

Disclaimer

These minutes reflect the actions taken by the Commission during its August 10, 2012 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 August 20, 2012.

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

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

**MINUTES**

**August 10, 2012**

Commissioners Present

Candace Ashmun, Bill Brown, Sean Earlen, Leslie Ficcaglia, Ed Lloyd, Paul E. Galletta, John A. Haas, Robert Jackson via tele-conference, Ed McGlinchey, Richard Prickett, Gary Quinn and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison John Cascarano and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

Fran Witt and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:35 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 12 Commissioners present.)

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

Minutes

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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.

Chairman Lohbauer presented the July 13, 2012 Commission meeting minutes. Commissioner Ficcaiglia moved the adoption of the minutes. Commissioner Ashmun seconded the motion.

The minutes of the July 13, 2012 meeting were adopted by a vote of 11 to 0, with Commissioner Quinn abstaining.

#### Committee Chairs' Reports

##### Personnel and Budget Committee Meeting

Commissioner Haas advised that the July 31, 2012 Personnel and Budget Committee Meeting was cancelled.

##### Plan Review Committee

Commissioner Ashmun updated the Commission on action from the July 13, 2012 Plan Review Committee Meeting:

The public meeting dates for Plan Review are scheduled for:

- Friday, August 10: 11 AM at RJS Center, Pinelands Commission
- Wednesday, August 22: 7 PM at Hamilton Township Town Hall
- Friday, September 14: 11 AM at RJS Center, Pinelands Commission
- Monday, September 24: 7 PM at RJS Center, Pinelands Commission

The Committee hopes that the public will participate at these meetings.

##### Policy and Implementation Committee Meeting

Chairman Lohbauer updated the Commission on action from the July 27, 2012 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the June 29, 2012 meeting.

In closed session, the Committee approved an additional 60 day extension for the signing of a contract for a large acquisition project in Atlantic County.

#### Executive Director's Reports

Ms. Nancy Wittenberg updated the Commissioners on the following:

- The efficiency study has begun. Meetings have been scheduled for the coming months. An internal steering Committee has been formed and she will continue to keep the Commission posted on the progress of this effort.
- She met with Commissioner Martin and was joined by Chairman Lohbauer. One of the issues discussed was forestry. Overall, the meeting with Commissioner Martin was very positive and he continues to be supportive of the Commission's work.

She will be meeting with the new Assistant Commissioner of Natural and Historic Resources to continue the conversation on forestry, as well as some other issues.

- Ms. Wittenberg asked Mr. Paul Leakan to discuss the Pinelands Municipal Council meeting held in conjunction with the annual Pinelands Orientation for newly elected officials: Mr. Leakan said that, to date, it was the most highly attended Orientation with over 60 Officials participating. The event allows the Commission to educate new officials on what we do. It is also a great opportunity for the Council to gain more public interest from Pinelands mayors. Ms. Wittenberg said the Commission received a lot of positive feedback regarding the event and she was pleased to see Commissioner Earlen and Commissioner Prickett in attendance.
- NJDEP has issued an administrative consent order to the BL England plant to switch from coal to natural gas. As part of that project, South Jersey Gas will need to run a pipeline through the Pinelands. Preliminary discussions have been taking place. A Memorandum of Agreement will be needed because the project is not in compliance with the CMP. The MOA will need to be between the Commission and another public entity; in this case, the Board of Public Utilities.

Mr. Larry Liggett updated the Commission on the following:

- The Office of Planning Advocacy has scheduled additional public hearings on the draft Final State Strategic Plan.
- Commission staff member Paul Tyshchenko has been working with the seven Pinelands counties concerning the Water Quality Management Plans along with NJDEP.
- Staff is working to finalize some annual reports. At the next Policy and Implementation Committee Meeting an update on Permanent Land Protection will be presented. The PDC Bank annual report will be issued by the end of the month. Later today, Mr. Ed Wengrowski will present the annual report on septic systems.

Mr. Chuck Horner updated the Commission on the following:

- The new Buena Vista Township Administrator has contacted the Commission and requested a meeting.
- On July 24, Staff was in court providing expert testimony regarding a Pemberton Township matter.
- Next week staff will meet with Atlantic City Electric, Jersey Central Power & Light and PSE&G to review the status of the ROW Vegetation Maintenance Plan, which was an amendment to the CMP several years ago.
- He and the Executive Director have been working with Atlantic County Officials to progress the Public Development application of Fire/Mill Road, which is up for public comment today
- The Commission recently approved an Amended stipulation of settlement for the removal of Georgia O'Keefe Road, which was part of the Sanctuary residential development project in Evesham Township. The Commission received some phone inquiries from the public questioning the activity associated with the removal of the road. Site inspections by Commission staff confirmed that the developer is complying with all mandates of the settlement.

Ms. Stacey Roth provided a brief history of the D.D. Residential matter. This is an ongoing litigation matter based on a 2004 decision of the Hamilton Township Planning Board granting an extension of an old approval despite the fact that the zoning had changed in 2000. The extension granted allowed the project to continue to be viewed as a Planned Unit Residential Development (PURD), thereby providing substantially higher density than would be permitted in a conventional residential development, without the use of Pineland Development Credits. The Commission called up the approval, and the matter then went to the Office of Administrative Law. The Administrative Law Judge upheld the Commission's decision. The developer then took the matter to the Appellate Division. The Appellate Division found the Commission had the right to call up and set aside an approval which would undermine the PDC program. Ms. Roth said this is a resounding win for the Commission.

