

Disclaimer

These minutes reflect the actions taken by the Commission during its February 10, 2023 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 February 15, 2023.

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=si7oW7YYyUo>

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 6th 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 34th 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%202010,%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