

Disclaimer

These minutes reflect the actions taken by the Commission during its November 9, 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 November 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

**November 9, 2012**

Commissioners Present

Candace Ashmun, Bill Brown, Sean Earlen, Leslie Ficcaglia, Ed Lloyd, Robert Jackson, Ed McGlinchey, Richard Prickett, Fran Witt 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

Gary Quinn, Paul E. Galletta, D'Arcy Rohan Green and John A. Haas.

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

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

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 10 Commissioners present.)

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 October 12, 2012 Commission meeting minutes. Commissioner Jackson moved the adoption of the minutes. Commissioner Witt seconded the motion.

The minutes of the October 12, 2012 meeting were adopted by a vote of 9 to 0, with Commissioner Ficcaglia abstaining.

Chairman Lohbauer expressed his sorrow to fellow New Jerseyans who have suffered devastation caused by Hurricane Sandy.

#### Committee Chairs' Reports

##### Personnel and Budget Committee Meeting

Commissioner Witt said the October 30, 2012 Personnel and Budget Committee meeting was cancelled because of Hurricane Sandy.

*Commissioner Witt made a motion to authorize the Executive Director to pay the State's insurance broker an amount not to exceed \$42,215 to cover the Commission's FY 2013 insurance premiums. Commissioner Ficcaglia seconded and all were in favor.*

##### Plan Review Committee

Commissioner Ashmun said the October 12, 2012 Plan Review Meeting was cancelled. She said the public comments for plan review have been gathered and are posted on the Commission's website. She encouraged everyone to read them. She said the Committee will be meeting later today (November 9).

##### Policy and Implementation Committee Meeting

Chairman Lohbauer updated the Commission on action from the October 26, 2012 Policy and Implementation Committee meeting, which was held at Batsto in conjunction with World Water Monitoring Day:

The Committee adopted the minutes of the September 28, 2012 meeting.

The Committee recommended that the Commission certify the following:

Manchester Township December 2011 Master Plan Amendments and Ordinances 11-025 and 12-015;

Mullica Township Ordinances 7-2012 and 8-2012; and

Weymouth Township January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012

In closed session, the Committee discussed the status of current Pinelands Conservation Fund projects and recommended three new projects. One old project was scheduled to close on October 26, 2012 and a second should close by the end of the year.

#### Executive Director's Reports

Ms. Nancy Wittenberg updated the Commissioners on the following:

- Staff has been involved with the State on debris management stemming from Hurricane Sandy. She attended a briefing on clean-up efforts, and told DEP if they want to establish sites in the Pinelands for the temporary storage of vegetative debris they do not need to come to the Commission for approval, but need to advise the Commission where they are storing the debris. There are two sites, one in Little Egg Harbor and one in Stafford, where the Commission is working with DEP to allow the temporary storage of construction debris. The Commission will be monitoring these sites along with DEP to ensure that they are only storing debris and not burying it. Mr. Ernest Deman will be performing a site inspection at the Little Egg site later today.

Commissioner Prickett asked if these sites were in the Preservation Area.

Ms. Wittenberg said the Little Egg Harbor site is in the Preservation Area, but the Stafford site is not. She said we did not pick these sites, Little Egg Harbor came to the Commission and DEP and suggested the site, which is the old landfill.

Commissioner Lloyd asked about the size of the Little Egg Harbor site.

Mr. Chuck Horner said the debris is being placed on an already cleared area of about 13 acres. The total parcel is about 25 acres.

Commissioner Jackson raised concerns about possible groundwater contamination due to the disposal of storm related debris.

Ms. Wittenberg also reported:

- Commission staff continues to spend time on the efficiency study. Staff is currently being trained on the new work and implementing new processes. Next week another event will be held to look at another process.
- The Manchester ordinance originally scheduled to be on the agenda will be tabled.
- The Commission received a letter from the U.S. Department of the Interior assigning a new Commissioner, Joseph DiBello.
- The Commission has two new employees: Sarah Smith and Rebecca French-Mesch.
- Mayor Jim Brown from Mullica Township was in attendance.