Commissioner Prickett commended Ms. Wittenberg, Mr. Horner, Mr. Leakan and Mr. Liggett on a job well done with the Pinelands Orientation.

Commissioner Ashmun requested a copy of the D.D. Residential decision. Ms. Roth said she would email it to all Commissioners.

**Public Development Projects and Other Permit Matters**

Commissioner Haas moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1983-5250.012, 1987 0887.003, 2008-0108.001, 2011-0077.001 & 2011-0125.001) (See Resolution # PC4-12-27). Commissioner Ficcaiglia seconded the motion. The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Prickett recused himself from the next Resolution and left the room.

Commissioner Galletta moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 2011-0154.001) (See Resolution # PC4-12-28). Commissioner Lloyd seconded the motion. The Commission adopted the resolution by a vote of 11 to 0 with Commissioner Prickett abstaining.

Commissioner Prickett returned and joined the meeting.

**Resolutions Relating to Municipal Ordinances**

There were no municipal ordinances on this month's agenda.

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

No one from the public spoke.

**Miscellaneous Resolutions**

Chairman Lohbauer stated that the FY 2011 Audit report was distributed at the July Commission Meeting.

Commissioner Lloyd moved the adoption of a Resolution To Accept the Fiscal Year 2011 Audit Report (See Resolution #PC4-12-29). Commissioner Ficcaglia seconded the motion.

Commissioner Haas noted that we had a clean Audit and wanted to thank Donna Connor and staff for such an excellent job.

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

#### Ordinances Not Requiring Commission Action

The following ordinances required no action:

- Egg Harbor Township Ordinance 22-2012
- Franklin Township 2011 Master Plan Reexamination Report, Ordinance 0-5-12 and 0-6-12
- Galloway Township Resolution 6-2012 and Ordinance 1851-2012
- Winslow Township Ordinance 0-2012-021

#### Other Agenda Items

Mr. Ed Wengrowski delivered a presentation on the 10<sup>th</sup> Annual Alternate Design Septic System Pilot Program. Mr. Wengrowski said that the Pilot Program was created by a Pinelands Ad Hoc Committee and four of those members are here today: Commissioner Ashmun, Commissioner McGlinchey, who at the time represented the Municipal Council, former Commissioner Jay Mounier and Lee Rosenson, who represented the Pinelands Preservation Alliance. He went over the process of eutrophication and the nitrogen cycle. Mr. Wengrowski then gave a brief overview of each wastewater treatment system. To date, there have been 220 alternate design septic systems installed in the Pinelands. (Please see slides for further details).

Commissioner Galletta asked if the Commission has a contingency plan in place for the maintenance and monitoring of a wastewater system in the event one of the wastewater systems providers goes out of business.

Mr. Wengrowski said that the Commission's regulations state that either the manufacturer can provide maintenance through a service contract or an individual who holds a DEP wastewater treatment licensed operator at a specific level. Staff is trying to schedule some training sessions on the alternate design septic systems.

Commissioner Jackson commented that it would be good if the Commission could get a grant to take the septic system presentation on the road.

Mr. Wengrowski said there is a definite interest in septic systems.

Commissioner Ficcaglia said it is not just septic systems; the public is interested in clean water.

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

Mr. Fred Akers, of the Great Egg Harbor Watershed Association, stated that Deep Run, a Pinelands stream, is suffering from over-nitrification. Deep Run was the subject of a lot of work the Commission did to remove Buena Borough Municipal Utilities Authority discharge from the stream. The Commission entered into a Memorandum of Agreement with Buena Borough MUA and Buena Vista Township to construct a new facility that would no longer discharge into Deep Run. He said USDA gave grant money for the construction of the new facility. The upkeep of the facility was to be paid for with funds generated by new hookups. However, there has not been any new customer base; therefore, the existing customers have experienced a new rate increase to pay for the maintenance. Mr. Akers said he hopes that there will be a decrease in the nitrification in Deep Run over time now that the new facility is in place.

Mr. Lee Rosenson, of the Pinelands Preservation Alliance and NJ Audubon Society, said the purpose of the alternate design program was pro development, and it would allow development on small lots that could not meet dilution requirements. He said the Commission should continue to stay focused on monitoring septic systems at the Township level and promote regular proof of pumping septic systems. He praised Mr. Wengrowski for his good work with the pilot program.

Commissioner Ashmun said that when adopting the Pilot program, the Commission made it apparent that the systems would be for existing one acre parcels. The program did not provide the ability to have more development than the CMP already permitted.

Commissioner Haas said that, at the July Commission meeting, Rick Harris mentioned climate change and the impact on the vegetation in the Pinelands. Commissioner Haas said that he remembers some years ago asking then Chief Scientist Bob Zampella about Harshberger's book on Pinelands vegetation. Commissioner Haas said that Mr. Zampella responded it is not like that anymore, meaning that the vegetation had changed. He stated that maybe the Science office can make this an initiative, and perhaps the National Park Service folks can help us.

Commissioner Jackson agreed that we should be looking into this issue.

Adjournment

Commissioner Ficcaglia moved to adjourn the meeting. Commissioner Prickett seconded. The Commission agreed to adjourn at 10:45 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: \_\_\_\_August 16, 2012\_\_\_\_