@pinelands.nj.gov](mailto:Info@pinelands.nj.gov).

PINELANDS COMMISSION MEETING

MINUTES

February 10, 2023

*All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=si7oW7YyUo>*

Commissioners Participating in the Meeting

Nicholas Asselta, Alan W. Avery Jr., Dan Christy, John Holroyd, Jerome H. Irick, Ed Lloyd, Mark Lohbauer, Mark Mauriello, Jonathan Meade, William Pikolycky and Chair Laura E. Matos. Also participating were Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Nicolas Seminoff and Governor's Authorities Unit representative Janice Venables.

Commissioners Absent

Theresa Lettman and Douglas Wallner

Call to Order

Chair Matos called the meeting to order at 9:30 a.m.

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

DAG Seminoff administered the oath of office to Nicholas Asselta, who was appointed by the Cumberland County Commissioners to serve on the Commission.

Commissioner Asselta thanked Cumberland County for appointing him to the Commission. He said he has worked in both the public and private sector. He said he served in the New Jersey Legislature, first in the Assembly and then the Senate. He said he also served as a Commissioner on the Board of Public Utilities. He said he proposed legislation to reduce the number of members present in order for the Pinelands Municipal Council to reach a quorum. He said he also serves on the New Jersey Vietnam Veteran Memorial Board. He

said all his public service has been dedicated to his brother who died in the Vietnam War. He expressed his thanks to Senator Mike Testa, who took his seat in the Senate.

Acting 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 13, 2023 and January 27, 2023 meetings. Commissioner Pikolycky moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes from the both the January 13, 2023 and January 27, 2023 Commission meetings were adopted by a vote of 11 to 0.

### Appointment of the Executive Director

Chair Matos introduced a resolution to appoint Susan R. Grogan as Executive Director of the Commission.

Commissioner Lloyd made a motion To Appoint Susan R. Grogan as Executive Director of the New Jersey Pinelands Commission (See Resolution # PC4-23-06). Commissioner Avery seconded the motion.

Chair Matos said Ms. Grogan has an incredible history in Pinelands knowledge, including a strong working relationship with Pinelands municipalities and its residents. She said in the past year, Ms. Grogan has been an invaluable resource to work with. She said she is thrilled that the Commission is taking action to formally appoint Ms. Grogan as Executive Director.

Commissioner Lloyd said this is the easiest and most important resolution that he has probably ever voted on. He said Ms. Grogan has been preparing for this role for decades and been performing the job for the last 19 months. He said Ms. Grogan has been successfully guiding this Commission and staff through complicated matters. He said he is very pleased to be voting on this resolution and it is a great day.

Commissioner Lohbauer said Ms. Grogan was a pillar of strength when this Commission was left without an Executive Director, following the passing of Nancy Wittenberg. He said Ms. Grogan has managed to keep this Commission moving forward with her experience. He said he is very happy for Ms. Grogan and the Pinelands.

Commissioner Avery said he has served on this board for a long time and he has seen employees come and go. He said he remembered when Ms. Grogan began her career at the Pinelands Commission. He said Ms. Grogan has ably performed her job over the years and

done outstanding work as Acting Executive Director. He introduced the following people who came to show their support for Ms. Grogan today: former Commissioner Ed McGlinchey, former Executive Director of the Pinelands Commission, Terrence Moore, and former Pinelands Commission employee, Maureen “Fritz” Olson. He thanked Janice Venables from the Governor’s office for her assistance with personnel matters.

Commissioner Lohbauer said he forgot to note that somewhere Commissioner Candace Ashmun is smiling because of today’s news. He said Commissioner Ashmun was very supportive of Ms. Grogan.

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

Executive Director (ED) Grogan expressed her sincere thanks to the Commission and staff for their support. She said she looks forward to moving on and doing great work.

Chair Matos said the Commission has been given authorization to fill the Director of Planning position that Ms. Grogan held and continued to hold while she was Acting ED. The Commission will also be hiring a Climate Resiliency Coordinator in order for the Commission to comply with the state’s climate initiatives.

#### Committee Reports

Chair Matos provided a summary of the January 27, 2023 Policy and Implementation (P&I) Committee meeting:

The Committee approved the minutes of the November 30, 2022 meeting.

Staff presented a recommendation to approve an amendment of the 1998 Memorandum of Agreement (MOA) with Atlantic County. The amendment will allow a revision to the active use area described in the deed of conservation at Lake Lenape Park in Hamilton Township. Atlantic County wishes to amend the deed restricted area of the lake so that it can reconfigure an existing dock and alleviate ongoing safety issues at the lake. As an offset, the County would deed restrict a similarly sized area in another portion of the Park. The Committee voted to recommend approval of the amendment by the full Commission in February.

