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Governor

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## State of New Jersey

THE PINELANDS COMMISSION

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### NEW JERSEY PINELANDS COMMISSION

July 12, 2013

Meeting Agenda

Richard J. Sullivan Center for Environmental Policy and Education

Terrence D. Moore Conference Room

15C Springfield Road

New Lisbon, New Jersey

**9:30 a.m.**

1. Call to Order

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

2. Election of Vice-Chairman

3. Committee Appointments

4. Adoption of Minutes

- June 13, 2013

5. Committee Chairs' and Executive Director's Reports

6. Matters for Commission Consideration Where the Record is Closed

A. Permitting Matters

- Office of Administrative Law
  - None
- Review of Local Approval
  - None

- Public Development Projects and Waivers of Strict Compliance
  - Approving With Conditions Applications for Public Development (Application Numbers 1986-0433.006, 2003-0530.008, 2007-0416.001 & 2013-0061.001)
  - Approving With Conditions an Application for a Public Development (Application Number 1986-0479.005)
  - Approving With Conditions an Application for a Public Development (Application Number 2009-0063.003)

B. Planning Matters

- Municipal Ordinances
  - None
- Other Resolutions
  - None
- CMP Amendments
  - None

7. Public Comment on Agenda Items and Pending Public Development Applications (see attached list)

8. Other Resolutions

- To Adopt the Pinelands Commission's Fiscal Year 2014 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund and the Pinelands Conservation Fund

9. Miscellaneous Resolutions

- To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Efficiency Measures; Pilot Program for Alternate Design Treatment Systems)

10. Ordinances Not Requiring Commission Action

- Barnegat Township Ordinance 2013-02
- Berlin Borough Amended Housing Element and Fair Share Plan
- Evesham Township Ordinance 12-5-2013
- Stafford Township Ordinance 2013-07 & 2013-08

- 11. Other Agenda Items
- 12. General Public Comment
- 13. 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.*)
- 14. Adjournment

**Upcoming Meetings**

Unless otherwise noted, all meetings/events are conducted at the offices of the Pinelands Commission in New Lisbon

Fri., July 12, 2013	Pinelands Commission Regular Monthly Meeting (9:30 a.m.)
Fri., July 12, 2013	Plan Review Committee Meeting (11:00 a.m. or immediately following Commission meeting)
Fri., July 26, 2013	P&I Committee Meeting (9:30 a.m.)
Tues., July 30, 2013	Personnel & Budget Committee Meeting (9:30 a.m.)
Fri., Aug. 9, 2013	Pinelands Commission Regular Monthly Meeting (9:30 a.m.)
Fri., Aug. 9, 2013	Plan Review Committee Meeting (11:00 a.m. or immediately following Commission meeting)

**Events of Interest**

July 23, 2013 - Pinelands Research Series: Daryll Pope: “Simulation of Stream-flow Depletion”  
New Lisbon, NJ - Richard J. Sullivan Center - 10:00 a.m.



*Pinelands Commission and Committee meeting agendas are now posted on the Commission’s Web site and can be viewed at [www.nj.gov/pinelands/](http://www.nj.gov/pinelands/). The agendas are also posted and can be viewed at the Pinelands Commission Offices, 15 Springfield Road, New Lisbon, New Jersey or for more information on agenda details, e-mail the [Public Programs Office](mailto:Info@njpines.state.nj.us) at [Info@njpines.state.nj.us](mailto:Info@njpines.state.nj.us) or call (609) 894-7300.*

PC2-47

Disclaimer

These minutes reflect the actions taken by the Commission during its July 12, 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 July 22, 2013.

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

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

**MINUTES**

**July 12, 2013**

Commissioners Present

Candace Ashmun, Bill Brown, Joe DiBello, Sean Earlen, Leslie Ficcaglia, John Haas, Robert Jackson, Ed Lloyd, Ed McGlinchey, Richard Prickett, Gary Quinn, 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

Paul Galletta.

Chairman Lohbauer called the meeting to order at 9:38 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.

### Election of Vice Chair

Commissioner Ashmun moved the nomination of Commissioner Haas for Vice Chairman and Commissioner Ficcaglia seconded the motion. The nomination was passed with a vote of 13 to 0, with Commissioner Haas abstaining.

### Committee Assignments

Chairman Lohbauer said Committee appointments would remain the same. He also said the Commission may be forming a new Committee to assist staff with issues stemming from the maintenance of the property.

### Minutes

Chairman Lohbauer presented the June 13, 2013 Commission meeting minutes. Commissioner Lloyd moved the adoption of the minutes. Commissioner Jackson seconded the motion.