Mr. Larry Liggett updated the Commission on the following:

- The United States Geological Survey contracts are up for renewal this year. The USGS conducts water monitoring for the Commission and before renewal, staff will look at any changes that may need to be made in their methodology.

- The USGS is also conducting a Rapid Landfill study for the Commission, which is making great progress. The local USGS office has received some additional funding for further studies on flows. If the USGS can gain access onto properties in and around the landfills, the Commission will be able to use this supplemental data.
- The Water Quality Management Planning process for the 7 Pinelands counties is nearing completion. The Commission is waiting only for some adjustments to be finalized with Gloucester and Ocean counties.

Mr. Horner updated the Commission on the following:

- In late October, staff had a site meeting with the Mayor of Mullica and the current owner of what used to be the Sweetwater Casino which is on the Mullica River. Some years ago the restaurant was destroyed by a fire. The current owner is interested in rebuilding; a number of options were discussed. If an application comes in, he said the Commission will work closely with the Township.
- On October 24, staff met with NJDEP's wetlands enforcement staff to review the existing MOA between the two entities concerning wetlands.
- Burlington County was required to preserve agricultural lands to which at least 5.25 PDCs had been allocated as a condition of the Public Development approval for the widening of Route 530. The County has actually retired 11.75 PDCs, permanently deed restricting 250 acres in Tabernacle and Shamong Townships.

Ms. Roth reminded Commissioners they need to complete ethics training by November 12, 2012.

#### Resolutions Relating to Municipal Ordinances

Commissioner Ficcaglia moved the adoption of a Resolution Issuing an Order to Certify Ordinance 7-2012, Amending Chapter 144 (Land Development) of the Code of Mullica Township (See Resolution # PC4-12-34). Commissioner McGlinchey seconded the motion.

Ms. Grogan said this is Mullica's response to the clustering, forestry and wetlands management amendments the Commission adopted some time ago.

The Commission adopted the resolution by a vote of 10 to 0.

Commissioner McGlinchey moved the adoption of a Resolution Issuing an Order to Certify Ordinance 8-2012, Amending Chapter 144 (Land Development) of the Code of Mullica Township (See Resolution # PC4-12-35). Commissioner Jackson seconded the motion.

Ms. Grogan said this is a management area change that has been in the works for many years. The ordinance will allow for the expansion of the Pinelands Village of Elwood by about 50 acres. The change is being made to add some existing uses into the Village. One of those uses is an existing shell of building that was approved under the Interim Rules, prior to the CMP. The ordinance also rezones about 53 acres to the Forest Area. Many of the parcels being returned to the Forest Area are owned by the Township and are very small in size and are in an environmentally sensitive area.

The Commission adopted the resolution by a vote of 10 to 0.

Mayor Brown thanked the Commission, adding that these rezonings will help the Township, with its economic development efforts in Elwood.

#### Public Development Projects and Other Permit Matters

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 2008-0154.002) (See Resolution # PC4-12-36). Commissioner Jackson seconded the motion.

Commissioner Ashmun said the public development report references the New Jersey Department of Environmental Protection when it should be the New Jersey Legislature.

Mr. Horner said the report will be adjusted.

Chairman Lohbauer asked Commissioner McGlinchey and Commissioner Jackson if they would agree to amend their motion and second to reflect this correction.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 2008-0154.002) (See Resolution # PC4-12-36) with the correction to the report as discussed. Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions a Request for a Waiver of Strict Compliance (Application Number 1986-0243.004) (See Resolution # PC4-12-37). Commissioner Witt seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

#### Resolutions Relating to Municipal Ordinances

Chairman Lohbauer noted that, as Ms. Wittenberg said earlier, staff would like to delay consideration of the Manchester Township ordinance.

Commissioner Ashmun moved to table the certification of the December 2011 Amendments to the Master Plan of Manchester Township and Ordinances 11-025 and 12-015, Amending Chapter 245 (Land Use and Development) of the Code of Manchester Township. Commissioner Ficcaglia seconded the motion. All were in favor.