The Committee heard a progress report on the Alternate Design Treatment Systems Pilot Program with data through the end of 2022. The pilot program was established in 2001 to allow development on small (1 acre) lots without causing degradation in water quality. The presentation described the program, the success of different technologies, the location of the advanced treatment septic systems by municipality and management area, and future steps for the program. No formal action was taken by the Committee.

The Committee was updated on the status of the Kirkwood-Cohansey (K-C) water management amendments. Staff made changes to the rule language following the public comment period last fall. After discussion of the changes with the P&I Committee at its

November 2022 meeting, staff met with New Jersey Department of Environmental Protection (NJDEP) and the aggregate industry to gather further information on the water allocation permitting process and regulation of water quality. The Committee also received an updated timeline on the re-proposal process. The staff noted the Notice of Substantial Change is under review by the Governor's office and will require approval by the full Commission before proceeding to publication. The Committee confirmed that water quality concerns associated with the resource extraction industry's non-consumptive use of water would be addressed through the NJDEP process.

### Executive Director's Report

ED Grogan provided information on the following matters:

- The Governor's office has completed its review of the Kirkwood-Cohansey water management amendments and the re-proposal is on today's agenda.
- Planning staff has created and distributed stormwater model ordinances for each town. The ordinances were tailored for each municipality to streamline the adoption process.
- Marc Paalvast, the new staff Archaeologist, was introduced. He will be working with the consultant that is in the process of creating a preservation plan for Fenwick Manor. During the last week of February, the consultant will be doing some investigative work in the two front rooms of Fenwick to confirm what they believe is causing the cracks in the walls. The preservation plan will be used as a basis for the submission of a capital grant this coming spring.
- Interviews with outside labor counsel were completed in preparation for upcoming union contract negotiations. The Deputy Attorney General's office is in the process of reviewing the contract and preparing the retainer.
- A few members of Commission staff attended a virtual meeting held by the NJDEP to review the results of a survey in which approximately 1,700 respondents shared input on how the public uses Wharton State Forest.
- Chair Matos attended a meeting with staff and representatives of Pemberton Township regarding a new MOA that would facilitate paved trails around a lake in the Township. The next step in the process is for the town to bring the proposal to an upcoming P&I Committee meeting.

Chuck Horner, Director of Regulatory Programs, provided information on the following regulatory matters:

- On February 6<sup>th</sup> staff met with Berkeley Township officials to discuss their outstanding land development violations. Subsequently, staff issued a letter

scheduling a public hearing to the applicant proposing a solar facility on Berkeley's landfill, due to the outstanding violations at the municipal site.

- Staff met with representatives from South Toms River Borough regarding the closure of its landfill. The Borough has some minor violations that they are in the process of curing. The Borough has plans to develop affordable housing on the same parcel as its landfill.
- The January Management report summarizes 15 different development applications. There are very few applications that can be classified as straightforward, as time goes on, each application displays its own complexities.

Paul Leakan, Communications Officer, said there are over 300 people signed up for the 34<sup>th</sup> Annual Pinelands Short Course. He added that all offices are providing information to compile the 2022 Annual Report, which will be on the Commission's March meeting agenda for approval.

#### Planning Matters

Chair Matos introduced a resolution to approve an amendment to an existing Memorandum of Agreement (MOA) between the Commission and Atlantic County.

Commissioner Irick made a motion Authorizing the Acting Executive Director to Execute the First Amendment to the March 4, 1998 Memorandum of Agreement Between the Pinelands Commission and Atlantic County Regarding Development on the Western Lakeshore of Lake Lenape Park (See Resolution # PC4-23-07). Commissioner Lohbauer seconded the motion.

Stacey Roth, Chief, Legal & Legislative Affairs, said the proposed amendment to the MOA will permit the replacement of the current dock configuration with a new floating dock system at Lake Lenape Park. She said the offset will consist of a 1.39-acre rectangular shaped deed restricted area in an undeveloped portion of the western lakeshore of Lake Lenape.

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

Chair Matos introduced a resolution that would allow the Executive Director to commence the process to amend the CMP.

Commissioner Pikolycky made a motion To Authorize the Executive Director to Propose Substantial Changes Upon Adoption to the Proposed Amendments to the Comprehensive Management Plan Related to Water Management in Accordance with the Administrative Procedure Act (See Resolution # PC4-23-08). Commissioner Holroyd seconded the motion.



ED Grogan said the Kirkwood-Cohansey rule proposal was published in the New Jersey Register in September of 2022. There was a 60-day public comment period and two public hearings. She said a number of the public comments stated that the rules did not consider non-consumptive water use for the resource extraction industry in the Pinelands Area. She said staff drafted revisions to the amendments in response to comments received from the mining industry. Staff presented those revisions to the P&I Committee, which then led to additional modifications. Staff spent a great deal of time in December speaking with NJDEP staff and representatives from the aggregate industry. ED Grogan noted that because the changes were substantive in nature, a Notice of Substantial Change had to be filed and the rule making process must restart. ED Grogan reviewed the revisions, definitions and clarifications. Lastly, she reviewed the new timeline with an anticipated rule adoption date of August 2023. (Link to the Water Management Rule Proposal Presentation: <https://www.nj.gov/pinelands/home/presentations/K-C%202-10-2023.pdf>)

Commissioner Irick said he missed the January P&I Committee but watched the meeting on YouTube. He thanked staff for addressing his concerns and said he would be voting in favor of the Water Management amendments.