Commissioner Ficcaglia asked that a portion of the June 13, 2013 minutes be clarified because they did not accurately reflect what she stated. (*The minutes were revised after the meeting.*)

The minutes of the June 13, 2013 Commission meeting were adopted by a vote of 11 to 0. Commissioners Rohan Green, Earlen and Quinn abstained.

### Other

Chairman Lohbauer presented Commission staff member Kim Laidig with a plaque for 20 years of dedicated service in the Commission's Science office.

### Committee Chairs' Reports

#### Plan Review Committee

Commissioner Ashmun said no Committee was held in meeting in June. Immediately following today's Commission meeting, the Committee will discuss the Plan Review report, efficiency and Septic Pilot Program rules, PDC enhancements, native Pinelands vegetation protection and enduros.

#### Personnel & Budget Committee

Commissioner Haas updated the Commission on actions taken at the July 2, 2013 Personnel & Budget Committee meeting:

The Committee adopted the minutes from the June 4, 2013 meeting.

Donna Connor thoroughly reviewed the Commission's three budgets. Nancy Wittenberg summarized the meeting with the National Park Service. Donna Connor reviewed

personnel costs, along with the authorized staffing levels and unfunded positions. Commissioner McGlinchey asked if the Commission would benefit from having a licensed engineer on staff. Following the budget discussion, the Committee recommended Commission approval of The Resolution to Adopt the Pinelands Commission's Fiscal Year 2014 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund and the Pinelands Conservation Fund.

The Committee discussed the status of the Audit Committee.

The Committee approved the FY 2013 Equipment Capitalization System Deletions, which totals \$68,124.47.

Financial Updates included the Check Register, Electronic Funds Transfers and application fees for June 2013.

There was no public comment. Confidential personnel matters were discussed during closed session.

#### Policy & Implementation Committee

Chairman Lohbauer updated the Commission on action from the June 28, 2013 Policy and Implementation Committee meeting:

The Committee adopted the closed session minutes of the April 26, 2013 meeting and the open and closed session minutes of the May 31, 2013 meeting.

Staff briefed the Committee on the proposed South Jersey Gas project to provide natural gas to the BL England electric generating plant that is being converted from coal to natural gas. The meeting was very well attended by the public. Many offered comment.

#### BL England

Chairman Lohbauer said the BL England generating plant gas line project was not on the agenda for discussion or action at this time. He said he believed that the higher than usual public attendance was due to the interest in the proposed gas line. Rather than make the public wait until the end of the meeting to comment, Chairman Lohbauer adjusted the agenda to hear general public comment directly after the Executive Director and Staff Reports.

#### Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- She noted that she would be delivering the Budget presentation later in the meeting, so her comments would be brief. She mentioned a meeting that took place on June 19 with the National Park Service (NPS). Commissioner DiBello coordinated the meeting. She asked that Commissioner DiBello to provide an update on that meeting.

Commissioner DiBello said the cooperative agreement with NPS has been in existence for about 20 years. The agreement encompasses both environmental and economic monitoring. The agreement was recently renewed, extending the program until 2018. He said the budget allocation has been reduced because of federal budget constraints. There was general consensus at the meeting that there should be an increased emphasis on interpretation, recreation and use of the Pinelands, and to share the information generated from the monitoring programs with the public.

Mr. Larry Liggett updated the Commission on the following:

- Staff is working to hire a technician to electronically format threatened and endangered species data.
- A meeting has been scheduled for next week to discuss Class B recycling centers within specific management areas.
- A series of interested party meetings have been held to discuss enhancements to the Pinelands Development Credit Program. Thus far staff has met with the builders, municipalities, and the agricultural and environmental communities.
- On July 23, Daryll Pope from US Geological Survey will be at the Commission to discuss impacts of withdrawing water from deep in the Kirkwood Cohansey aquifer versus surface water.

Mr. Chuck Horner updated the Commission on the following:

- A meeting is scheduled for next week with Hamilton Township to discuss the potential for implementing the Local Review Officer Program. This program will allow the Township to have more review over certain types of development, such as a single family dwelling.
- The Robert Miller Airpark crosswind runway is under construction. Two northern pine snakes have been relocated after coming too close to the development activities. Relocation of the snakes is required by the Memorandum of Agreement.
- Improvements are being proposed to a rail line to service a mining site in Manchester Township. The improvements being proposed range from tree pruning to reconstruction of portions of the railroad. The rail line begins near Route 72 in Manchester and heads toward Lakewood.

Ms. Stacey Roth said that based on the Interstate Commerce Commission Termination Act (ICCTA) some of the activities associated with the rail line may not require application but would have to meet the environmental standards of the Comprehensive Management Plan (CMP). Staff will keep the Commissioners posted on this matter as more information is submitted.

Commissioner Ashmun asked who owns the railroad.

Ms. Roth said Clayton purchased the rail line from Conrail.