Commissioner Ashmun moved the adoption of a Resolution Issuing an Order to Certify Weymouth Township's 2010 Master Plan Land Use Element, 2011 Master Plan and Ordinance 503-2012, Amending Chapter 155 (Land Use) of the Code of Weymouth Township (See Resolution # PC4-12-38). Commissioner Prickett seconded the motion.

Ms. Grogan said this ordinance is Weymouth's response to the cluster, forestry and wetlands management CMP amendments. Weymouth has taken the time to develop a comprehensive approach. The Township has pre-identified two large areas know as "cluster development zones" within which clustering will be encouraged. The end result is a blending of clustering and density transfer. Staff is very happy with the approach and the work the Township has done to get to this outcome.

The Commission adopted the resolution by a vote of 10 to 0.

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

Peter Ferwerda of Little Egg Harbor, expressed his concerns over using a closed landfill in Little Egg Harbor to store construction debris from Hurricane Sandy. Mr. Ferwerda said that harmful contaminants such as paint cans and kerosene heaters are being co-mingled with carpets and sheetrock. He is concerned about pollutants infiltrating into the groundwater and asked if the landfill was opening up again. Mr. Ferwerda said a broken stone track mate should be placed at the facility to contain harmful contaminants from entering roadways and further entering the groundwater. He asked the Commission to think twice about using this facility when, not too far north, the Stafford Township transfer facility could be used.

Margit Meissner-Jackson Sierra Club of Ocean County, expressed her concerns over storing debris at the Little Egg Harbor landfill. She asked who would be responsible for monitoring the cleanup activity and if the landfill has been reopened.

Ms. Wittenberg said the Division of Solid and Hazardous Waste is responsible for monitoring the intake. The landfill is temporarily collecting debris for 60 days, it is not re-opening, Ms. Wittenberg said.

Chairman Lohbauer advised the commenters that the Commission hears their concerns and will pass them on to the appropriate authorities.

#### Other Resolutions

Commissioner Ficcaglia moved the adoption of a Resolution To Authorize the Executive Director to Accept a Grant from the U.S. Environmental Protection Agency to Conduct a Study titled "Comparing the Functional Equivalency of Natural and Created Wetlands" and to Revise the FY 2013 Pinelands Conservation Fund Budget (See Resolution # PC4-12-39). Commissioner Jackson seconded the motion.

Commissioner Ficcaglia said it's a good idea.

Ms. Wittenberg credited Commission Chief Scientist John Bunnell's work to get the grant, noting, how difficult it is to get such EPA grants.

The Commission adopted the resolution by a vote of 10 to 0.

Ordinances Not Requiring Commission Action

The following ordinances required no action:

- Egg Harbor Township Ordinance 39-2012

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

Mr. Fred Akers of the Great Egg Harbor River Council said he still has concerns regarding the sewer service area designation under the MOA with NJDEP. He said the P&I Committee is discussing the secondary impacts of a half an interchange on the Garden State Parkway and he feels the secondary impacts of sewerage the Villages would be far more significant. He feels the pressure is stemming from the New Jersey Builders Association.

Closed Session Resolution

DAG Heinzerling read a resolution to retire into closed session to discuss acquisition and anticipated litigation matters.

Commissioner Lloyd moved to retire into closed session. Commissioner Prickett seconded the motion. The Commission agreed to retire into closed session by a vote of 10 to 0.

The Commission met in closed session starting at 10:41 a.m.

Return to Open Session

Chairman Lohabuer reopened the public portion of the meeting at 11:13 a.m.

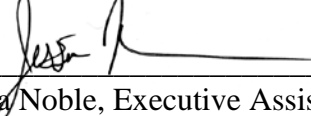
Commissioner Prickett asked why a better place for the hurricane debris was not chosen.

Ms. Wittenberg said she would inquire if DEP will be establishing a permanent place to take the debris.

Adjournment

Commissioner Jackson moved to adjourn the meeting. Commissioner Prickett seconded the motion. The Commission agreed to adjourn at 11:16 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: \_\_November 16, 2012\_\_