Commissioner Mauriello said he was not directly involved with the Kirkwood-Cohansey rules but he commended staff and Commissioners for revising the rules based on public comment. He said when comments are reasonable, and an agency is responsive while maintaining the integrity of the rules, it shows that an agency is listening and provides credibility.

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

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

No comment was provided.

#### Ordinances Not Requiring Commission Action

Chair Matos read the list of Ordinances:

- Folsom Borough Ordinance 12-2022
- Jackson Township Ordinance 30-22
- Pemberton Township Ordinance 25-2022
- Upper Township Ordinance 026-2022
- Winslow Township Ordinance O-2022-032

ED Grogan said Jackson Township is changing its maximum height limitation in the RG-3 zone for multi-story affordable housing units. She said Pemberton Township is adopting a redevelopment plan associated with a number of scattered lots in its Regional Growth Area. She said Upper Township included a provision in its ordinance encouraging pervious paving systems. Lastly, the Winslow Township ordinance conditionally permits the development of convenience stores with gas pumps in certain zoning districts.

### Science Office Update

John Bunnell, the Commission Chief Scientist, gave a presentation on Science Office research. He discussed past research topics and described the recently completed Endocrine Disruption Study and the Microorganism Study. He also 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 multifaceted snake research program that includes studies of snake genetics, snake fungal disease, and in-depth studies of corn snakes and kingsnakes with a goal of establishing a long-term monitoring program for rare snakes. Lastly, he described a new initiative to study eastern box turtles. (Link to the presentation: <https://www.nj.gov/pinelands/home/presentations/PC%20Research%20February%2010,%202023%20PC%20Meeting.pdf>)

Commissioner Irick asked if prescribed burning has impacted the snake dens or study areas.

Chief Scientist Bunnell said fire is good for the habitat in the Pine Barrens. He said that prescribed burning typically occurs while the snakes are in their dens and they have not seen any mortality. He said he hopes that they can conduct a test with a cluster of turtles in the vicinity of a controlled burn to see how the turtles react. He said a friend went out immediately after the Mullica fire that scorched 13,000 acres. He found turtles that were alive and did not find any burned turtle shells, which was a telling and good sign.

Commissioner Mauriello asked if the submission of Threatened and Endangered (T&E) species reports as part of development applications are useful to the Science office.

Chief Scientist Bunnell said most often the Science office does not see those reports unless the Regulatory Programs staff asks for guidance or has a question. He said drift fences and box traps give them their data, for the most part. He noted that the design and maintenance of drift fence and box trap surveys matters. He explained that NJDEP dictates design requirements and that he would recommend the use of taller drift fences.

### General Public Comment

Heidi Yeh, Pinelands Preservation Alliance (PPA), said Carleton Montgomery and Jaclyn Rhoads could not be here today but wanted to express their support in appointing Susan Grogan as Executive Director of the Pinelands Commission. She said D.R. Horton, the developer of a large residential development in Egg Harbor Township, is using the Permit Extension Act to get out of purchasing Pinelands Development Credits (PDCs). She added that the developer and municipality need to be held accountable for the affordable housing obligation. She said the Commission should not compromise or make unwarranted concessions. Lastly, she said PPA is disappointed that Commission staff reviewed Winslow Township Ordinance O-2022-032 and found it consistent. She said there was

local opposition to the ordinance and the Commission should not be permitting the development of new gas stations but rather seeking ways to mitigate climate change. (See attached written comments.)

Terrence Moore, former Executive Director of the Pinelands Commission and resident of Shamong, NJ, commended the Commission for appointing Susan Grogan as Executive Director. He said he remembered when John Stokes said that he wanted to hire Ms. Grogan in the late 1980's. He said Susan seemed to be bright, articulate and a very nice person. He said Ms. Grogan has held every position in the non-development review side of the Commission. He said he brings a message from one of Ms. Grogan's former employees, Betsy Piner. He said Betsy asked him to please give Ms. Grogan a hug. He said Betsy also said that she was so proud to have been her (Susan's) student. Terry said that is a quality that will serve the staff and the Commission well. He offered Ms. Grogan some advice: do what you think is the right thing and stay true to the statute.

