

Disclaimer

These minutes reflect the actions taken by the Commission during its September 13, 2013 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 September 24, 2013.

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

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

**MINUTES**

**September 13, 2013**

Commissioners Present

Candace Ashmun, Bill Brown, Joe DiBello, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta, Robert Jackson, Ed Lloyd, Ed McGlinchey, Richard Prickett, D'Arcy Rohan Green, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg and Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorney General (DAG) Kristen Heinzerling.

Commissioners Absent

Gary Quinn and John Haas.

Chairman Lohbauer called the meeting to order at 9:36 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

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

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

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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.

## Minutes

Chairman Lohbauer presented the August 9, 2013 Commission meeting minutes. Commissioner Galletta moved the adoption of the minutes. Commissioner Earlen seconded the motion.

The minutes of the August 9, 2013 Commission meeting were adopted by a vote of 13 to 0.

## Committee Chairs' Reports

### Plan Review Committee

Commissioner Ashmun said the Plan Review Committee will meet on October 11, 2013 after the Pinelands Commission regular meeting.

### Personnel & Budget Committee

Ms. Wittenberg said the Personnel & Budget Committee meeting scheduled for September 3, 2013 was canceled due to lack of agenda items.

### Policy & Implementation Committee

Chairman Lohbauer updated the Commission on action from the August 28, 2013 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the July 26, 2013 meeting.

The Committee received a presentation by Mullica Township related to it's request for Pinelands Conservation Fund funding to determine the feasibility of providing sewer service to Elwood Village.

The Committee recommended Commission certification of Galloway Township Ordinance 1871-2013, amending the Township's Zoning Map by extending the Town Residential District boundary to encompass 17 residentially- developed lots currently split between the Town Residential and Agricultural Production Districts.

The Committee received a presentation on the Alternate Design Wastewater Treatment System Pilot Program and concurred that the Cromaglass system should be removed due to lack of efficacy and failure to complete sampling and reporting protocols.

The Committee received a presentation on Permanent Land Protection efforts in the Pinelands. The updated map is posted on the Commission's website at:

[http://www.nj.gov/pinelands/landuse/perm/PLP\\_2013.pdf](http://www.nj.gov/pinelands/landuse/perm/PLP_2013.pdf)

Staff made a presentation on the review of the application submitted by South Jersey Gas to develop a pipeline to repower the B.L. England Electrical Generating Station. Forty members of the public spoke in response to the proposal. Some were in favor and some were opposed to the pipeline.

Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- The Science Advisory Committee met in August after not meeting for some years. The Committee consists of mostly academics from colleges in New Jersey and Pennsylvania. The Committee discussed future collaborative efforts and potentially expanding the types of areas studied.
- A Lead NJ event was recently held at our offices. Dave Moore, Chair of the Pinelands Preservation Alliance, spoke on the history of the Pinelands. Ms. Wittenberg delivered a presentation on the origins and current status of the Pinelands Protection effort.

Mr. Larry Liggett updated the Commission on the following:

- Staff recently met with the Mayor of Woodbine Borough. The Borough may be partnering with the Cape May County Municipal Utilities Authority which recently received a grant to investigate treatment of leachate water from the County landfill.
- Staff recently presented the policy implications of the Kirkwood-Cohansey study to members of the Water Supply and Geoscience staff at the New Jersey Department of Environmental Protection (DEP).
- The Water Supply Advisory Committee will be meeting at the Commission offices on Friday, September 20, 2013. Chief Scientist John Bunnell will be presenting the Science office's results of the Kirkwood-Cohansey study.
- The USGS' Rapid Landfill Assessment study results will be presented at the October P&I meeting.

Mr. Chuck Horner updated the Commission on the following:

- Staff met with Medford Township officials to discuss the Singer House, which has been deemed a historic site. The town is concerned about the aging structure.
- He attended a ground breaking ceremony for recreation fields in Evesham Township.
- A meeting has been scheduled between the Commission and the Department of Transportation to discuss another flooding issue on Route 72.

Public Development Projects and Other Permit Matters

*Commissioner Prickett recused himself and left the room.*

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 1985-0641.011) (See Resolution # PC4-13-31). Commissioner Ficcaglia seconded the motion.

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

Commissioner Prickett returned to the meeting.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 1987-0065.023) (See Resolution # PC4-13-32). Commissioner Jackson seconded the motion.

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

Resolutions Relating to Municipal Ordinances

Commissioner Galletta moved the adoption of a Resolution Issuing an Order to Certify Ordinance 1871-2013, Amending the Zoning Map of Galloway Township (See Resolution # PC4-13-33). Commissioner Jackson seconded the motion.

Ms. Susan R. Grogan said the ordinance recognizes a situation where a zoning line is cutting through numerous residential lots. These lots all have single-family dwellings on them. She said their current split zone status has made it challenging for the home owners to add things like pools and sheds to their properties. This change will allow the lots to be in one zone in the Pinelands Town, rather than split between the Town and the Agricultural Production Area. Ms. Grogan said the change in zoning makes sense and is appropriate.