Mr. Horner closed by stating that at the end of June, staff was in municipal court in Barnegat Township for a clearing violation. The applicant's lawyer is claiming Right to Farm.

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

*Georgina Shanley, Ocean City, NJ resident and member of CURE (Citizens United for Renewable Energy)*, advised that CURE was formed after the oil spill in the Gulf of Mexico. She said CURE is opposed to the 24-inch gas pipeline from Millville to Beesley's Point and feels it is in violation of the CMP. She said the CMP requires that infrastructure in the Forest Area serve only the Pinelands Area, which this 24-inch gas line traversing the Pinelands National Reserve would not. The Commission should oppose the pipeline as it is a threat to the water supply and unique ecology of the Pinelands. She believes the energy needs of South Jersey could be fulfilled by renewable energy.

*Matthew Smith, NJ Organizer at Food and Water Watch*, urged the Commission to fully consider the consequences of the proposed gas pipeline and the negative impacts of the pipeline on air, water and climate. He said the pipeline is not compatible development. (see attached written testimony)

*Ron Hutchinson, professor at the Richard Stockton College and a member of the South Jersey Chapter of 350.org*, said the development of a gas pipeline will not lead to greater protection of the Pinelands. He said it is not a reliable line and there is a potential for spills. He said it has been sold as providing redundancy to serve the customers of South Jersey but he did not agree. He said CO<sub>2</sub> is a regulated pollutant. One should not compare the benefits of a plant upgraded from coal to natural gas; rather, it should be compared with renewable energy sources such as wind and solar. He referenced an article "Carbon Dioxide and Water Use in Forests". (see attached) He implored the Commission to find expert witnesses before making such decisions.

*Fred Akers, Great Egg Harbor Watershed Association*, thanked the Commissioners for their vote at the June meeting denying the sand mining operation in the Preservation Area District. He said the decision will protect the threatened and endangered species known to inhabit the parcel. Referencing the pipeline, he asked that the Commission consider the alternative of doing nothing, as that was not an analysis that staff had presented. He said that during the last 10 years, the Pinelands has been subject to scattered and piecemeal development of energy infrastructure. He suggested creating an energy plan much like the cellular/communications tower plan the Commission instituted.

*Marianne Clemente, Barnegat Township resident*, appealed to the Commission not to approve the gas pipeline. She also said that she had objected to the Commission's decision regarding Barnegat Township's Conservation Zone as related to the Walters Homes Project. She said the Commission must not succumb to the pressures of big business and their motivation of money and greed. She believes the Commission wants to do best for the planet.

*Sharon Finlayson, N.J. Environmental Federation*, said she is opposed to the gas line project and the Commission must protect the Pinelands first, especially the water supply that lies beneath. After learning about this proposal, her organization was appalled that this pipeline could even happen in the Pinelands.

*Emile Di Vito, New Jersey Conservation Foundation and Pinelands Preservation Alliance*, said that based on the CMP, the gas line is not permitted. He said that he has a June 21, 2013 document from the Board of Public Utilities (BPU), which makes no reference to the Pinelands Commission and whether the project is even permissible. He said it is appalling that the South Jersey Gas has lined up all of its other permits and came to the Pinelands Commission last. He said there are alternative routes for the gas line. He said it is imperative that the CMP be enforced and the Commission take a stance now because this will not be the last time a project like this comes before the Commission.

*Diane Marie, Cape May County resident*, said the oil and gas media are lying to the citizens of this country. She mentioned the tar sands crude spill on Michigan's Kalamazoo River three years ago. She said they can't remove the tar because they don't know how. She said we have a right to live a healthy life and enjoy nature.

*Tom Mahedy, www.FMERPA.us*, said the politicians looked around and saw the area in the Pinelands where the population is lower and they decided to use it as a sacrifice zone. He said this gas line is Governor Christie's toxic, nasty mess. He believes the gas will be exported. He expressed deep opposition to the gas line project.

*Bridget Reilly, Medford Lakes resident*, said the pipeline makes no sense.

*Margo Howard Pellagrino, Medford Lakes resident*, said we need to keep our water clean for many reasons, including our health. She said we do not need any more intrusions or threats. She said we need to keep the Pinelands pristine as it was intended to be.

*Captain Joel S. Fogel, Waterwatch International*, said he knows what a tremendous responsibility the Commissioners have been given in protecting the Pinelands. He said we are sitting on top of one of most precious aquifers in the world. He said the proposed 24-inch gas pipeline is much bigger than BL England needs. He said if it is built by man it can fail. He asked the Commission to not be deceived by false promises.

*Theresa Lettman, Pinelands Preservation Alliance*, spoke about the proposed amendments to the CMP and the effects they will have on public notice for any hearing held on a proposed MOA.