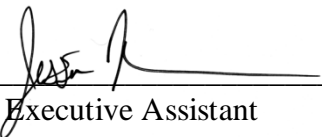
Ed McGlinchey, former Pinelands Commissioner, said the day after he left the Navy in 1972 he began his career working for Winslow Township. He said he later served as Director of the Department of Public Works and Zoning officer. He said when the Pinelands Commission was created in 1979, it was Commission staff who helped him understand the rules. He said he later served as a Commissioner and really enjoyed that role. He said he is so happy to be here today and although it took a long time, he is very happy that Ms. Grogan has been appointed Executive Director.

Fred Akers of the Great Egg Harbor Watershed said he was excited that Ms. Grogan is the Executive Director and congratulated her on her new position. He said former Pinelands Chairman Jim Florio is also smiling somewhere today. He said he was happy to hear that the Commission sent out stormwater guidance to Pinelands municipalities.

### Adjournment

Commissioner Pikolycky moved to adjourn the meeting. Commissioner Irick seconded the motion. The Commission agreed to adjourn at 11:21 a.m.

Certified as true and correct:

  
\_\_\_\_\_  
Executive Assistant

Date: February 15, 2023



# ***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-23- 06**

**TITLE:** To Appoint Susan R. Grogan as Executive Director of the New Jersey Pinelands Commission

**Commissioner Lloyd moves and Commissioner Avery  
seconds the motion that:**

**WHEREAS**, the position of Executive Director of the Pinelands Commission became vacant on June 24, 2021; and

**WHEREAS**, on June 24, 2021, in accordance with Article III, Section 5 of the Pinelands Commission's By-Laws, then-Chairman Richard Prickett designated Susan R. Grogan as Acting Executive Director and authorized her to exercise all powers delegated to the Executive Director by the Commission's By-Laws, actions of the Commission or otherwise granted pursuant to the provisions of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan; and

**WHEREAS**, Ms. Grogan has worked at the Pinelands Commission since August 1988. She served as the Commission's longtime Chief Planner and was promoted as the Director of Planning in 2020. In her capacity as Chief Planner, Ms. Grogan authored many amendments to the Pinelands Comprehensive Management Plan, reviewed thousands of municipal ordinances and master plans to ensure conformance with Pinelands regulations, implemented the Pinelands Conservation Fund land acquisition program that has preserved nearly 9,000 acres to date and supervised Planning Office staff and a wide variety of projects; and

**WHEREAS**, Ms. Grogan has also served as the Executive Director of the Pinelands Development Credit Bank since 2011; and

**WHEREAS**, Ms. Grogan has demonstrated extraordinary skill in advancing numerous initiatives since being designated as the Commission's Acting Executive Director, including the adoption of amendments to the Pinelands Comprehensive Management Plan (CMP) that will better protect Pinelands resources by requiring the use of green infrastructure and other more stringent standards to manage stormwater, as well as proposing rule changes pertaining to the Kirkwood-Cohansey aquifer, working to prepare the Commission for future rule changes aimed at addressing climate change, recruiting and hiring several staff members to fill vacant positions, providing invaluable guidance to longtime and new Commission members, securing funding to help refurbish the historic Fenwick Manor farmhouse, overseeing the implementation of office-wide policies pertaining to COVID-19, and furthering efforts to reduce the Commission's carbon footprint at its headquarters; and

**WHEREAS**, prior to joining the Commission, Ms. Grogan was the Assistant Land Use Coordinator for Burlington County's Office of Economic Development, where she was responsible for implementing the county's farmland preservation program, among other responsibilities. Ms. Grogan holds a Masters of City and Regional Planning from Rutgers University and a Bachelors of Arts in Government and Sociology from the College of William and Mary. She is a licensed New Jersey Professional Planner and a member of the American Institute of Certified Planners; and

**WHEREAS**, the Acting Executive Director designation was to remain valid until such time as a quorum of the Commission acted to appoint an Executive Director; and

**WHEREAS**, the Pinelands Commission now wishes to appoint Susan R. Grogan as its Executive Director; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE, BE IT RESOLVED** that the Pinelands Commission hereby appoints Susan R. Grogan to fill the position of Executive Director, with all terms of employment to be in accordance with the Personnel Policies of the Commission.

**BE IT FURTHER RESOLVED** that the Chair is authorized to offer the Executive Director position to Susan R. Grogan at her current level of compensation until such time as the Personnel & Budget Committee meets to determine an appropriate salary and salary range for the position, at which time any authorized increase in salary shall be retroactive to the date of this resolution.