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

Public Comment on Agenda Items and Pending Public Development Applications

No public comment was offered.

Other Resolutions

Commissioner Ficcaglia moved the Resolution To Accept the Fiscal Year 2012 Audit Report (See Resolution #PC4-13-34). Commissioner Lloyd seconded the motion.

Ms. Wittenberg said the Commission has received a clean audit with no findings from the State Auditor. She said that the Commission was also chosen for an Environmental Protection Agency grant review, which was recently completed and no significant issues were identified. A final memo will be issued.

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

Ordinances Not Requiring Commission Action

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

- Egg Harbor City Ordinance 10-2013
- Evesham Township Ordinances 15-6-2013, 20-7-2013 & 22-7-2013
- Galloway Township Ordinance 1870-2013
- Manchester Township Ordinance 13-005

No members of the Commission had questions.

Annual Report on the Alternate Design Treatment Systems Pilot Program

Mr. Edward Wengrowski presented the 11<sup>th</sup> year of reporting on alternate design septic systems. (See slides for additional information)

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

*Jenelle Blackmon, Representative of CWA Local 1040*, provided an update on the status of contract negotiations. She spoke about staffing levels, salary disparity with comparison to DEP staff, and legal fees incurred by the Commission. She passed out a summary entitled "Pinelands Commission Staff Under Siege", a step increase proposal and chart depicting salary growth (see attached). She said at this point mediation has failed, the next step is fact finding, which means more money will be spent on legal fees.

*Deborah Klemas Tietze, 60 Mohawk Trail, Medford Lakes, NJ*, read the finding of the case Deborah Klemas Tietze vs. Pinelands Commission. She advised Commissioners that she is employed by the Commission and took leave time to comment at the meeting today. She requested the Commissioners terminate the law firm that the Commission has retained for representation with union negotiations (full comments are attached).

*Diane Marie, Upper Township resident*, was disappointed to hear that Kevin Heatley, a restoration ecologist was not permitted to make a 30 minute presentation to the Commission and would like to know why this was not in the jurisdiction of the Commission.

*Bill Wolfe, New Jersey PEER*, provided comments on the pre-application process. He also urged Commissioners to hire an independent consultant. He closed by urging staff and counsel to build the links both scientifically and legally to the Commission's jurisdiction with regard to climate change.

*Georgina Shanley, CURE*, made reference to an article (see attached) recently published on InsideClimate news where Jeffrey Wiese comments that there are not enough inspectors to ensure safety of the miles and miles of pipelines in the United States. She also raised concern over what the pipeline might do to the Pinelands' UNESCO Biosphere status. She expressed her dismay over declining Mr. Heatley's request to make a presentation to the Commission on the negative impacts of the pipeline.

*Margo Pellegrino, Medford Lakes resident*, said she appreciates that the public has the ability to come see the Commission's work firsthand at these meetings but was dissatisfied to learn of the staffing issues the Commission was facing and thought that the Commission was not informed enough and feels that the Commission is relying on information from industry rather than other sources.

*Fred Akers, Great Egg Harbor Watershed Association*, asked Commissioners to consider broad-based public comment before committing money to the Mullica sewer study. He said the study on the Mullica Township Route 30 corridor prepared by Whiteman & Taintor in 2000 should be a building block for Mullica's request for sewer service.

*Dr. Bob Allen*, said he was disappointed to hear that the Commission refused the expert witness testimony offered by Mr. Kevin Heatley. He asked the Commission to exercise its

power to request an expert witness such as a scientist. He also requested clarification on the drilling depth under the bodies of water of the proposed pipeline.

*Elizabeth George-Cheniara, New Jersey Builders Association (NJBA)*, said that over the past year meetings have been held between the Commission and NJBA and has appreciated the dialogue. She said the Builders Association is interested in Plan Review, specifically discussions on Pinelands Development Credits and stormwater management regulations.

*Christine Poole, Sierra Club*, urged Commissioners to use their authority to prevent the pipeline from happening. She said if the pipeline is approved, it will enable B.L. England to run and burn natural gas 365 days a year, increasing carbon pollution. She said the plant is on a time schedule and hopes Commissioners will not to let the industry pressure their decision.

#### Closed Session Resolution

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

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

#### Return to Open Session

Chairman Lohbauer reopened the public portion of the meeting at 11:54 p.m.


Chairman Lohbauer said an update on the union negotiations were provided during closed session. No members of the public returned.

Commissioners briefly discussed pre-application meetings and next steps for the South Jersey Gas application.

#### Adjournment

Commissioner Earlen moved to adjourn the meeting. Commissioner Jackson seconded the motion. The Commission agreed to adjourn at 12:12 p.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: September 20, 2013