Ms. Roth noted that there have not been any changes made to the CMP and that public notice for a proposed MOA will be advertised in the newspaper 10 days prior to any public hearing and posted on the Commission's website.

*Elayne Leighton, Jackson Township resident*, spoke about the 59 different types of native orchids in the state and the pristine waters. She expressed concern over the pollution, pipelines, housing development and road construction marring our great state.

#### Public Development Projects and Other Permit Matters

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1986-0433.006, 2003-0530.008, 2007-0416.001 & 2013-0061.001) (See Resolution # PC4-13-23). Commissioner Prickett seconded the motion.

Commissioner McGlinchey was opposed to Application # 2007-0416.001 (New Jersey Department of Transportation (DOT)) because DOT is in violation of the stormwater management rules and the statutes of the state, including the consent order into which they entered with NJDEP.

Mr. Horner said the consent agreement is independent of the Commission and issues remain between NJDOT and NJDEP.

Ms. Wittenberg offered to reach out to DEP and check the status of the consent agreement.

A discussion took place on dealing with applicants who are in violation of the CMP.

The Commission adopted the resolution by a vote of 13 to 1, with Commissioner McGlinchey voting no.

*At this point during the meeting, Commissioner Prickett left the room and recused himself from any discussion on Application # 1986-0479.00.*

Commissioner Jackson moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 1986-0479.005) (See Resolution # PC4-13-24). Commissioner Lloyd seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0. Commissioner McGlinchey was not present for the vote.

Commissioner Lloyd moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 2009-0063.003)(See Resolution # PC4-13-25). Commissioner Ficcaglia seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0. Commissioners McGlinchey and Prickett were not present for the vote.

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

Rich Bizub, Pinelands Preservation Alliance, noted that PPA is in support of Application #1988-0706.018 in which the Town of Hammonton is proposing to use drip irrigation of treated wastewater on municipal recreation fields. (Note: The Commission will act on this application at the August 9, 2013 meeting)

### Other Resolutions

Commissioner Haas moved the Resolution To Adopt the Pinelands Commission's Fiscal Year 2014 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund and the Pinelands Conservation Fund (See Resolution #PC4-13-26). Commissioner Rohan Green seconded the motion.

Ms. Wittenberg delivered a presentation on the FY 2014 Budget, explaining each of the three budgets. The state appropriation remained the same as last year. She also described the initiatives for this fiscal year. (See slides for additional information)

Commissioner Haas asked Ms. Wittenberg to quickly go over how the Pinelands Development Credit Bank became the Commission's responsibility.

Ms. Wittenberg said historically, the Bank was administered by the Division of Banking and Insurance (DOBI). At one time, the Bank had \$5 million to cover operational costs. These funds have been depleted. When the Executive Director of the Bank retired in 2011, DOBI did not fill the position and the Bank was unable to function. An agreement was made between the Commission and DOBI that Commission Staff would facilitate Bank operations. Ms. Wittenberg said the PDC Bank Executive Director Susan Grogan and her assistant, Betsy Piner, are doing a wonderful job running the Bank.

Ms. Grogan said this is not an overly busy time for the Bank and there has not been much opportunity for outreach programs, but administratively the Bank is running efficiently. She also said the Bank is being funded by the Pinelands Conservation Fund as there was no money from DOBI to manage the bank. She said the PDC program is very successful and more than 50,000 acres have been preserved.

The Commission adopted the resolution by a vote of 13 to 1. Commissioner McGlinchey voted no because staff has not received a raise for many years.

Ms. Wittenberg advised that union negotiations have not been finalized. If increases are part of the new contracts the budget would be revised by resolution.

### Ordinances Not Requiring Commission Action

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

PC2-55

- Barnegat Township Ordinance 2013-02
- Berlin Borough Amended Housing Element and Fair Share Plan
- Evesham Township Ordinance 12-5-2013
- Stafford Township Ordinance 2013-07 & 2013-08

No members of the Commission had questions.

#### Closed Session Resolution

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

Commissioner Jackson moved to retire into closed session. Commissioner Haas seconded the motion. The Commission agreed to retire into closed session by a vote of 14 to 0.

The Commission met in closed session, starting at 11:57 a.m.

#### Return to Open Session

Chairman Lohbauer reopened the public portion of the meeting at 12:29 p.m.

Ms. Roth said acquisition and personnel matters were discussed during closed session.

Commissioner Prickett advised his fellow Commissioners of the success of the Whitesbog Blueberry Festival.

#### Adjournment

Commissioner McGlinchey moved to adjourn the meeting. Commissioner Rohan Green seconded the motion. The Commission agreed to adjourn at 12:32 p.m.

Certified as true and correct:

\_\_\_\_\_  
Jessica Noble, Executive Assistant

Date: \_\_\_\_\_