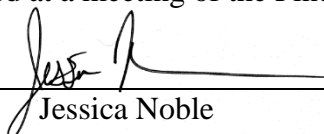
**Record of Commission Votes**

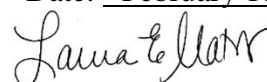
	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman			X		Pikolycky	X			
Avery	X				Lloyd	X				Wallner			X	
Christy	X				Lohbauer	X				Matos	X			
Holroyd	X				Mauriello	X								
Irick	X				Meade	X								

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: February 10, 2023

  
 \_\_\_\_\_  
 Jessica Noble  
 Secretary

  
 \_\_\_\_\_  
 Laura E. Matos  
 Chair



# **RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

**NO. PC4-23- 07**

**TITLE:** Authorizing the Executive Director to Execute the First Amendment to the March 4, 1998 Memorandum of Agreement Between the Pinelands Commission and Atlantic County Regarding Development on the Western Lakeshore of Lake Lenape Park

**Commissioner Irick moves and Commissioner Lohbauer seconds the motion that:**

**WHEREAS**, the New Jersey Pinelands Commission (hereinafter “Commission”) and the County of Atlantic (the “County” or “Atlantic County”)(both of which are collectively referred to herein as the “Parties”) entered into a Memorandum of Agreement (“MOA”), dated March 4, 1998 (the “1998 MOA”), which facilitated review of projects undertaken by the County in the “Atlantic County Park at Lake Lenape” (“Lake Lenape Park”) located in Hamilton Township; and

**WHEREAS**, Lake Lenape Park consists of approximately 1,898 acres, which includes an approximately 330-acre water body known as Lake Lenape; and

**WHEREAS**, among other things, the 1998 MOA authorized Atlantic County to construct a 40 foot by 20 foot partially submerged concrete boat ramp and a 120 foot L-shaped floating dock proximate to the boathouse building in accordance with the plans entitled “Western Lake Shore Development Area – Lake Lenape,” prepared by Chris R. Rehmann, P.E., L.S., dated July 29, 1991 and revised October 10, 1997; and

**WHEREAS**, certain development authorized by the 1998 MOA was not fully consistent with the Pinelands Comprehensive Management Plan (the “CMP”) and, as a result, the March 1998 MOA was necessary to authorize a deviation from the following CMP standards: 1) N.J.A.C. 7:50-5.23(b)12, prohibiting the development of centralized wastewater treatment and collection facilities in a Forest Area absent an identified public health problem; and 2) N.J.A.C. 7:50-6.14, prohibiting development within 300 feet of a wetland unless it is demonstrated that such development will not result in a significant adverse impact on the wetlands; and

**WHEREAS**, in order to provide an equivalent level of protection of the resources of the Pinelands as would have been provided through strict application of the Pinelands CMP as required by N.J.A.C. 7:50-4.52(c)2, Atlantic County deed restricted approximately 1,822 acres of Lake Lenape Park as permanently preserved in its natural state; and

**WHEREAS**, by letter dated July 10, 2019, Atlantic County Administrator Gerald DelRosso asked for a meeting with the Commission’s Executive Director to explore amending the March 1998 MOA to permit reconfiguration of the docks within Lake Lenape; and

**WHEREAS**, amendment of the 1998 MOA is required because the Declaration of Restrictive Covenants signed by the County Administrator on May 29, 1998, and subsequently filed with the County Clerk, specifically referenced the 1998 MOA and, thus, had the unintended consequence of prescribing the precise location, size and configuration of the docks on Lake Lenape; and

**WHEREAS**, since 1998, public safety concerns have arisen between trucks backing onto the boat ramp adjacent to the L-shaped docks and other users of Lake Lenape; and

**WHEREAS**, after consultation with the Commission’s CMP Policy and Implementation Committee between August 2019 and November 2022, the First Amendment to the 1998 MOA was drafted; and

**WHEREAS**, in order to provide flexibility in the placement of the docks in the vicinity of the boathouse on the Western Lakeshore of Lake Lenape, the First Amendment to the 1998 MOA eliminates the reference in Paragraph II.C.2(h) of the 1998 MOA to the “120 feet L-shaped dock varying in width from six (6) feet to eight (8) feet adjacent to the first aid/restroom/boathouse building” and instead creates a 300’ x 200’ (1.39 acre) rectangular area within which docks of various sizes and configurations may be constructed, as depicted on the plan entitled “Floating Dock General Location Area, Lake Lenape Park,” prepared by Thomas A. Prendergast, PLS, County Surveyor, Atlantic County, Division of Engineering, last revised December 13, 2022; and

**WHEREAS**, to offset the loss of this 1.39 acre deed restricted portion of Lake Lenape, the First Amendment eliminates the authorization in the 1998 MOA to construct a dock at the group camping area elsewhere in Lake Lenape Park and requires the County to deed restrict a 300’ x 200’ rectangular section of Lake Lenape proximate thereto, as depicted on the plan entitled “Area of Deed Restriction” prepared by Thomas A. Prendergast, PLS, County Surveyor, Atlantic County, Division of Engineering, last revised December 13, 2022; and

**WHEREAS**, a public hearing to receive testimony on the proposed First Amendment to the 1998 MOA was duly advertised, noticed, and remotely held on January 4, 2023 at 9:30 a.m. with live broadcast on the Pinelands Commission’s public YouTube channel and opportunity for the public to call-in during the live broadcast; and

**WHEREAS**, the Executive Director has submitted a report to the Commission recommending issuance of an order to execute the First Amendment to the 1998 MOA; and

**WHEREAS**, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and has recommended that the Commission enter into the First Amendment to the 1998 MOA; and

**WHEREAS**, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the First Amendment to the 1998 MOA and has reviewed the Executive Director’s report; and

**WHEREAS**, the Pinelands Commission finds that the offsetting measures proposed by Atlantic County will provide an equivalent level of protection for the resources of the Pinelands as would be provided through strict application of the CMP; and

**WHEREAS**, the Commission, further finds that the First Amendment to the 1998 MOA, attached hereto, satisfies the standards of N.J.A.C. 7:50-4.52(c), which authorizes the Commission to enter into such agreements; and

**WHEREAS**, the Commission accepts the recommendation of the Executive Director; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE BE IT RESOLVED** that the Commission agrees to enter into the First Amendment to the 1998 MOA between the Commission and Atlantic County regarding Development on the Western Lakeshore of Lake Lenape Park, attached hereto.

**BE IT FURTHER RESOLVED** that the Commission authorizes the Executive Director to execute the First Amendment to the 1998 MOA between the Commission and Atlantic County.

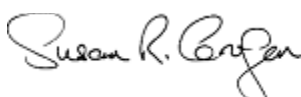
**Record of Commission Votes**

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman			X		Pikolycky	X			
Avery	X				Lloyd	X				Wallner			X	
Christy	X				Lohbauer	X				Matos	X			
Holroyd	X				Mauriello	X								
Irick	X				Meade	X								

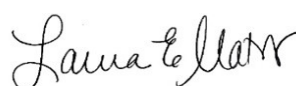
\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: February 10, 2023



Susan R. Grogan  
Executive Director



Laura E. Matos  
Chair



State of New Jersey  
 THE PINELANDS COMMISSION  
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PHILIP D. MURPHY  
 Governor  
 SHEILA Y. OLIVER  
 Lt. Governor

General Information: Info@pinelands.nj.gov  
 Application Specific Information: AppInfo@pinelands.nj.gov

LAURA E. MATOS  
 Chair  
 SUSAN R. GROGAN  
 Acting Executive Director

January 18, 2023

**REPORT ON A PROPOSED FIRST AMENDMENT TO THE MARCH 4, 1998  
 MEMORANDUM OF AGREEMENT BETWEEN ATLANTIC COUNTY AND THE  
 NEW JERSEY PINELANDS COMMISSION REGARDING DEVELOPMENT PROJECTS  
 IN THE ATLANTIC COUNTY PARK AT LAKE LENAPE**

**FINDINGS OF FACT**

Atlantic County has requested an amendment of the March 4, 1998 Memorandum of Agreement (the 1998 MOA”) between it and the Pinelands Commission (the “Commission”) that authorized the development of certain projects along the Western Lakeshore of Lake Lenape Park in Hamilton Township. The Proposed Amendment would eliminate the provision authorizing construction of a 120-foot L-shaped dock in varying widths from six to eight feet adjacent to the existing boat ramp and proximate to the first aid/restroom/boathouse (the “boathouse”) building. Instead, the Proposed Amendment would authorize the County to install floating docks within a 300’ x 200’ rectangular area (1.39 acres) adjacent and parallel to the boathouse.

**I. Background and Purpose of the 1998 MOA**

Lake Lenape Park is owned by Atlantic County and located in Hamilton Township. It consists of approximately 1,898 acres, including an approximately 330-acre water body known as Lake Lenape. It is located within the Pinelands Area and in a designated Forest Area.

In 1998, Atlantic County was seeking to construct the following on the Park’s western lakeshore: 1) wastewater treatment and facilities, 2) a water main, 3) a boat house, 4) boat ramps, 5) a playground, 6) restroom and shower facilities, 7) cabins, 8) camp sites, 9) docks, 10) access roads and 11) other related improvements. The proposed development was not fully consistent with the Forest Area (N.J.A.C. 7:50-5.23) and the wetland buffers (N.J.A.C. 7:50-6.14) standards of the Pinelands Comprehensive Management Plan (the “CMP”).

The CMP authorizes the Commission to enter into an intergovernmental MOA to permit development that is not fully consistent with its standards, provided such MOA includes measures that afford, at a minimum, an equivalent level of protection for the resources of the Pinelands as would be provided through strict application of the Plan’s standards (N.J.A.C. 7:50-4.52). In March 1998, the Commission and Atlantic County executed a MOA authorizing the above delineated development at Lake Lenape. In order to provide the required offset, Atlantic County deed restricted approximately 1,822 acres of Lake Lenape Park as permanently preserved in its natural state. The County also filed a deed notice restricting the use of the existing sanitary sewer line to the proposed interpretive center, boathouse building and the restroom and shower facilities for the six cabins and eleven campsites.



The Deed of Restrictive Covenants (DCR) filed by the County in May 1998 referenced and incorporated the terms of the MOA. An unintended consequence of this incorporation was the inclusion within the DCR of the specific dimensional requirements for the docks to be constructed proximate to the Boathouse. (See Paragraph C.2(h) of the 1998 MOA). As a result, the DCR limited the County's ability to relocate the docks or change the configuration without an amendment to the MOA authorizing same.

The County subsequently implemented several of the improvements authorized by the March 1998 MOA in the Western Lakeshore Area of Lake Lenape Park, including construction of a 40 foot by 20 foot partially submerged concrete boat ramp and a 120 foot L-shaped floating dock proximate to the Boathouse in accordance with the plans entitled "Western Lake Shore Development Area –Lake Lenape," prepared by Chris R. Rehmann, P.E., L.S., dated July 29, 1991 and revised October 10, 1997.

## **II. Safety Concerns Regarding the Existing Dock Configuration**

By letter dated July 10, 2019, the Atlantic County Administrator requested a meeting with the Pinelands Commission staff to discuss amending the 1998 MOA to address reconfiguration of the docks proximate to the Boathouse at Lake Lenape. The County proposed removing the existing L-shaped dock adjacent to the boat ramp and replacing it with two new floating docks, a 50-foot long by 6-foot wide dock adjacent to the existing boat ramp and a 140-foot long by 13-foot wide dock, independent of and down shore from the boat ramp.

As expressed in its August 23, 2019 presentation to the Commission's CMP Policy and Implementation Committee and, again, in its testimony during the public hearing on the proposed MOA Amendment, there are significant safety concerns associated with the existing configuration of the L-shaped dock adjacent to the boat ramp. Currently, the Boathouse and dock area at Lake Lenape is utilized by thousands of visitors. The current configuration serves as a funnel for access to the lake by various user groups.

The 1998 MOA did not anticipate the conflicts brought about by having vehicles backing trailers down the boat ramp next to the dock being used by kayakers and other small boats, motorboats, swimmers, fisherman, student sculler, etc. It did not anticipate students who scull on the lake being in the path of trucks backing up to use the boat ramp. It also did not anticipate the difficulty of maneuvering large sculls around the L-shaped dock.

These issues, as well as the increased use of the docks since 1998 and the age and condition of the existing docks, prompted the County to approach the Commission with a proposal to amend the 1998 MOA.

## **III. Proposed Offset Replacement**

Initially, the County proposed replacing the existing L-shaped docks with two floating docks; a dock approximately 50 ft long adjacent to the existing boathouse and a second dock 140 ft long x 13 ft wide located at the far side of the Boathouse. These floating docks would not be permanent structures; they have no pilings and are not anchored to the lake bottom. Rather, the docks are kept in place with concrete weights. Following the discussion with Committee members at the August 23, 2019 CMP Policy & Implementation Committee, it was determined that a better approach would be to establish a 300 ft x 200 ft (1.39 acres) area within which the County would have the ability to place docks in whatever configuration would meet its needs.

In order to provide the necessary offset for the amendment, the County offered to deed restrict a comparable area (300 ft x 200 ft, 1.39 acres) located to the north of the camping area on the western lakeshore of Lake Lenape. This area had previously been approved for construction of a dock. The County considered this to be an appropriate offset given the proposed area had not yet been developed and was of a more pristine character than the area around the Boathouse.

#### **IV. Findings**

The County's testimony as discussed above supports the finding that the existing dock configuration required by the terms of the 1998 MOA is resulting in safety conflicts between the various users of the Boathouse area and Lake Lenape. These safety concerns need to be addressed.

Moreover, as evidenced by the County's testimony, developing an amendment to the 1998 MOA that once again restricts the County to the development of docks with specific dimensions and locations does not provide the County with the necessary flexibility to address changes in circumstances that arise over time. Providing the County with a 300 ft x 200 ft area adjacent to the Boathouse for installation of docks of various sizes and configurations will allow the County to address any safety concerns that may arise in the future.

Additional findings are included in the "whereas" paragraphs of the proposed MOA amendment and are incorporated herein by reference.

#### **V. Basis for the First Amendment to the March 4, 1998 MOA**

In order for the Commission to enter into a MOA with a governmental entity that permits development that may not be fully consistent with the land use and development standards (N.J.A.C. 7:50-5 and 6) of the Pinelands CMP, the governmental entity must demonstrate and the Commission must find that variations from the Plan are accompanied by measures that will, at a minimum, afford an equivalent level of protection for the resources of the Pinelands than would be provided through strict application of the CMP. N.J.A.C 7:50-4.52(c)2. As discussed above, the County has proposed to replace the 300 ft x 200 ft (1.39 acre) area proximate to the Boathouse with another area of the same shape and size on Lake Lenape and deed restrict this area against future development.

The 1998 MOA authorized the development of 76 acres of Lake Lenape Park and required that the remaining approximately 1,822 acres of the park be deed restricted against development. Through the MOA, the County was authorized to undertake various development projects including the development of the L-shaped dock proximate to the Boathouse and a similar L-shaped dock in the area it is now offering to deed restrict. The proposed MOA Amendment does not increase size of the area permitted for development in the park. Rather, the new area to be deed restricted is the same size as the area proximate to the Boathouse but is in its natural state. The County is also relinquishing its existing authorization to construct a dock in this area. As a result, the County has proposed an equivalent level of protection for the resources of the Pinelands as was provided previously under the 1998 MOA and as would be provided through strict application of the relevant standards of the Pinelands CMP.

## **VI. PUBLIC HEARING**

Pursuant to N.J.A.C. 7:50-4.52(c)3, a public hearing to receive testimony concerning the proposed First Amendment to the March 4, 1998 MOA was duly advertised and noticed. The hearing was conducted by Acting Executive Director Susan R. Grogan and held virtually, via ZOOM on January 4, 2023 at 9:30 a.m. Two individuals attended the hearing.

At the outset of the public hearing, Acting Executive Director Grogan provided a summary of the terms of the MOA amendment being requested and the replacement offset proposed by the County. Ms. Grogan noted that written comment concerning the proposed amendment would be accepted by mail, fax or email until 5:00 p.m. on January 9, 2023.

Ms. Grogan advised the public that following the hearing, staff would prepare a report and recommendation concerning the MOA amendment for the Commission's review. This report would provide a summary of any testimony provided at the hearing and any written comments received before the record closed on January 9, 2023. Ms. Grogan further advised that the Commission's CMP Policy & Implementation Committee would discuss the proposed MOA Amendment and the staff's recommendation at its January 27, 2023 meeting, with consideration by the full Commission likely to occur on February 10, 2023.

The following testimony was received at the hearing:

Anthony Pagano, Assistant County Counsel, appeared on behalf of Atlantic County. Mr. Pagano testified that he had worked on the original 1998 MOA and circumstances had changed since that document was executed. He indicated that in 1998, the user conflicts that had been encountered over the recent years and the safety concerns attributable to such conflicts had not been anticipated. He testified that the boat ramp area is used by various user groups including fishermen, people wanting to recreate and jump into the lake and trucks backing boat trailers onto the boat ramp. He noted that the current dock configuration is a fixed structure located right up against the boat ramp. He stated that there have been problems with students who scull on the lake being in the path of trucks backing onto the boat ramp and that these user groups needed to be separated. He also noted that using a floating dock system will provide the County with needed flexibility as opposed to a permanent structure and will allow the County to move other users away from trucks backing onto the boat ramp. He said that this is an important safety issue to the County. As to the area being offered as an offset, he advised that the area had not been developed and is of a more pristine character than the area around the Boathouse. Given this, the County feels it is more appropriate to deed restrict this area and preserve it in its natural state, in exchange for the flexibility to address the County's needs for the area by the Boathouse where activity is occurring.

Eric Husta, Director, Atlantic County Parks, also appeared on behalf of Atlantic County. Mr. Husta said that he was there predominantly to answer any questions that the Acting Executive Director may have. He indicated that he echoed Mr. Pagano's testimony. He said that the increased usage of the park had caused the County to look at the dock area and its current configuration. He advised that given the existing L-shaped dock structure is aging out and needs repair or replacement, the County felt that now was the time to discuss its safety concerns with the Commission.

There being no further testimony, the hearing concluded at approximately 9:40 a.m.

No written comments were received regarding the proposed MOA Amendment.

## **VII. CONCLUSION AND RECOMMENDATION**

The proposed amendment to the March 4, 1998 MOA between the Commission and Atlantic County will create a 300 ft x 200 ft rectangular area proximate to the existing Boathouse, within which the County will be permitted to install docks in whatever configuration it deems necessary to permit the park's visitors to use and enjoy the lake safely.

As discussed above, the County has proposed to deed restrict an area of the same size and shape of the lake in the vicinity of the existing camping area on the western lakeshore. In addition, the County is relinquishing the authorizations granted by the 1998 MOA to construct a L-shaped dock in this area. Unlike the area proximate to the Boathouse, the new offset area to be deed restricted remains undeveloped.

Moreover, development of the new docks within the 300 ft x 200 ft area proximate to the Boathouse will not require construction of permanent structures, pilings or anchors to the lake bottom. Rather, these docks will be secured using concrete weights.

Considering the above, the proposed MOA Amendment is accompanied by measures that, at a minimum, afford an equivalent level of protection of the resources of the Pinelands as required by N.J.A.C. 7:50-4.52(c)2. The Acting Executive Director therefore recommends that the Commission enter into the First Amendment to the March 4, 1998 Memorandum of Agreement with Atlantic County regarding development projects in the Atlantic County Park at Lake Lenape.